



# Housing (Wales) Act 2014

2014 anaw 7

## PART 2

### HOMELESSNESS

#### CHAPTER 2

##### HELP FOR PEOPLE WHO ARE HOMELESS OR THREATENED WITH HOMELESSNESS

###### *Introduction*

#### **53 Overview of this Chapter**

- (1) This Chapter confers duties on local housing authorities to help people who are homeless or threatened with homelessness and makes connected provision.
- (2) Sections 55 to 59 define and otherwise explain the meaning of some key terms (further provision about interpretation and an index of terms defined in this Chapter is at section 99).
- (3) Section 60 requires local housing authorities to secure the provision of a service providing people with information and advice connected with homelessness and assistance in accessing help under this Chapter.
- (4) Section 61 introduces Schedule 2 which makes provision about eligibility for help under this Chapter.
- (5) Section 62 places a duty on a local housing authority to assess the cases of people (“applicants”) who apply to the authority for accommodation, or help in retaining or obtaining accommodation, where they appear to the authority to be homeless or threatened with homelessness.

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- (6) Section 63 provides for notice to be given to applicants about the outcome of the assessment.
- (7) Section 64 gives examples of the kinds of ways in which the subsequent duties to secure or help to secure the availability of accommodation may be discharged and what may be done to discharge them; and section 65 explains what “help to secure” means.
- (8) Sections 66 to 79 set out the main duties on local housing authorities to help applicants, the circumstances in which those duties come to an end and connected provision; the main duties are—
  - (a) a duty to help to prevent applicants who are threatened with homelessness from becoming homeless (section 66);
  - (b) a duty to secure interim accommodation for applicants in priority need (section 68) (section 70 provides for who is to have priority need for accommodation for the purposes of the Chapter);
  - (c) a duty to help to secure that suitable accommodation is available for occupation by homeless applicants (section 73);
  - (d) a duty to secure accommodation for applicants in priority need when the duty in section 73 comes to an end (section 75).
- (9) Section 78 provides for the circumstances in which local housing authorities may have regard to whether an applicant became homeless intentionally when it is considering whether a duty to secure accommodation for applicants in priority need applies; section 77 provides for the meaning of intentionally homeless.
- (10) Sections 80 to 82 provide for local housing authorities to end their duties to applicants by referring their cases to other authorities in Wales or England, where the applicants have a local connection with the areas of those other authorities; section 81 defines the meaning of “local connection” for the purposes of this Chapter.
- (11) Sections 85 to 89 provide for reviews and appeals.
- (12) Sections 90 to 99 make supplementary and general provision.

### *Key terms*

#### **54 Application of key terms**

Sections 55 to 59 apply for the purposes of this Part.

#### **55 Meaning of homeless and threatened homelessness**

- (1) A person is homeless if there is no accommodation available for the person’s occupation, in the United Kingdom or elsewhere, which the person—
  - (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,
  - (b) has an express or implied licence to occupy, or
  - (c) occupies as a residence by virtue of any enactment or rule of law giving the person the right to remain in occupation or restricting the right of another person to recover possession.
- (2) A person is also homeless if the person has accommodation but—

- (a) cannot secure entry to it, or
  - (b) it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where the person is entitled or permitted both to place it and to reside in it.
- (3) A person is not to be treated as having accommodation unless it is accommodation which it would be reasonable for the person to continue to occupy.
- (4) A person is threatened with homelessness if it is likely that the person will become homeless within 56 days.

## **56 Meaning of accommodation available for occupation**

- (1) Accommodation may only be regarded as available for a person's occupation if it is available for occupation by that person together with—
- (a) any other person who normally resides with that person as a member of his or her family, or
  - (b) any other person who might reasonably be expected to reside with that person.
- (2) A reference in this Chapter to securing that accommodation is available for a person's occupation is to be interpreted accordingly.

## **57 Whether it is reasonable to continue to occupy accommodation**

- (1) It is not reasonable for a person to continue to occupy accommodation if it is probable that it will lead to the person, or a member of the person's household, being subjected to abuse.
- (2) In this section "member of a person's household" means—
- (a) a person who normally resides with him or her as member of his or her family, or
  - (b) any other person who might reasonably be expected to reside with that person.
- (3) In determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation, a local housing authority—
- (a) may have regard to the general circumstances prevailing in relation to housing in the area of the local housing authority to whom the person has applied for help in securing accommodation;
  - (b) must have regard to whether or not the accommodation is affordable for that person.
- (4) The Welsh Ministers may by order specify—
- (a) other circumstances in which it is to be regarded as reasonable or not reasonable for a person to continue to occupy accommodation, and
  - (b) other matters to be taken into account or disregarded in determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation.

## **58 Meaning of abuse and domestic abuse**

- (1) "Abuse" means physical violence, threatening or intimidating behaviour and any other form of abuse which, directly or indirectly, may give rise to the risk of harm; and abuse is "domestic abuse" where the victim is associated with the abuser.

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- (2) A person is associated with another person if—
- (a) they are or have been married to each other;
  - (b) they are or have been civil partners of each other;
  - (c) they live or have lived together in an enduring family relationship (whether they are of different sexes or the same sex);
  - (d) they live or have lived in the same household;
  - (e) they are relatives;
  - (f) they have agreed to marry one another (whether or not that agreement has been terminated);
  - (g) they have entered into a civil partnership agreement between them (whether or not that agreement has been terminated);
  - (h) they have or have had an intimate personal relationship with each other which is or was of significant duration;
  - (i) in relation to a child, each of them is a parent of the child or has, or has had, parental responsibility for the child.
- (3) If a child has been adopted or falls within subsection (4), two persons are also associated with each other for the purposes this Chapter if—
- (a) one is a natural parent of the child or a parent of such a natural parent, and
  - (b) the other is—
    - (i) the child, or
    - (ii) a person who has become a parent of the child by virtue of an adoption order, who has applied for an adoption order or with whom the child has at any time been placed for adoption.
- (4) A child falls within this section if—
- (a) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, is authorised to place the child for adoption under section 19 of that Act (placing children with parental consent) or the child has become the subject of an order under section 21 of that Act (placement orders), or
  - (b) the child is freed for adoption by virtue of an order made—
    - (i) in England and Wales, under section 18 of the Adoption Act 1976,
    - (ii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987, or
  - (c) the child is the subject of a Scottish permanence order which includes granting authority to adopt.
- (5) In this section—
- “adoption order” (“*gorchymyn mabwysiadu*”) means an adoption order within the meaning of section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002;
- “civil partnership agreement” (“*cytundeb partneriaeth sifil*”) has the meaning given by section 73 of the Civil Partnership Act 2004;
- “parental responsibility” (“*cyfrifoldeb rhiant*”) has the meaning given by section 3 of the Children Act 1989;
- “relative” (“*perthynas*”), in relation to a person, means that person’s parent, grandparent, child, grandchild, brother, half-brother, sister, half-sister, uncle, aunt, nephew, niece (including any person who is or has been in that

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relationship by virtue of a marriage or civil partnership or an enduring family relationship).

## **59 Suitability of accommodation**

- (1) In determining whether accommodation is suitable for a person, a local housing authority must have regard to the following enactments—
  - (a) Part 9 of the Housing Act 1985 (slum clearance);
  - (b) Part 10 of the Housing Act 1985 (overcrowding);
  - (c) Part 1 of the Housing Act 2004 (housing conditions);
  - (d) Part 2 of the Housing Act 2004 (licensing of houses in multiple occupation);
  - (e) Part 3 of the Housing Act 2004 (selective licensing of other residential accommodation);
  - (f) Part 4 of the Housing Act 2004 (additional control provisions in relation to residential accommodation);
  - (g) Part 1 of this Act (regulation of private rented housing).
- (2) In determining whether accommodation is suitable for a person, a local housing authority must have regard to whether or not the accommodation is affordable for that person.
- (3) The Welsh Ministers may by order specify—
  - (a) circumstances in which accommodation is or is not to be regarded as suitable for a person, and
  - (b) matters to be taken into account or disregarded in determining whether accommodation is suitable for a person.

*Information, advice and assistance in accessing help*

## **60 Duty to provide information, advice and assistance in accessing help**

- (1) A local housing authority must secure the provision, without charge, of a service providing people in its area, or people who have a local connection with its area, with—
  - (a) information and advice relating to preventing homelessness, securing accommodation when homeless, accessing any other help available for people who are homeless or may become homeless, and
  - (b) assistance in accessing help under this Chapter or any other help for people who are homeless or may become homeless.
- (2) In relation to subsection (1)(a), the service must include, in particular, the publication of information and advice on the following matters—
  - (a) the system provided for by this Chapter and how the system operates in the authority's area;
  - (b) whether any other help for people who are homeless or may become homeless (whether or not the person is threatened with homelessness within the meaning of this Chapter) is available in the authority's area;
  - (c) how to access the help that is available.

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- (3) In relation to subsection (1)(b), the service must include, in particular, assistance in accessing help to prevent a person becoming homeless which is available whether or not the person is threatened with homelessness within the meaning of this Chapter.
- (4) The local housing authority must, in particular by working with other public authorities, voluntary organisations and other persons, ensure that the service is designed to meet the needs of groups at particular risk of homelessness, including in particular—
  - (a) people leaving prison or youth detention accommodation,
  - (b) young people leaving care,
  - (c) people leaving the regular armed forces of the Crown,
  - (d) people leaving hospital after medical treatment for mental disorder as an inpatient, and
  - (e) people receiving mental health services in the community.
- (5) Two or more local housing authorities may jointly secure the provision of a service under this section for their areas; and where they do so—
  - (a) references in this section to a local housing authority are to be read as references to the authorities acting jointly, and
  - (b) references in this section to a local housing authority’s area are to be read as references to the combined area.
- (6) The service required by this section may be integrated with the service required by section 17 of the Social Services and Well-being (Wales) Act 2014.

### *Eligibility*

#### **61 Eligibility for help under this Chapter**

Schedule 2 has effect for the purposes of determining whether an applicant is eligible for help under the following provisions of this Chapter.

### *Applications for help and assessment*

#### **62 Duty to assess**

- (1) A local housing authority must carry out an assessment of a person’s case if—
  - (a) the person has applied to a local housing authority for accommodation or help in retaining or obtaining accommodation,
  - (b) it appears to the authority that the person may be homeless or threatened with homelessness, and
  - (c) subsection (2) does not apply to the person.
- (2) This subsection applies if the person has been assessed by a local housing authority under this section on a previous occasion and the authority is satisfied that—
  - (a) the person’s circumstances have not changed materially since that assessment was carried out, and
  - (b) there is no new information that materially affects that assessment.
- (3) In this Chapter, “applicant” means a person to whom the duty in subsection (1) applies.

- (4) The authority must assess whether or not the applicant is eligible for help under this Chapter.
- (5) If the applicant is eligible for help under this Chapter, the assessment must include an assessment of—
  - (a) the circumstances that have caused the applicant to be homeless or threatened with homelessness;
  - (b) the housing needs of the applicant and any person with whom the applicant lives or might reasonably be expected to live;
  - (c) the support needed for the applicant and any person with whom the applicant lives or might reasonably be expected to live to retain accommodation which is or may become available;
  - (d) whether or not the authority has any duty to the applicant under the following provisions of this Chapter.
- (6) In carrying out an assessment, the local housing authority must—
  - (a) seek to identify the outcome the applicant wishes to achieve from the authority's help, and
  - (b) assess whether the exercise of any function under this Chapter could contribute to the achievement of that outcome.
- (7) A local housing authority may carry out its assessment of the matters mentioned in subsections (5) and (6) before it has concluded that the applicant is eligible for help under this Chapter.
- (8) A local housing authority must keep its assessment under review during the period in which the authority considers that it owes a duty to the applicant under the following provisions of this Chapter or that it may do so.
- (9) A local housing authority must review its assessment in the following two cases—
  - Case 1 - where an applicant has been notified under section 63 that a duty is owed to the applicant under section 66 (duty to help to prevent an applicant from becoming homeless) and subsequently it appears to the authority that the duty under section 66 has or is likely to come to an end because the applicant is homeless;
  - Case 2 - where an applicant has been notified under section 63 that a duty is owed to the applicant under section 73 (duty to help to secure accommodation for homeless applicants) and subsequently it appears to the authority that the duty in section 73 has or is likely to come to an end in circumstances where a duty may be owed to the applicant under section 75 (duty to secure accommodation for applicants in priority need when the duty in section 73 ends).
- (10) The duty in subsection (5)(d) does not require a local housing authority to assess whether or not a duty would be owed to the applicant under section 75 unless and until it reviews its assessment in accordance with subsection (9) in the circumstances described in case 2 of that subsection; but it may do so before then.
- (11) Subsections (9) and (10) do not affect the generality of subsection (8).

### **63 Notice of the outcome of assessment**

- (1) The local housing authority must notify the applicant of the outcome of its assessment (or any review of its assessment) and, in so far as any issue is decided against the applicant's interests, inform the applicant of the reasons for its decision.
- (2) If the authority decides that a duty is owed to the applicant under section 75, but would not have done so without having had regard to a restricted person, the notice under subsection (1) must also—
  - (a) inform the applicant that its decision was reached on that basis,
  - (b) include the name of the restricted person,
  - (c) explain why the person is a restricted person, and
  - (d) explain the effect of section 76(5).
- (3) If the authority has notified or intends to notify another local housing authority under section 80 (referral of cases), it must at the same time notify the applicant of that decision and inform him or her of the reasons for it.
- (4) A notice under subsection (1) or (3) must also—
  - (a) inform the applicant of his or her right to request a review of the decision and of the time within which such a request must be made (see section 85), and
  - (b) be given in writing and, if not received, 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 applicant or on the applicant's behalf.
- (5) In this Chapter, "a restricted person" means a person—
  - (a) who is not eligible for help under this Chapter,
  - (b) who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, and
  - (c) who either—
    - (i) does not have leave to enter or remain in the United Kingdom, or
    - (ii) has leave to enter or remain in the United Kingdom subject to a condition to maintain and accommodate himself or herself, and any dependants, without recourse to public funds.

#### *Duties to help applicants*

### **64 How to secure or help to secure the availability of accommodation**

- (1) The following are examples of the ways in which a local housing authority may secure or help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant—
  - (a) by arranging for a person other than the authority to provide something;
  - (b) by itself providing something;
  - (c) by providing something, or arranging for something to be provided, to a person other than the applicant.
- (2) The following are examples of what may be provided or arranged to secure or help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant—
  - (a) mediation;



- (b) payments by way of grant or loan;
  - (c) guarantees that payments will be made;
  - (d) support in managing debt, mortgage arrears or rent arrears;
  - (e) security measures for applicants at risk of abuse;
  - (f) advocacy or other representation;
  - (g) accommodation;
  - (h) information and advice;
  - (i) other services, goods or facilities.
- (3) The Welsh Ministers must give guidance to local housing authorities in relation to how they may secure or help to secure that suitable accommodation is available, or does not cease to be available, for occupation by an applicant.

## **65 Meaning of help to secure**

Where a local housing authority is required by this Chapter to help to secure (rather than “to secure”) that suitable accommodation is available, or does not cease to be available, for occupation by an applicant, the authority—

- (a) is required to take reasonable steps to help, having regard (among other things) to the need to make the best use of the authority’s resources;
- (b) is not required to secure an offer of accommodation under Part 6 of the Housing Act 1996 (allocation of housing);
- (c) is not required to otherwise provide accommodation.

## **66 Duty to help to prevent an applicant from becoming homeless**

- (1) A local housing authority must help to secure that suitable accommodation does not cease to be available for occupation by an applicant if the authority is satisfied that the applicant is—
- (a) threatened with homelessness, and
  - (b) eligible for help.
- (2) Subsection (1) does not affect any right of the authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of any accommodation.

## **67 Circumstances in which the duty in section 66 ends**

- (1) The duty to an applicant under section 66 comes to an end in any of the circumstances described in subsection (2), (3) or (4), if the applicant has been notified in accordance with section 84.
- (2) The circumstances are that the local authority is satisfied that the applicant has become homeless.
- (3) The circumstances are that the local housing authority is satisfied (whether as a result of the steps it has taken or not) that—
- (a) the applicant is no longer threatened with homelessness, and
  - (b) suitable accommodation is likely to be available for occupation by the applicant for a period of at least 6 months.
- (4) The circumstances are that—

- (a) the applicant, having been notified in writing of the possible consequences of refusal or acceptance of the offer, refuses an offer of accommodation from any person which the authority is satisfied is suitable for the applicant, and
  - (b) the authority is satisfied that the accommodation offered is likely to be available for occupation by the applicant for a period of at least 6 months.
- (5) The period of 6 months mentioned in subsections (3)(b) and (4)(b) begins on the day the notice under section 84 is sent or first made available for collection.
- (6) See section 79 for further circumstances in which the duty in section 66 comes to an end.

### **68 Interim duty to secure accommodation for homeless applicants in priority need**

- (1) The local housing authority must secure that suitable accommodation is available for the occupation of an applicant to whom subsection (2) or (3) applies until the duty comes to an end in accordance with section 69.
- (2) This subsection applies to an applicant who the authority has reason to believe may—
- (a) be homeless,
  - (b) be eligible for help, and
  - (c) have a priority need for accommodation,
- in circumstances where the authority is not yet satisfied that the applicant is homeless, eligible for help and in priority need for accommodation.
- (3) This subsection applies to an applicant—
- (a) who the authority has reason to believe or is satisfied has a priority need or whose case has been referred from a local housing authority in England under section 198(1) of the Housing Act 1996, and
  - (b) to whom the duty in section 73 (duty to help to end homelessness) applies.
- (4) The duty under this section arises irrespective of any possibility of the referral of the applicant's case to another local housing authority (see sections 80 to 82).

### **69 Circumstances in which the duty in section 68 ends**

- (1) The duty to an applicant under section 68 comes to an end in any of the circumstances described in subsection (2), (3) (subject to subsection (4) and (5)), (7), (8) or (9) if the applicant has been notified in accordance with section 84.
- (2) The circumstances are that the local housing authority has decided that no duty is owed to the applicant under section 73 and the applicant is notified of that decision.
- (3) In the case of an applicant to whom section 68(3) applies, the circumstances are that the local housing authority has—
- (a) decided that the duty owed to the applicant under section 73 has come to an end and that a duty is or is not owed to the applicant under section 75, and
  - (b) notified the applicant of that decision;
- but this is subject to subsections (4) and (5).
- (4) Subsection (5) applies where a local housing authority has decided that no duty is owed to the applicant under section 75 on the basis that the authority—

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- (a) is satisfied that the applicant became homeless intentionally in the circumstances which gave rise to the application, or
  - (b) has previously secured an offer of accommodation of the kind described in section 75(3)(f).
- (5) The duty under section 68 does not come to an end in the circumstances described in subsection (3) until the authority is also satisfied that the accommodation it has secured under section 68 has been available to the applicant for a sufficient period, beginning on the day on which he or she is notified that section 75 does not apply, to allow the applicant a reasonable opportunity of securing accommodation for his or her occupation.
- (6) The period mentioned in subsection (5) is not sufficient for the purposes of that subsection if it ends on a day during the period of 56 days beginning with the day on which the applicant was notified that the duty in section 73 applied.
- (7) The circumstances are that the applicant, having been notified of the possible consequence of refusal, refuses an offer of accommodation secured under section 68 which the local housing authority is satisfied is suitable for the applicant.
- (8) The circumstances are that the local housing authority is satisfied that the applicant has become homeless intentionally from suitable interim accommodation made available for the applicant's occupation under section 68.
- (9) The circumstances are that the local housing authority is satisfied that the applicant voluntarily ceased to occupy as his or her only or principal home suitable interim accommodation made available for the applicant's occupation under section 68.
- (10) The duty comes to an end in accordance with this section even if the applicant requests a review of any decision that has led to the duty coming to an end (see section 85).
- (11) The authority may secure that suitable accommodation is available for the applicant's occupation pending a decision on a review.
- (12) See section 79 for further circumstances in which the duty in section 68 comes to an end.

## **70 Priority need for accommodation**

- (1) The following persons have a priority need for accommodation for the purposes of this Chapter—
- (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
  - (b) a person with whom a dependent child resides or might reasonably be expected to reside;
  - (c) a person—
    - (i) who is vulnerable as a result of some special reason (for example: old age, physical or mental illness or physical or mental disability), or
    - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
  - (d) a person—
    - (i) who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster, or

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- (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (e) a person—
  - (i) who is homeless as a result of being subject to domestic abuse, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides (other than the abuser) or might reasonably be expected to reside;
- (f) a person—
  - (i) who is aged 16 or 17 when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (g) a person—
  - (i) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who is at particular risk of sexual or financial exploitation, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides (other than an exploiter or potential exploiter) or might reasonably be expected to reside;
- (h) a person—
  - (i) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who was looked after, accommodated or fostered at any time while under the age of 18, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (i) a person—
  - (i) who has served in the regular armed forces of the Crown who has been homeless since leaving those forces, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (j) a person who has a local connection with the area of the local housing authority and who is vulnerable as a result of one of the following reasons—
  - (i) having served a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000,
  - (ii) having been remanded in or committed to custody by an order of a court, or
  - (iii) having been remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

or a person with whom such a person resides or might reasonably be expected to reside.

(2) In this Chapter—

“looked after, accommodated or fostered” (*“yn derbyn gofal, yn cael ei letya neu’n cael ei faethu”*) means—

- (a) looked after by a local authority (within the meaning of section 74 of the Social Services and Well-Being (Wales) Act 2014 or section 22 of the Children Act 1989),

- (b) accommodated by or on behalf of a voluntary organisation,
- (c) accommodated in a private children’s home,
- (d) accommodated for a continuous period of at least three months—
  - (i) by any Local Health Board or Special Health Authority,
  - (ii) by or on behalf of a clinical commissioning group or the National Health Service Commissioning Board,
  - (iii) by or on behalf of a county or county borough council in Wales in the exercise of education functions,
  - (iv) by or on behalf of a local authority in England in the exercise of education functions,
  - (v) in any care home or independent hospital, or
  - (vi) in any accommodation provided by or on behalf of an NHS Trust or by or on behalf of an NHS Foundation Trust, or
- (e) privately fostered (within the meaning of section 66 of the Children Act 1989).

(3) In subsection (2)—

“care home” (*“cartref gofal”*) has the same meaning as in the Care Standards Act 2000;

“clinical commissioning group” (*“grŵp comisiynu clinigol”*) means a body established under section 14D of the National Health Service Act 2006;

“education functions” (*“swyddogaethau addysg”*) has the meaning given by section 597(1) of the Education Act 1996;

“independent hospital” (*“ysbyty annibynnol”*)—

- (a) in relation to Wales, has the meaning given by section 2 of the Care Standards Act 2000, and
- (b) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;

“local authority in England” (*“awdurdod lleol yn Lloegr”*) means—

- (a) a county council in England,
- (b) a district council for an area in England for which there is no county council,
- (c) a London borough council, or
- (d) the Common Council of the City of London;

“Local Health Board” (*“Bwrdd Iechyd Lleol”*) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

## 71 Meaning of vulnerable in section 70

- (1) A person is vulnerable as a result of a reason mentioned in paragraph (c) or (j) of section 70(1) if, having regard to all the circumstances of the person’s case—
  - (a) the person would be less able to fend for himself or herself (as a result of that reason) if the person were to become street homeless than would an ordinary homeless person who becomes street homeless, and
  - (b) this would lead to the person suffering more harm than would be suffered by the ordinary homeless person;

this subsection applies regardless of whether or not the person whose case is being considered is, or is likely to become, street homeless.

- (2) In subsection (1), “street homeless” (“digartref ac ar y stryd”), in relation to a person, means that the person has no accommodation available for the person’s occupation in the United Kingdom or elsewhere, which the person—
- (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,
  - (b) has an express or implied licence to occupy, or
  - (c) occupies as a residence by virtue of any enactment or rule of law giving the person the right to remain in occupation or restricting the right of another person to recover possession;
- and sections 55 and 56 do not apply to this definition.

## **72 Power to amend or repeal provisions about priority need for accommodation**

- (1) The Welsh Ministers may by order—
- (a) make provision for and in connection with removing any condition that a local housing authority must have reason to believe or be satisfied that an applicant is in priority need for accommodation before any power or duty to secure accommodation under this Chapter applies;
  - (b) amend or omit the descriptions of persons as having a priority need for accommodation for the purposes of this Chapter;
  - (c) specify further descriptions of persons as having a priority need for accommodation for the purposes of this Chapter.
- (2) An order under subsection (1) may amend or repeal any provision of this Part.
- (3) Before making an order under this section the Welsh Ministers must consult such associations representing councils of counties and county boroughs in Wales, and such other persons, as they consider appropriate.

## **73 Duty to help to secure accommodation for homeless applicants**

- (1) A local housing authority must help to secure that suitable accommodation is available for occupation by an applicant, if the authority is satisfied that the applicant is—
- (a) homeless, and
  - (b) eligible for help.
- (2) But the duty in subsection (1) does not apply if the authority refers the application to another local housing authority (see section 80).

## **74 Circumstances in which the duty in section 73 ends**

- (1) The duty to an applicant under section 73 comes to an end in any of the circumstances described in subsections (2), (3), (4), or (5), if the applicant has been notified in accordance with section 84.
- (2) The circumstances are the end of a period of 56 days.
- (3) The circumstances are that before the end of a period of 56 days the local housing authority is satisfied that reasonable steps have been taken to help to secure that suitable accommodation is available for occupation by the applicant.

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- (4) The circumstances are that the local housing authority is satisfied (whether as a result of the steps it has taken or not) that—
  - (a) the applicant has suitable accommodation available for occupation, and
  - (b) the accommodation is likely to be available for occupation by the applicant for a period of at least 6 months.
- (5) The circumstances are that—
  - (a) the applicant, having been notified of the possible consequence of refusal or acceptance of the offer, refuses an offer of accommodation from any person which the authority is satisfied is suitable for the applicant, and
  - (b) the authority is satisfied that the accommodation offered is likely to be available for occupation by the applicant for a period of at least 6 months.
- (6) The period of 56 days mentioned in subsections (2) and (3) begins on the day the applicant is notified under section 63 and for this purpose the applicant is to be treated as notified on the day the notice is sent or first made available for collection.
- (7) The period of 6 months mentioned in subsection (4)(b) and (5)(b) begins on the day the notice under section 84 is sent or first made available for collection.
- (8) See section 79 for further circumstances in which the duty in section 73 comes to an end.

## **75 Duty to secure accommodation for applicants in priority need when the duty in section 73 ends**

- (1) When the duty in section 73 ( duty to help to secure accommodation for homeless applicants) comes to an end in respect of an applicant in the circumstances mentioned in subsection (2) or (3) of section 74, the local housing authority must secure that suitable accommodation is available for occupation by the applicant if subsection (2) or (3) (of this section) applies.
- (2) This subsection applies where the local housing authority—
  - (a) is satisfied that the applicant—
    - (i) does not have suitable accommodation available for occupation, or
    - (ii) has suitable accommodation, but it is not likely that the accommodation will be available for occupation by the applicant for a period of at least 6 months starting on the day the applicant is notified in accordance with section 84 that section 73 does not apply,
  - (b) is satisfied that the applicant is eligible for help,
  - (c) is satisfied that the applicant has a priority need for accommodation, and
  - (d) if the authority is having regard to whether or not the applicant is homeless intentionally (see section 77), is not satisfied that the applicant became homeless intentionally in the circumstances which gave rise to the application;
- (3) This subsection applies where the local housing authority is having regard to whether or not the applicant is homeless intentionally and is satisfied that—
  - (a) the applicant became homeless intentionally in the circumstances which gave rise to the application,
  - (b) the applicant—
    - (i) does not have suitable accommodation available for occupation, or

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- (ii) has suitable accommodation, but it is not likely that the accommodation will be available for occupation by the applicant for a period of at least 6 months starting on the day on which the applicant is notified in accordance with section 84 that section 73 does not apply,
  - (c) the applicant is eligible for help,
  - (d) the applicant has a priority need for accommodation,
  - (e) the applicant is—
    - (i) a pregnant woman or a person with whom she resides or might reasonably be expected to reside,
    - (ii) a person with whom a dependent child resides or might reasonably be expected to reside,
    - (iii) a person who had not attained the age of 21 when the application for help was made or a person with whom such a person resides or might reasonably be expected to reside, or
    - (iv) a person who had attained the age of 21, but not the age of 25, when the application for help was made and who was looked after, accommodated or fostered at any time while under the age of 18, or a person with whom such a person resides or might reasonably be expected to reside, and
  - (f) the authority has not previously secured an offer of accommodation to the applicant under this section following a previous application for help under this Chapter, where that offer was made—
    - (i) at any time within the period of 5 years before the day on which the applicant was notified under section 63 that a duty was owed to him or her under this section, and
    - (ii) on the basis that the applicant fell within this subsection.
- (4) For the purpose of subsections (2)(a)(ii) and (3)(b)(ii), the applicant is to be treated as notified on the day the notice is sent or first made available for collection.

## **76 Circumstances in which the duty in section 75 ends**

- (1) The duty to an applicant under section 75(1) comes to an end in any of the circumstances described in subsections (2), (3), (6) or (7), if the applicant has been notified in accordance with section 84.
- (2) The circumstances are that the applicant accepts—
  - (a) an offer of suitable accommodation under Part 6 of the Housing Act 1996 (allocation of housing), or
  - (b) an offer of suitable accommodation under an assured tenancy (including an assured shorthold tenancy).
- (3) The circumstances are that the applicant, having been given notice in writing of the possible consequence of refusal or acceptance of the offer, refuses—
  - (a) an offer of suitable interim accommodation under section 75,
  - (b) a private rented sector offer, or
  - (c) an offer of accommodation under Part 6 of the Housing Act 1996, which the authority is satisfied is suitable for the applicant.
- (4) For the purposes of this section an offer is a private rented sector offer if—



- (a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is available for the applicant's occupation,
  - (b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority's duty under section 75 to an end, and
  - (c) the tenancy being offered is a fixed term tenancy for a period of at least 6 months.
- (5) In a restricted case, the local housing authority must, so far as reasonably practicable, bring its duty to an end by securing a private rented sector offer; for this purpose, a "restricted case" means a case where the local housing authority would not be satisfied as mentioned in section 75(1) without having regard to a restricted person (see section 63(5)).
- (6) The circumstances are that the local housing authority is satisfied that the applicant has become homeless intentionally from suitable interim accommodation made available for the applicant's occupation—
- (a) under section 68 and which continues to be made available under section 75, or
  - (b) under section 75.
- (7) The circumstances are that the local housing authority is satisfied that the applicant has voluntarily ceased to occupy as his or her only or principal home, suitable interim accommodation made available for the applicant's occupation—
- (a) under section 68 and which continues to be made available under section 75, or
  - (b) under section 75.
- (8) See section 79 for further circumstances in which the duty in section 75(1) comes to an end.
- (9) In this section "fixed term tenancy" has the meaning given by Part 1 of the Housing Act 1988.

## **77 Meaning of intentionally homeless**

- (1) A person is intentionally homeless for the purpose of this Chapter if subsection (2) or (4) apply.
- (2) This subsection applies if the person deliberately does or fails to do anything in consequence of which the person ceases to occupy accommodation which is available for the person's occupation and which it would have been reasonable for the person to continue to occupy.
- (3) For the purposes of subsection (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact may not be treated as deliberate.
- (4) This subsection applies if—
- (a) the person enters into an arrangement under which the person is required to cease to occupy accommodation which it would have been reasonable for the person to continue to occupy, and
  - (b) the purpose of the arrangement is to enable the person to become entitled to help under this Chapter,

and there is no other good reason why the person is homeless.

#### **78 Deciding to have regard to intentionality**

- (1) The Welsh Ministers must, by regulations, specify a category or categories of applicant for the purpose of this section.
- (2) A local housing authority may not have regard to whether or not an applicant has become homeless intentionally for the purposes of sections 68 and 75 unless—
  - (a) the applicant falls within a category specified under subsection (1) in respect of which the authority has decided to have regard to whether or not applicants in that category have become homeless intentionally, and
  - (b) the authority has published a notice of its decision under paragraph (a) which specifies the category.
- (3) Subsection (4) applies where a local housing authority has published a notice under subsection (2) unless the authority has—
  - (a) decided to stop having regard to whether or not applicants falling into the category specified in the notice have become homeless intentionally, and
  - (b) published a notice of its decision specifying the category.
- (4) For the purposes of section 68 and 75, a local housing authority must have regard to whether or not an applicant has become homeless intentionally if the applicant falls within a category specified in the notice published by the authority under subsection (2).

#### **79 Further circumstances in which the duties to help applicants end**

- (1) The duties in sections 66, 68, 73 and 75 come to an end in the circumstances described in subsection (2), (3), (4) or (5), if the applicant is notified in accordance with section 84.
- (2) The circumstances are that the local housing authority is no longer satisfied that the applicant is eligible for help.
- (3) The circumstances are that the local housing authority is satisfied that a mistake of fact led to the applicant being notified under section 63 that the duty was owed to the applicant.
- (4) The circumstances are that the local authority is satisfied that the applicant has withdrawn his or her application.
- (5) The circumstances are that the local housing authority is satisfied that the applicant is unreasonably failing to co-operate with the authority in connection with the exercise of its functions under this Chapter as they apply to the applicant.

*Referral to another local housing authority*

#### **80 Referral of case to another local housing authority**

- (1) Subsection (2) applies where—

- (a) a local housing authority considers that the conditions for referral to another local housing authority (whether in Wales or England) are met (see subsection (3)), and
  - (b) the local housing authority would, if the case is not referred, be subject to the duty in section 73 in respect of an applicant who is in priority need of accommodation and unintentionally homeless (duty to help to secure accommodation for homeless applicants).
- (2) The local housing authority may notify the other authority of its opinion that the conditions for referral are met in respect of the applicant.
- (3) The conditions for referral of the case to another local housing authority (whether in Wales or England) are met if—
  - (a) neither the applicant nor any person who might reasonably be expected to reside with the applicant has a local connection with the area of the authority to which the application was made,
  - (b) the applicant or a person who might reasonably be expected to reside with the applicant has a local connection with the area of that other authority, and
  - (c) neither the applicant nor any person who might reasonably be expected to reside with the applicant will run the risk of domestic abuse in that other area.
- (4) But the conditions for referral mentioned in subsection (3) are not met if—
  - (a) the applicant or any person who might reasonably be expected to reside with the applicant has suffered abuse (other than domestic abuse) in the area of the other authority, and
  - (b) it is probable that the return to that area of the victim will lead to further abuse of a similar kind against him or her.
- (5) The question of whether the conditions for referral of a case are satisfied is to be decided—
  - (a) by agreement between the notifying authority and the notified authority, or
  - (b) in default of agreement, in accordance with such arrangements—
    - (i) as the Welsh Ministers may direct by order, where both authorities are in Wales, or
    - (ii) as the Welsh Ministers and the Secretary of State may jointly direct by order, where the notifying authority is in Wales and the notified authority is in England.
- (6) An order under subsection (5) may direct that the arrangements are to be—
  - (a) those agreed by any relevant authorities or associations of relevant authorities, or
  - (b) in default of such agreement, such arrangements as appear to the Welsh Ministers or, in the case of an order under subsection (5)(b)(ii), to the Welsh Ministers and the Secretary of State to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as they think appropriate.
- (7) In subsection (6), “relevant authority” means a local housing authority or a social services authority; and it includes, in so far as that subsection applies to arrangements under subsection (5)(b)(ii), such authorities in Wales and England.
- (8) The Welsh Ministers may by order specify other circumstances in which the conditions are or are not met for referral of the case to another local housing authority.

## **81 Local connection**

- (1) This section applies for the purposes of this Chapter.
- (2) A person has a local connection with the area of a local housing authority in Wales or England if the person has a connection with it—
  - (a) because the person is, or in the past was, normally resident there, and that residence is or was of the person's own choice,
  - (b) because the person is employed there,
  - (c) because of family associations, or
  - (d) because of special circumstances.
- (3) Residence in an area is not of a person's own choice if the person, or a person who might reasonably be expected to reside with that person, becomes resident there because the person is detained under the authority of an enactment.
- (4) The Welsh Ministers may by order specify circumstances in which—
  - (a) a person is not to be treated as employed in an area, or
  - (b) residence in an area is not to be treated as of a person's own choice.
- (5) A person has a local connection with the area of a local housing authority in Wales or England if the person was (at any time) provided with accommodation in that area under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers).
- (6) But subsection (5) does not apply—
  - (a) to the provision of accommodation for a person in an area of a local housing authority if the person was subsequently provided with accommodation in the area of another local housing authority under section 95 of that Act, or
  - (b) to the provision of accommodation in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002 (use of accommodation centres for section 95 support).

## **82 Duties to applicant whose case is considered for referral or referred**

- (1) Where a local housing authority notifies an applicant in accordance with section 84 that it intends to notify or has notified another local housing authority in Wales or England of its opinion that the conditions are met for the referral of the applicant's case to that other authority—
  - (a) it ceases to be subject to any duty under section 68 ( interim duty to secure accommodation for homeless applicants in priority need), and
  - (b) it is not subject to any duty under section 73 ( duty to help to secure accommodation for homeless applicants);but it must secure that suitable accommodation is available for occupation by the applicant until the applicant is notified of the decision whether the conditions for referral of the case are met.
- (2) When it has been decided whether the conditions for referral are met, the notifying authority must notify the applicant in accordance with section 84.
- (3) If it is decided that the conditions for referral are not met, the notifying authority is subject to the duty under section 73 (duty to help to secure accommodation for homeless applicants).

- (4) If it is decided that those conditions are met and the notified authority is an authority in Wales, the notified authority is subject to the duty under section 73 ( duty to help to secure accommodation for homeless applicants); for provision about cases where it is decided that those conditions are met and the notified authority is an authority in England, see section 201A of the Housing Act 1996 (cases referred from a local housing authority in Wales).
- (5) The duty under subsection (1) ceases as provided in that subsection even if the applicant requests a review of the authority’s decision (see section 85).
- (6) The authority may secure that suitable accommodation is available for the applicant’s occupation pending the decision on a review.
- (7) If notice required to be given to an applicant under this section is not received by the applicant, it 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 applicant or on the applicant’s behalf.

### **83 Cases referred from a local housing authority in England**

- (1) This section applies where an application has been referred by a local housing authority in England to a local housing authority in Wales under section 198(1) of the Housing Act 1996 (referral of case to another local housing authority).
- (2) If it is decided that the conditions in that section for referral of the case are met the notified authority is subject to the following duties in respect of the person whose case is referred—
  - (a) section 68 ( interim duty to secure accommodation for homeless applicants in priority need);
  - (b) section 73 (duty to help to secure accommodation for homeless applicants); for provision about cases where it is decided that the conditions for referral are not met, see section 200 of the Housing Act 1996 (duties to applicant whose case is considered for referral or referred).
- (3) Accordingly, references in this Chapter to an applicant include a reference to a person to whom the duties mentioned in subsection (2) are owed by virtue of this section.

#### *Notice*

### **84 Notice that duties have ended**

- (1) Where a local housing authority concludes that its duty to an 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), it must notify the applicant—
  - (a) that it no longer regards itself as being subject to the relevant duty,
  - (b) of the reasons why it considers that the duty has come to an end,
  - (c) of the right to request a review, and
  - (d) of the time within which such a request must be made.
- (2) Where a notice under subsection (1) relates to the duty in section 73 coming to an end in the circumstances described in section 74(2) or (3), it must include notice of the steps

taken by the local housing authority to help to secure that suitable accommodation would be available for occupation by the applicant.

- (3) Notice under this section must be in writing.
- (4) Where a notice is not received by an applicant, the applicant may be treated as having been notified under this section if the notice is made available at the authority's office for a reasonable period for collection by the applicant or on the applicant's behalf.

### *Right to review and appeal*

## **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.
- (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

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- (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.

#### **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.

#### **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.

## **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.

### *Supplementary provisions*

## **90 Charges**

A local housing authority may require a person in relation to whom it is discharging its functions under this Chapter—



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- (a) to pay reasonable charges determined by the authority in respect of accommodation which it secures for the person's occupation (either by making it available itself or otherwise), or
- (b) to pay a reasonable amount determined by the authority in respect of sums payable by it for accommodation made available by another person.

## **91 Out-of-area placement**

- (1) A local housing authority must in discharging its functions under this Chapter secure or help to secure that suitable accommodation is available for the occupation of the applicant in its area, so far as is reasonably practicable.
- (2) If the authority secures that accommodation is available for the occupation of the applicant outside its area in Wales or England, it must give notice to the local housing authority (whether in Wales or England) in whose area the accommodation is situated.
- (3) The notice must state—
  - (a) the name of the applicant,
  - (b) the number and description of other persons who normally reside with the applicant as a member of his or her family or might reasonably be expected to reside with the applicant,
  - (c) the address of the accommodation,
  - (d) the date on which the accommodation was made available to the applicant, and
  - (e) which function under this Chapter the authority was discharging in securing that the accommodation is available for the applicant's occupation.
- (4) The notice must be in writing, and must be given before the end of the period of 14 days beginning with the day on which the accommodation was made available to the applicant.

## **92 Interim accommodation: arrangements with private landlord**

- (1) This section applies where in carrying out any of its functions under section 68, 82 or 88(5) (interim accommodation) a local housing authority makes arrangements with a private landlord to provide accommodation.
- (2) A tenancy granted to the applicant under the arrangements cannot be an assured tenancy before the end of the period of twelve months beginning with—
  - (a) the date on which the applicant was notified of the authority's decision under section 63(1) or 80(5), or
  - (b) if there is a review of that decision under section 85 or an appeal to the court under section 88, the date on which the applicant is notified of the decision on review or the appeal is finally determined,unless, before or during that period, the tenant is notified by the landlord (or in the case of joint landlords, at least one of them) that the tenancy is to be regarded as an assured shorthold tenancy or an assured tenancy other than an assured shorthold tenancy.

## **93 Protection of property**

- (1) Where a local housing authority has become subject to a duty in respect of an applicant as described in subsection (2), it must take reasonable steps to prevent the loss of the

personal property of the applicant or prevent or mitigate damage to it if the authority has reason to believe that—

- (a) there is danger of loss of, or damage to, the property by reason of the applicant's inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (2) The duties in respect of an applicant are—
- section 66 (duty to help to prevent an applicant from becoming homeless) in the case of an applicant in priority need;
  - section 68 ( interim duty to secure accommodation for homeless applicants in priority need);
  - section 75 (duty to secure accommodation for applicants in priority need when the duty in section 73 ends);
  - section 82 (duties to applicant whose case is considered for referral or referred) in the case of an applicant in priority need.
- (3) Where a local housing authority has become subject to the duty in subsection (1), it continues to be subject to that duty even if the duty in respect of the applicant as described in subsection (2) comes to an end.
- (4) The duty of a local housing authority under subsection (1) is subject to any conditions it considers appropriate in the particular case, which may include conditions as to—
- (a) the making and recovery by the authority of reasonable charges for the action taken, or
  - (b) the disposal by the authority, in such circumstances as may be specified, of property in relation to which it has taken action.
- (5) A local housing authority may take any steps it considers reasonable for the purpose of protecting the personal property of an applicant who is eligible for help or prevent or mitigate damage to it if the authority has reason to believe that—
- (a) there is danger of loss of, or damage to, the property by reason of the applicant's inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (6) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with the applicant.

#### **94 Protection of property: supplementary provisions**

- (1) The authority may for the purposes of section 93—
- (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were the applicant's last usual place of residence, and
  - (b) deal with any personal property of the applicant in any way which is reasonably necessary, in particular by storing it or arranging for its storage.
- (2) Where a local authority is proposing to exercise the power in subsection (1)(a), the officer it authorises to do so must, upon request, produce valid documentation setting out the authorisation to do so.
- (3) A person who, without reasonable excuse, obstructs the exercise of the power under subsection (1)(a) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

- (4) Where the applicant asks the authority to move his or her property to a particular location nominated by the applicant, the authority—
  - (a) may, if it appears to it that the request is reasonable, discharge its responsibilities under section 93 by doing as the applicant asks, and
  - (b) having done so, have no further duty or power to take action under that section in relation to that property.
- (5) If such a request is made, the authority must before complying with it inform the applicant of the consequence of it doing so.
- (6) If no such request is made (or, if made, is not acted upon) the authority cease to have any duty or power to take action under section 93 when, in its opinion, there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his or her inability to protect it or deal with it.
- (7) But property stored by virtue of the authority having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.
- (8) Where the authority—
  - (a) ceases to be subject to a duty to take action under section 93 in respect of an applicant's property, or
  - (b) ceases to have power to take such action, having previously taken such action, it must notify the applicant of that fact and of the reason for it.
- (9) The notification must be given to the applicant—
  - (a) by delivering it to the applicant, or
  - (b) leaving it at, or sending it to, the applicant's last known address.
- (10) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with the applicant.

## **95 Co-operation**

- (1) A council of a county or county borough in Wales must make arrangements to promote co-operation between the officers of the authority who exercise its social services functions and those who exercise its functions as the local housing authority with a view to achieving the following objectives in its area—
  - (a) the prevention of homelessness,
  - (b) that suitable accommodation is or will be available for people who are or may become homeless,
  - (c) that satisfactory support is available for people who are or may become homeless, and
  - (d) the effective discharge of its functions under this Part.
- (2) If a local housing authority requests the co-operation of a person mentioned in subsection (5) in the exercise of its functions under this Part, the person must comply with the request unless the person considers that doing so would—
  - (a) be incompatible with the person's own duties, or
  - (b) otherwise have an adverse effect on the exercise of the person's functions.

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*Status: This is the original version (as it was originally enacted).*

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- (3) If a local housing authority requests that a person mentioned in subsection (5) provides it with information it requires for the purpose of the exercise of any of its functions under this Part, the person must comply with the request unless the person considers that doing so would—
- (a) be incompatible with the person’s own duties, or
  - (b) otherwise have an adverse effect on the exercise of the person’s functions.
- (4) A person who decides not to comply with a request under subsection (2) or (3) must give the local housing authority who made the request written reasons for the decision.
- (5) The persons (whether in Wales or England) are—
- (a) a local housing authority;
  - (b) a social services authority;
  - (c) a registered social landlord;
  - (d) a new town corporation;
  - (e) a private registered provider of social housing;
  - (f) a housing action trust.
- (6) The Welsh Ministers may amend subsection (5) by order to omit or add a person, or a description of a person.
- (7) An order under subsection (6) may not add a Minister of the Crown.
- (8) In this section—
- “housing action trust” (*“ymddiriedolaeth gweithredu tai”*) means a housing action trust established under Part 3 of the Housing Act 1988;
- “new town corporation” (*“corfforaeth tref newydd”*) has the meaning given in Part 1 of the Housing Act 1985;
- “private registered provider of social housing” (*“darparwr tai cymdeithasol preifat cofrestredig”*) has the meaning given by Part 2 of the Housing and Regeneration Act 2008;
- “registered social landlord” (*“landlord cymdeithasol cofrestredig”*) has the meaning given by Part 1 of the Housing Act 1996.

## 96 Co-operation in certain cases involving children

- (1) This section applies where a local housing authority has reason to believe that an applicant with whom a person under the age of 18 normally resides, or might reasonably be expected to reside—
- (a) may be ineligible for help,
  - (b) may be homeless and that a duty under section 68, 73 or 75 is not likely to apply to the applicant, or
  - (c) may be threatened with homelessness and that a duty under section 66 is not likely to apply to the applicant.
- (2) A local housing authority must make arrangements for ensuring that—
- (a) the applicant is invited to consent to the referral to the social services department of the essential facts of his or her case, and
  - (b) if the applicant has given that consent, the social services department is made aware of those facts and of the subsequent decision of the authority in respect of his or her case.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Nothing in subsection (2) affects any power apart from this section to disclose information relating to the applicant's case to the the social services department without the consent of the applicant.
- (4) A council of a county or county borough must make arrangements for ensuring that, where it makes a decision as local housing authority that an applicant is ineligible for help, became homeless intentionally or became threatened with homelessness intentionally, its housing department provides the social services department with such advice and assistance as the social services department may reasonably request.
- (5) In this section, in relation to the council of a county or county borough—
  - “the housing department” (“*yr adran dai*”) means those persons responsible for the exercise of its functions as local housing authority;
  - “the social services department” (“*yr adran gwasanaethau cymdeithasol*”) means those persons responsible for the exercise of its social services functions under Part 3 of the Social Services and Well-Being (Wales) Act 2014.

### *General*

#### **97 False statements, withholding information and failure to disclose change of circumstances**

- (1) It is an offence for a person, with intent to induce a local housing authority to believe in connection with the exercise of its functions under this Chapter that the person or another person is entitled to accommodation or assistance in accordance with the provisions of this Chapter, or is entitled to accommodation or assistance of a particular description—
  - (a) knowingly or recklessly to make a statement which is false in a material particular, or
  - (b) knowingly to withhold information which the authority has reasonably required the person to give in connection with the exercise of those functions.
- (2) If before an applicant receives notification of the local housing authority's decision on the application there is any change of facts material to the case, the applicant must notify the authority as soon as possible.
- (3) The authority must explain to every applicant, in ordinary language, the duty imposed by subsection (2) and the effect of subsection (4).
- (4) A person who fails to comply with subsection (2) after being given the explanation required by subsection (3) commits an offence.
- (5) In proceedings against a person for an offence committed under subsection (4) it is a defence that the person had a reasonable excuse for failing to comply.
- (6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **98 Guidance**

- (1) In the exercise of its functions relating to homelessness, a council of a county or county borough must have regard to guidance given by the Welsh Ministers.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Subsection (1) applies in relation to functions under this Part and any other enactment.
- (3) The Welsh Ministers may—
- (a) give guidance either generally or to specified descriptions of authorities;
  - (b) revise the guidance by giving further guidance under this Part;
  - (c) withdraw the guidance by giving further guidance under this Part or by notice.
- (4) The Welsh Ministers must publish any guidance or notice under this Part.

## 99 Interpretation of this Chapter and index of defined terms

In this Chapter—

“abuse” (*“camdriniaeth”*) has the meaning given by section 58;

“accommodation available for occupation” (*“llety sydd ar gael i’w feddiannu”*) has the meaning given by section 56;

“applicant” (*“ceisydd”*) has the meaning given by section 62(3) and section 83(3);

“associated” (*“cysylltiedig”*), in relation to a person, has the meaning given by section 58;

“assured tenancy” (*“tenantiaeth sicr”*) and “assured shorthold tenancy” (*“tenantiaeth fyrddaliol sicr”*) have the meaning given by Part 1 of the Housing Act 1988;

“domestic abuse” (*“camdriniaeth ddomestig”*) has the meaning given by section 58;

“eligible for help” (*“yn gymwys i gael cymorth”*) means not excluded from help under this Chapter by Schedule 2;

“enactment” (*“deddfiad”*) means an enactment (whenever enacted or made) comprised in, or in an instrument made under—

- (a) an Act of Parliament,
- (b) a Measure or an Act of the National Assembly for Wales;

“help to secure” (*“cynorthwyo i sicrhau”*), in relation to securing that suitable accommodation is available, or does not cease to be available, for occupation, has the meaning given by section 65;

“help under this Chapter” (*“cynorth o dan y Bennod hon”*) means the benefit of any function under sections 66, 68, 73, or 75;

“homeless” (*“digartref”*) has the meaning given by section 55 and “homelessness” (*digartrefedd*) is to be interpreted accordingly;

“intentionally homeless” (*“digartref yn fwriadol”*) has the meaning given by section 77;

“local connection” (*“cysylltiad lleol”*) has the meaning given by section 81;

“local housing authority” (*“awdurdod tai lleol”*) means—

- (a) in relation to Wales, the council of a county or county borough, and
- (b) in relation to England, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,

but a reference to a “local housing authority” is to be interpreted as a reference to a local housing authority for an area in Wales only, unless this Chapter expressly provides otherwise;

“looked after, accommodated or fostered” (“*yn derbyn gofal, yn cael ei letya neu’n cael ei faethu*”) has the meaning given by section 70(2);

“prescribed” (“*rhagnodedig*”) means prescribed in regulations made by the Welsh Ministers;

“priority need for accommodation” (“*angen blaenoriaethol am lety*”) has the meaning given by section 70;

“prison” (“*carchar*”) has the same meaning as in the Prison Act 1952 (see section 53(1) of that Act);

“private landlord” (“*landlord preifat*”) means a landlord who is not within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies);

“reasonable to continue to occupy accommodation” (“*rhesymol parhau i feddiannu llety*”) has the meaning given by section 57;

“regular armed forces of the Crown” (“*lluoedd arfog rheolaidd y Goron*”) means the regular forces as defined by section 374 of the Armed Forces Act 2006;

“restricted person” (“*person cyfyngedig*”) has the meaning given by section 63(5);

“social services authority” (“*awdurdod gwasanaethau cymdeithasol*”) means—

- (a) in relation to Wales, the council of a county or county borough council in the exercise of its social services functions, within the meaning of section 119 of the Social Services and Well-being (Wales) Act 2014, and
- (b) in relation to England, a local authority for the purposes of the Local Authority Social Services Act 1970, as defined in section 1 of that Act,

but a reference to a “social services authority” is to be interpreted as a reference to a social services authority for an area in Wales only, unless this Chapter expressly provides otherwise;

“threatened with homelessness” (“*o dan fygythiad o ddigartrefedd*”) has the meaning given by section 55(4);

“voluntary organisation” (“*corff gwirfoddol*”) means a body (other than a public or local authority) whose activities are not carried on for profit.

“youth detention accommodation” (“*llety cadw ieuenctid*”) means—

- (a) a secure children’s home;
- (b) a secure training centre;
- (c) a young offender institution;
- (d) accommodation provided, equipped and maintained by the Welsh Ministers under section 82(5) of the Children Act 1989 for the purpose of restricting the liberty of children;
- (e) accommodation, or accommodation of a description, for the time being specified by order under section 107(1)(e) of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for the purposes of detention and training orders).

## 100 Consequential amendments

Part 1 of Schedule 3 makes consequential amendments relating to this Part.