



Housing (Wales) Act 2014

2014 anaw 7

PART 2

HOMELESSNESS

CHAPTER 2

HELP FOR PEOPLE WHO ARE HOMELESS OR THREATENED WITH HOMELESSNESS

Right to review and appeal

VALID FROM 27/04/2015

85 Right to request review

- (1) An applicant has the right to request a review of the following decisions—
 - (a) a decision of a local housing authority as to the applicant's eligibility for help;
 - (b) a decision of a local housing authority that a duty is not owed to the applicant under section 66, 68, 73, or 75 (duties to applicants who are homeless or threatened with homelessness);
 - (c) a decision of a local housing authority that a duty owed to the applicant under section 66, 68, 73, or 75 has come to an end (including where the authority has referred the applicant's case to another authority or decided that the conditions for referral are met).
- (2) Where the duty owed to an applicant under section 73 has come to an end in the circumstances described in section 74(2) or (3), an applicant has the right to request a review of whether or not reasonable steps were taken during the period in which the duty under section 73 was owed to help to secure that suitable accommodation would be available for his or her occupation.

Status: Point in time view as at 01/12/2014. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Housing (Wales) Act 2014, Cross Heading: Right to review and appeal. (See end of Document for details)

- (3) An applicant who is offered accommodation in, or in connection with, the discharge of any duty under this Chapter may request a review of the suitability of the accommodation offered to the applicant (whether or not he or she has accepted the offer).
- (4) There is no right to request a review of the decision reached on an earlier review.
- (5) A request for review must be made before the end of the period of 21 days (or such longer period as the authority may in writing allow) beginning with the day on which the applicant is notified of the authority's decision.
- (6) On a request being made to them, the authority or authorities concerned must review their decision.

86 Procedure on review

- (1) The Welsh Ministers may make provision by regulations as to the procedure to be followed in connection with a review under section 85.
- (2) Regulations under subsection (1) may, for example,—
 - (a) require the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
 - (b) provide for the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom the applicant may be represented at such a hearing, and
 - (c) provide for the period within which the review must be carried out and notice given of the decision.
- (3) The authority, or as the case may be either of the authorities, concerned must notify the applicant of the decision on the review.
- (4) The authority must also notify the applicant of the reasons for the decision, if the decision is—
 - (a) to confirm the original decision on any issue against the interests of the applicant, or
 - (b) to confirm that reasonable steps were taken.
- (5) In any case they must inform the applicant of his or her right to appeal to the county court on a point of law, and of the period within which such an appeal must be made (see section 88).
- (6) Notice of the decision is not be treated as given unless and until subsection (5), and where applicable subsection (4), is complied with.
- (7) Notice required to be given to a person under this section must be given in writing and, if not received by that person, is to be treated as having been given if it is made available at the authority's office for a reasonable period for collection by the person or on his or her behalf.

Commencement Information

II S. 86 in force at 1.12.2014 for specified purposes by S.I. 2014/3127, art. 2(b), Sch. Pt. 2

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87 Effect of a decision on review or appeal that reasonable steps were not taken

- (1) Subsection (2) applies where it is decided on review under section 85(2) or on an appeal of a decision under that section that reasonable steps were not taken.
- (2) The duty in section 73 applies to the applicant again, with the modification that the 56 day period mentioned in subsection (2) of section 74 is to be interpreted as starting on the day the authority notifies the applicant of its decision on review under section 85(2) or, on an appeal, on such date as the court may order.

VALID FROM 27/04/2015

88 Right of appeal to county court on point of law

- (1) An applicant who has requested a review under section 85 may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision or a question as to whether reasonable steps were taken if the applicant—
 - (a) is dissatisfied with the decision on the review, or
 - (b) is not notified of the decision on the review within the time prescribed under section 86.
- (2) An appeal must be brought within 21 days of the applicant being notified of the decision or, as the case may be, of the date on which the applicant should have been notified of a decision on review.
- (3) The court may give permission for an appeal to be brought after the end of the period allowed by subsection (2), but only if it is satisfied—
 - (a) where permission is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time, or
 - (b) where permission is sought after that time, that there is a good reason for the applicant's failure to bring the appeal in time and for any delay in applying for permission.
- (4) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.
- (5) Where the authority was under a duty under section 68, 75 or 82 to secure that suitable accommodation is available for the applicant's occupation, it may secure that suitable accommodation is so available—
 - (a) during the period for appealing under this section against the authority's decision, and
 - (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

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89 Appeals against refusal to accommodate pending appeal

- (1) This section applies where an applicant has the right to appeal to the county court under section 88.
- (2) An applicant may appeal to the county court against a decision of the authority—
 - (a) not to exercise their power under section 88(5) (“the section 88(5) power”) in the applicant's case,
 - (b) to exercise that power for a limited period ending before the final determination by the county court of the applicant's appeal under section 88(1) (“the main appeal”), or
 - (c) to cease exercising that power before the final determination.
- (3) An appeal under this section may not be brought after the final determination by the county court of the main appeal.
- (4) On an appeal under this section the court—
 - (a) may order the authority to secure that suitable accommodation is available for the applicant's occupation until the determination of the appeal (or such earlier time as the court may specify), and
 - (b) must confirm or quash the decision appealed against.
- (5) In considering whether to confirm or quash the decision the court must apply the principles applied by the High Court on an application for judicial review.
- (6) If the court quashes the decision it may order the authority to exercise the section 88(5) power in the applicant's case for such period as may be specified in the order.
- (7) An order under subsection (6)—
 - (a) may only be made if the court is satisfied that failure to exercise the section 88(5) power in accordance with the order would substantially prejudice the applicant's ability to pursue the main appeal;
 - (b) may not specify any period ending after the final determination by the county court of the main appeal.

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