

## **Appendix B**

### **Homeless Ex-offenders: The Council's duties**

In conjunction with the South Holland Housing Allocation Policy, the Council's duties towards homeless people in England are contained in Part 7 of the Housing Act 1996 (as amended).

#### **A duty to secure accommodation**

Authorities do not have a duty to secure permanent accommodation for all homeless people. Currently, there is a duty to secure accommodation only for those who are unintentionally homeless who fall into a priority need category.

The Homelessness (Priority Need for Accommodation) (England) Order 2002 (SI 2002/2051), which came into force on 31 July 2002, extended section 189 of the Housing Act 1996 to include a new eligibility category 'E' for statutory help:

A person who is vulnerable as a result of:

- having served a custodial sentence,
- having been committed for contempt of court or any other kindred offence, or
- having been remanded in custody

The order seeks to provide that there was priority need only where the Council is satisfied that the individual was vulnerable. Secondly, the Council should already accept that applicants who are vulnerable for that reason have a priority need by virtue of the current provisions in section 189 of the 1996 Act. These provide that a person has a priority need if he/she is vulnerable not only as a result of factors such as old age and mental illness, but as a result of another special reason. It puts ex-prisoners who are homeless and genuinely vulnerable on the same footing as other vulnerable homeless people who need short-term assistance with accommodation until a settled housing solution can be found.

The vulnerability—not whether someone has been in prison—is what the Council needs to consider when assessing whether someone is a priority need for accommodation. Not all ex-offenders will be vulnerable. The order will emphasise the importance of the Council assessing whether ex-offenders are vulnerable as a result of a period in prison.

The Council can fulfil its duty to provide accommodation in several ways. Since 2012, the Council has been able to discharge its duty towards unintentionally homeless households in priority need by offering a tenancy of suitable private rented accommodation.

#### **Ex-offenders and intentional homelessness**

There is no long-term duty to secure accommodation for homeless households in priority need if the Council deems them to have made themselves homeless, i.e. to be intentionally homeless.

In addition to the question of priority need, when assessing applicants in this client group difficult issues may arise as to whether the applicant has become homeless intentionally. The Council must consider each case in the light of all the facts and circumstances. The Council **cannot adopt a blanket policy of assuming that homelessness will be intentional or unintentional in any given circumstances.**

Some ex-offenders may apply for accommodation or assistance in obtaining accommodation following a period in custody or detention because they have been unable to retain their previous accommodation, due to that period in custody or detention. In considering whether such an applicant is homeless intentionally, the Council will have to decide whether, taking into account all the circumstances, there was a likelihood that ceasing to occupy the accommodation could reasonably have been regarded at the time as a likely consequence of committing the offence.

Even if an ex-offender is deemed intentionally homeless, the Council will still have a duty to provide advice and assistance.

The Homeless Reduction Act 2017 is aimed at refocusing English local authorities on efforts to prevent homeless. The Act has amended Part 7 of the Housing Act 1996. Its measures include:

- An extension of the period during which an authority should treat someone as threatened with homelessness from 28 to 56 days.
- Clarification of the action an authority should take when someone applies for assistance having been served with a section 21 notice of intention to seek possession from an assured shorthold tenancy.
- A new duty to prevent homelessness for all eligible applicants threatened with homelessness.
- A new duty to relieve homelessness for all eligible homeless applicants.
- A new duty on public services to notify a local authority if they come into contact with someone they think may be homeless or at risk of becoming homeless.

The Act will place a duty on authorities to agree an action plan with those experiencing or at risk of homelessness.

The new duty to notify a local authority if a public authority comes into contact with someone they think may be homeless or at risk of homelessness may affect prison leavers as they come into contact with prison services, the National Probation Service and other bodies.

Existing local authority duties to those assessed as unintentionally homeless and in priority need remain in place.

### **Applying on the South Holland Housing Register**

If unable to get accommodation under the homelessness provisions, and struggling to gain access to the private rented sector, an ex-offender may apply for council housing. If eligible, they will join the housing register.

The Homelessness Act 2002 amended the 1996 Act to prevent councils from imposing 'blanket bans' against certain applicants, including ex-offenders, from being able to apply for social housing via local authority housing registers. Authorities could still

prevent applicants from registering where they had exhibited past behaviour which, in the authority's view, was serious enough to make him or her unsuitable as a tenant. Each case had to be judged on its merits. (In December 2016 the High Court, in a case concerning Hammersmith and Fulham council, held that a local authority should not declare applicants to be ineligible to apply for housing on the basis of spent convictions.)