

# Background to the Duty To Refer and the Homelessness Reduction Act

## Why the change:

- Increase in homelessness
- Not everyone received help
- New and amended duties needed in England

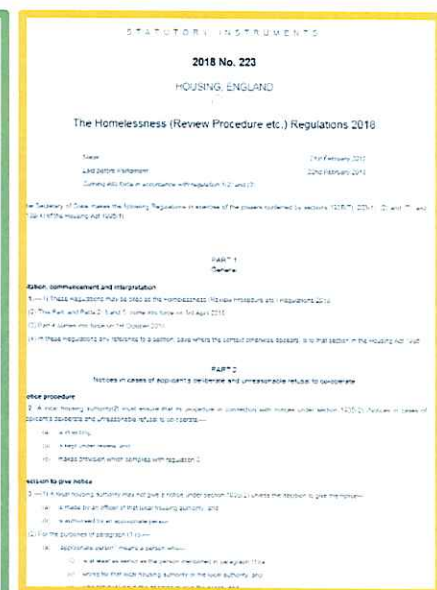
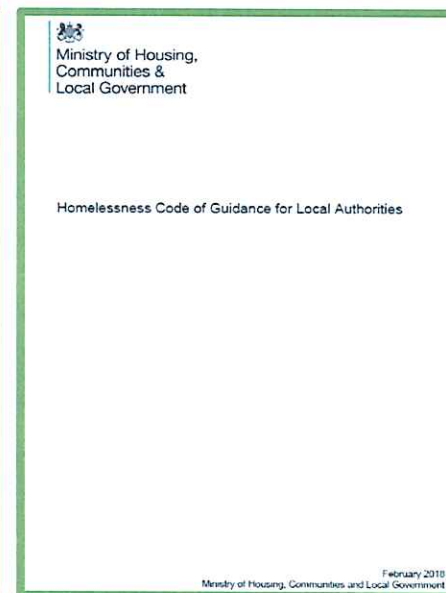
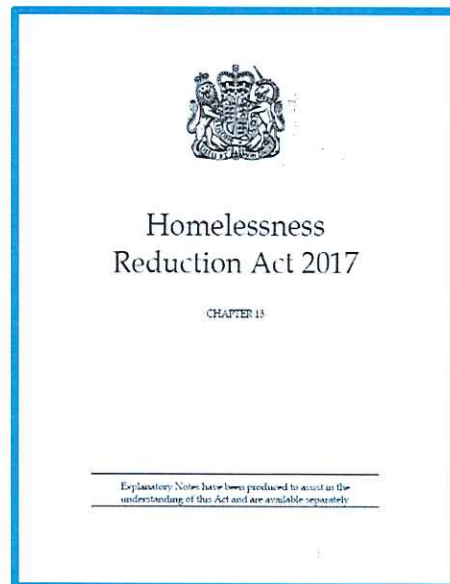
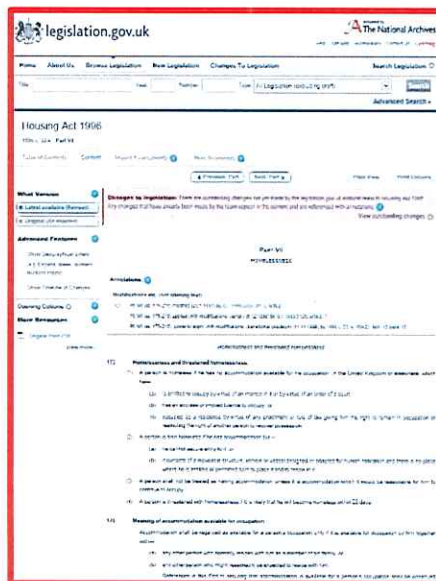


## Homelessness Reduction Act 2017

- Came into force on **3<sup>rd</sup> April 2018**
- Under the Act, local housing authorities are required to intervene at earlier stages and take reasonable steps to either:
  - **Prevent homelessness for those threatened with homelessness**
  - **Relieve homelessness for those who are homeless.**
- **The Act added Section 213B - the Duty of Public Authorities to refer cases to local housing authorities - which comes into force 1<sup>st</sup> October 2018**

# Duty to Refer - Key Legislation

- Housing Act 1996 - Part 7 - *Section 213B*
- Homelessness Reduction Act 2017
- Homelessness Code of Guidance – *Chapter 4*
- Regulations – *No.223 The Homelessness (Review Procedure etc.) Regulations 2018*





# Duty to refer – Section 213B Housing Act 1996

## **s.213B Duty of public authority to refer cases in England to local housing authority**

(1) This section **applies if a specified public authority considers that a person in England in relation to whom the authority exercises functions is or may be homeless or threatened with homelessness.**

(2) The specified public authority must **ask the person to agree to the authority notifying** a local housing authority in England of (a) the opinion mentioned in subsection (1), and (b) how the person may be contacted by the local housing authority.

(3) **If the person —**

- (a) **agrees** to the specified public authority making the notification, **and**
- (b) **identifies a local housing authority in England** to which the person would like the notification to be made, **the specified public authority must notify that local housing authority of the matters mentioned in subsection (2)(a) and (b).**

(4) In this section “**specified public authority**” means a public authority specified, or of a description specified, **in regulations made by the Secretary of State.**

(5) In subsection (4) “public authority” means a person (other than a local housing authority) who has functions of a public nature.”

# List of Specified Public Authorities

The public authorities which are subject to the duty to refer are

- prisons;
- youth offender institutions;
- secure training centres;
- secure colleges;
- youth offending teams;
- probation services (including community rehabilitation companies);
- Jobcentre Plus;
- social service authorities;
- emergency departments;
- urgent treatment centres; and,
- hospitals in their function of providing inpatient care.
- The Secretary of State for Defence, but only in relation to members of the regular armed forces. i.e. Royal Navy, Royal Marines, the regular Army and Royal Air Force



[Homelessness \(review procedures etc\) Regulation 2018 – No. 223](http://www.legislation.gov.uk/ukxi/2018/223/part/4/made)

<http://www.legislation.gov.uk/ukxi/2018/223/part/4/made>



# Key points



**4 KEY  
POINTS**

- Duty to Refer under s.213B of the Housing Act 1996 comes into force on the **1<sup>st</sup> October 2018**
- The public authorities in England which are subject to the duty are **specified in Part 4 of *The Homelessness (Review Procedure etc.) Regulations 2018***.
- The Duty to Refer is triggered when a public authority **considers** that a service user may be homeless or threatened with homelessness.
- Before making a referral **consent** must be sought

# Duty to refer - When does it apply

(1) Duty applies if a specified public authority considers that a person in England in relation to whom the authority exercises functions is or may be homeless or threatened with homelessness.



# Definition of homelessness

*Housing Act 1996 – Part 7*

*s.175 Homelessness and threatened homelessness*

**Someone will be deemed homeless if**

- s/he has **no accommodation** which is available to him/her and his/her family
- in the **UK or elsewhere in the world**
- that s/he has a **right to occupy**





# Examples of statutory homeless



- John comes into A&E and tells staff he is sleeping rough and has no where else to go.
- Sarah is leaving prison and tells staff she is going to live with her friend Amy in a squat
- Lian is visiting the job centre with her 3 month old baby. She tells staff she lives at her parents' home but they have asked her to leave today.



# Definition of homeless

*s.175 Homelessness and threatened homelessness*

Someone will also be homeless if s/he has accommodation but:

- cannot secure entry to it  
(i.e. can't get into the property)
- or
- it is a boat or caravan and there is nowhere to put it.



# Examples of Homeless



- George has come to see his probation officer and during the meeting has told staff he has a houseboat, but says the landowner no longer wants him to moor there.
- Sophia has rung her social services carer and told her that the Landlord has changed the locks.



# Definition of homelessness

*s.175 (3) Homelessness and threatened homelessness*

Someone will also be homeless if s/he has accommodation but:

- It is not reasonable to continue to occupy

Remember it is **never** reasonable to occupy accommodation if anyone is at risk of violence.



# Example of Homeless

- Robert is visiting his YOT officer and tells him he's been made redundant and can't afford his rent.
- Theo is in hospital as an inpatient and tells staff he has been threatened by his civil partner who he lives with and is scared to go home.
- Lily has a visit from her social worker and tells her that following the recent flood at her home she can no longer bear the cold and damp as it is severely affecting her asthma.





# Definition-Threatened with homelessness

## ***s.175 (4) Housing Act 1996:***

A person is threatened with homelessness if

- it is likely that he/she will become homeless within 56 days.

OR

- where a valid notice under Section 21 of the Housing Act 1988 has been served.

Department for  
Communities and  
Local Government

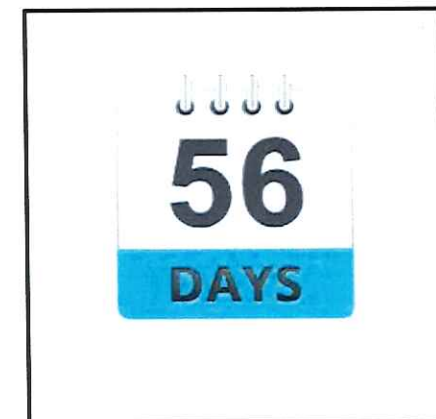
### FORM 6A

Notice seeking possession of a property  
let on an Assured Shorthold Tenancy

Housing Act 1988 section 21(1) and (4) as amended by section 194 and paragraph 103 of Schedule 11 to the Local Government and Housing Act 1989 and section 98(2) and (3) of the Housing Act 1996

Please write clearly in black ink. Please tick boxes where appropriate.

This form should be used where a no fault possession of accommodation let under an assured shorthold tenancy (AST) is sought under section 21(1) or (4) of the Housing Act 1988.



# Duty to refer – What is expected of you

## **Section 213B of the Housing Act 1996**

“The specified public authorities are required to notify a housing authority of service users they consider may be homeless or threatened with homelessness”





# Duty to refer – prior to the referral

## **Before making a referral the public authority must:**

- a. have consent to the referral from the individual;
- b. allow the individual to identify the housing authority in England which they would like the notification to be made to; and,
- c. have consent from the individual that their contact details can be supplied so the housing authority can contact them regarding the referral.

The Duty to refer only applies to public authorities in England and individuals can only be referred to housing authorities in England

# Duty to refer - what you can expect from the Housing Authority



*What Can  
You Expect?*

Housing authorities should always respond to any referral received.

The housing authority may wish to contact the individual via a phone-call, email or letter using the contact details provided in the referral.....

*(para 4.19 Code of Guidance)*



# Duty to refer – What the housing authority duties are on receipt of notification

- If the Local Housing Authority has reason to believe an applicant is homeless or threatened with homelessness then they have a:
  - **Duty to make inquiries as to what duties are owed (s.184)**

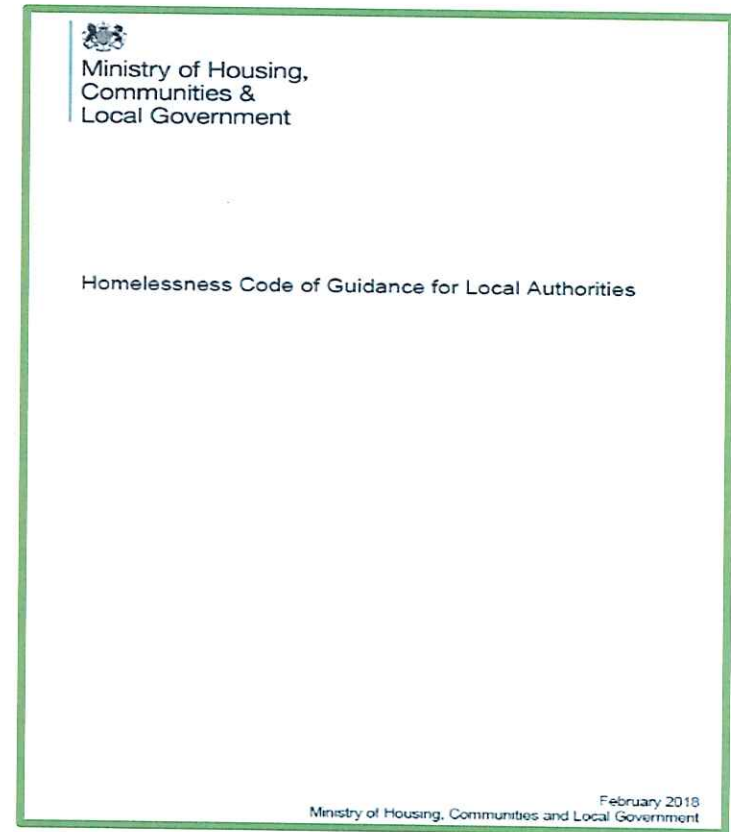


- And once satisfied an applicant is eligible for assistance and homeless or threatened with homelessness then they have a:
  - **Duty to assess** the applicant and agree a **plan (s.189A)** and
  - **Duty to take reasonable steps to prevent (S.195) or to relieve (S.189B) homelessness**

# Procedure for referral

Para 4.5 and 4.6 of the Code of Guidance recommends that the procedure for referrals should be:

- Decided by service partners in each local area
- Tailored to each public authority
- Made with the consent of the service user



<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>



# Procedure for referral: Good Practice

## **Code of Guidance**

Para 4.7 .... single point of contact at housing authority

Para 4.11... going above and beyond the referral procedure to maximise positive outcomes

Para 4.12... Assisting clients with particular support needs in approaching a housing authority

REFERRALS



# Information on referral

## Referrals must include:

- Individuals name
- Their contact details
- Reason for their referral (e.g. why homeless or threatened with homelessness)

## Para 4.14 of the Code:

- Encourages and advises housing authorities to develop standard referral mechanisms or forms that give more information than the bare minimum.





# How to decide where to refer -local connection

## **Para 4.8 Code of Guidance:**

When designing referral procedures, it would be helpful to include consideration of information to be given to people being referred to help inform their decision on which housing authority they wish to be referred to.

*Therefore establishing a service users local connection would be helpful as it may affect them later.*

**“Where to refer”**

# Local Connection – what establishes it

## **s.199.— Local connection**

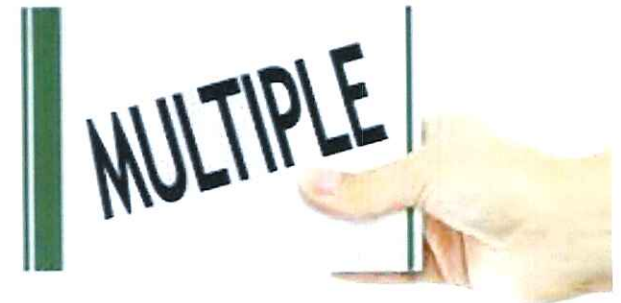
- (1) A person has a local connection with the district of a local housing authority if he has a connection with it—
- (a) because he is, or in the past was, normally resident there, and that residence is or was of his own choice,
  - (b) because he is employed there,
  - (c) because of family associations, or
  - (d) because of special circumstances.





# Multiple and Repeat Referrals

**Para 4.17 and 4.18** of the Code encourage housing authorities to develop protocols to mitigate multiple and repeat referrals.



Local Housing Authorities will need to establish if there has been a change in relevant facts since the last referral in order for a new homelessness application to commence.

 Repeat

