

Homelessness code of guidance for local authorities

From: **Ministry of Housing, Communities and Local Government**

(/government/organisations/ministry-of-housing-communities-local-government)

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Chapter 8: Priority need

Guidance on the categories of applicant who have a priority need for accommodation if they become homeless.

8.1 This chapter provides guidance on the categories of applicant who have a priority need for accommodation under the homelessness legislation.

8.2 Housing authorities have duties to try and prevent or relieve homelessness for all applicants who are eligible for assistance and are homeless or threatened with homelessness, irrespective of whether or not they may have a priority need for accommodation. If a housing authority is unable to

prevent an applicant from becoming homeless, or to help them to secure accommodation within the 'relief' stage, they are required to reach a decision as to whether the applicant has a priority need for accommodation.

8.3 [Section 188\(1\) of the 1996 Act](#)

<https://www.legislation.gov.uk/ukpga/2017/13/section/5#section-5-4-a>) requires housing authorities to secure that accommodation is available for an applicant if they have reason to believe that the applicant **may** be homeless, eligible for assistance and have a priority need. The housing authority may bring this 'interim' accommodation duty to an end during the relief stage if they subsequently find that the applicant does not have priority need (or are not eligible or not homeless) and issues a decision that the applicant will not be owed further duties at the end of the relief duty. For further guidance on accommodation duties see [Chapter 15](#)

<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-15-accommodation-duties-and-powers>). [Section 193\(2\) of the 1996 Act](#)

<https://www.legislation.gov.uk/ukpga/1996/52/section/193>) requires housing authorities to secure accommodation for applicants who have a priority need for accommodation [section 189\(1\)](#)

<https://www.legislation.gov.uk/ukpga/1996/52/section/189>) and the [Homelessness \(Priority Need for Accommodation\) \(England\) Order 2002](#)

<http://www.legislation.gov.uk/uksi/2002/2051/contents/made>) (the '2002 Order') provide that the following categories of applicant have a priority need for accommodation:

- (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside (see [paragraph 8.5](#));
- (b) a person with whom dependent children reside or might reasonably be expected to reside (see [paragraphs 8.6–8.12](#));
- (c) a person who is homeless as a result of that person being a victim of domestic abuse (see [paragraph 8.13](#));
- (d) a person who is vulnerable as a result of old age, mental illness, learning disability or physical disability or other special reason, or

with whom such a person resides or might reasonably be expected to reside (see [paragraphs 8.14–8.19](#));

(e) a person aged 16 or 17 who is not a ‘relevant child’ or a child in need to whom a local authority owes a duty under [section 20 of the Children Act 1989](#) (<https://www.legislation.gov.uk/ukpga/1989/41/section/20>) (see [paragraphs 8.20–8.24](#));

(f) a person under 21 who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a ‘relevant student’);

(g) a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a ‘relevant student’) (see [paragraphs 8.29–8.32](#));

(h) a person who is vulnerable as a result of having been a member of His Majesty’s regular naval, military or air forces (see [paragraphs 8.33–8.34](#));

(i) a person who is vulnerable as a result of:

(i) having served a custodial sentence;

(ii) having been committed for contempt of court or any other kindred offence; or,

(iii) having been remanded in custody;(see [paragraphs 8.35–8.36](#));

(j) a person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out (see [paragraphs 8.37–8.38](#));

(k) a person who is homeless, or threatened with homelessness, as a result of an emergency such as flood, fire or other disaster.

8.4 Once a housing authority has notified an applicant that they have a priority need and have been accepted as owed the [section 193\(2\) duty](#) (<https://www.legislation.gov.uk/ukpga/1996/52/section/193>) it cannot subsequently change that decision if the applicant subsequently ceases to have a priority need (e.g. because a dependent child leaves

home), except where a review has been requested and the change takes place before the review decision. Any change of circumstance prior to the decision on the homelessness application should be taken into account. However, once all the relevant inquiries are completed, the housing authority should not defer their decision on the case in anticipation of a possible change of circumstance.

Pregnant women

8.5 A pregnant woman, and anyone with whom she lives or might reasonably be expected to live, has a priority need for accommodation. This is regardless of the length of time that the woman has been pregnant. Normal confirmation of pregnancy, e.g. a letter from a medical professional, such as a midwife, should be adequate evidence of pregnancy. If a pregnant woman suffers a miscarriage or terminates her pregnancy before a decision is reached as to whether she is owed section 193(2) main housing duty the housing authority should consider whether she continues to have a priority need as a result of some other factor (e.g. she may be vulnerable as a result of another special reason – see [paragraph 8.39](#)).

Dependent children

8.6 Applicants have a priority need if one or more dependent children is living with them or might reasonably be expected to live with them. There must be actual dependence on the applicant, although the child need not be wholly and exclusively dependent on them. There must also be actual residence (or a reasonable expectation of residence) with some degree of permanence or regularity, rather than a temporary arrangement whereby the children are merely staying with the applicant for a limited period (see [paragraphs 8.10 and 8.11](#)). Similarly, the child need not be wholly and exclusively resident (or expected to reside wholly and exclusively) with the applicant.

8.7 The 1996 Act does not define dependent children, but housing authorities may wish to treat

as dependent all children under 16, and all children aged 16-18 who are in, or are about to begin, full-time education or training or who for other reasons are unable to support themselves and who live at home. The meaning of dependency is not however, limited to financial dependency. Thus, while children aged 16 and over who are in full-time employment and are financially independent of their parents would not normally be considered to be dependents, housing authorities should remember that such children may not be sufficiently mature to live independently of their parents, and there may be sound reasons for considering them to be dependent. The Secretary of State considers that it will be very rare that a 16 or 17 year old child who is living at home will not be considered to be dependent.

8.8 Dependent children need not necessarily be the applicant's own children, but could, for example, be related to the applicant or their partner, or be adopted or fostered by the applicant. There must, however, be some form of parent/child relationship.

8.9 Housing authorities may receive applications from a parent who is separated from their former spouse or partner. In some cases where parents separate, the court may make a residence order indicating with which parent the child normally resides. In such cases the child may be considered to reside with the parent named in the order, and would not normally be expected to reside with the other parent. However, in many cases the parents come to an agreement themselves as to how the child is cared for, and a court order will not be required.

8.10 Residence does not have to be full-time and a child can be considered to reside with either parent or with both parents. However, there must be some regularity to the arrangement for it to establish residence. Housing authorities should be mindful that where parents separate, there will generally be a presumption towards shared residence though this will not always be on the basis of an equal amount of time being spent living with both parents.

8.11 If the child is not currently residing with the applicant, the housing authority will need to decide

whether, in the circumstances in which the applicant is homeless it would be reasonable for the child to do so. An agreement for joint residency between a child's parents, or a joint residence order by a court, will not automatically lead to a conclusion that it would be reasonable for the child to reside with the parent making the application, and housing authorities will need to consider each case individually. In doing so, housing authorities should take into account the specific needs and circumstances of the child, including whether suitable accommodation is available to them with their other parent.

8.12 Where the applicant's children are being looked after by a children's social services authority, whether subject to a care order or being accommodated under a voluntary agreement, and they are not currently living with the applicant, liaison with the social services authority will be essential. Joint consideration with social services will ensure that the best interests of the applicant and the children are served. This may, for example, enable a family to be reunited subject to suitable accommodation being available.

Domestic abuse

8.13 Applicants have a priority need for accommodation if they are homeless as a result of being a victim of domestic abuse. [Chapter 21 \(https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-21-domestic-abuse\)](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-21-domestic-abuse) contains further guidance on assessing applicants who are homeless as a result of being a victim of domestic abuse.

Vulnerability

8.14 A person has a priority need for accommodation if they are vulnerable as a result of:

- (a) old age;
- (b) mental illness or learning disability or physical disability;

(c) having been looked after, accommodated or fostered and is aged 21 or more;

(d) having been a member of His Majesty's regular naval, military or air forces;

(e) having been in custody;

(f) ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out; or,

(g) any other special reason.

8.15 In the case of (a), (b) and (g) only, a person with whom a vulnerable person lives or might reasonably be expected to live also has a priority need for accommodation and can therefore make an application on behalf of themselves and that vulnerable person.

8.16 It is a matter of evaluative judgement whether the applicant's circumstances make them vulnerable. When determining whether an applicant in any of the categories set out in paragraph 8.14 is vulnerable, the housing authority should determine whether, if homeless, the applicant would be significantly more vulnerable than an ordinary person would be if they became homeless. The assessment must be a qualitative composite one taking into account all of the relevant facts and circumstances, and involves a consideration of the impact of homelessness on the applicant when compared to an ordinary person if made homeless. The housing authority should consider whether the applicant would suffer or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering, such that the harm or detriment would make a noticeable difference to their ability to deal with the consequences of homelessness.

8.17 When assessing an applicant's vulnerability, a housing authority may take into account the services and support available to them from a third party, including their family. This would involve considering the needs of the applicant, the level of support being provided to them, and whether with such support they would or would not be significantly more vulnerable than an ordinary

person if made homeless. In order to reach a decision that a person is not vulnerable because of the support they receive the housing authority must be satisfied that the third party will provide the support on a consistent and predictable basis. In each case a housing authority should consider whether the applicant, even with support, would be vulnerable.

8.18 Housing authorities must be mindful of the Equality Act 2010 and their public sector equality duties towards people who have a protected characteristic. For further guidance on the Equality Act 2010 see [Chapter 1](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-1-introduction) (<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-1-introduction>). If the applicant has a disability (or another relevant protected characteristic) the authority should assess the extent of such disability and the likely effect of the disability, when taken together with any other features, on the applicant if and when homeless. They will then need to decide whether the impact of this makes the applicant significantly more vulnerable as a result.

8.19 Some of the factors which may be relevant to determining whether an applicant is vulnerable are set out below.

16 and 17 year olds

8.20 The specific duties towards 16 and 17 year olds who are at risk of homelessness or who are homeless, and the legal duties children's services authorities and housing authorities have towards them are set out in the government's statutory guidance: [Provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation](https://www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation) (<https://www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation>).

8.21 16 and 17 year old homeless applicants have a priority need for accommodation except those who are:

- (a) a relevant child; or,

(b) a child in need who is owed a duty under [section 20 of the Children Act 1989](https://www.legislation.gov.uk/ukpga/1989/41/section/20) (<https://www.legislation.gov.uk/ukpga/1989/41/section/20>).

8.22 A relevant child is a child aged 16 or 17 who has been looked after by a local authority for at least 13 weeks since the age of 14 and has been looked after at some time while 16 or 17 and who is not currently being looked after (i.e. an 'eligible child' for the purposes of [paragraph 19B of Schedule 2 to the Children Act 1989](https://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19B)) (<https://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19B>). In addition, a child is also a relevant child if they would have been looked after by the local authority as an eligible child but for the fact that on their 16th birthday they were detained through the criminal justice system, or in hospital, or if they returned home on family placement and that has broken down (see [section 23A of the Children Act 1989](https://www.legislation.gov.uk/ukpga/1989/41/section/23A)) (<https://www.legislation.gov.uk/ukpga/1989/41/section/23A>) and [regulation 3 of the Care Leavers \(England\) Regulations 2010](https://www.legislation.gov.uk/uksi/2010/2571/regulation/3/made)) (<http://www.legislation.gov.uk/uksi/2010/2571/regulation/3/made>)).

8.23 The primary responsibility for a child in need who requires accommodation, including a 16 and 17 year old who is homeless lies with the relevant children's services authority. The Children Act 1989 (section 20) places a duty on children's services authorities to accommodate a child in need, and in almost all circumstances a homeless 16-17 year old would be a child in need.

8.24 However, there remain circumstances when the housing authority will have duties towards a homeless 16 and 17 year olds, including when the young person, having been fully informed of the implications, and being judged to have capacity to make that decision, declines to become looked after under the Children Act and instead applies for assistance under homelessness legislation. By definition these young people are nearing adulthood where a smooth and supported transition will be necessary to protect against the risk of homelessness re-occurring. As both children's services and housing authorities have duties

towards this group it is essential that services are underpinned by written joint protocols which set out clear, practical arrangements for providing services that are centred on young people and their families and prevent young people from being passed over and back between housing and children's services authorities.

Old age

8.25 Old age alone is not sufficient for the applicant to be considered vulnerable. However, it may be that as a result of old age the applicant would be significantly more vulnerable than an ordinary person would be if homeless. Housing authorities should not use a fixed age beyond which vulnerability occurs automatically (or below which it can be ruled out); each case will need to be considered in the light of the individual circumstances.

Mental illness or learning disability or physical disability

8.26 Housing authorities should have regard to any advice from medical professionals, social services or current providers of care and support. In cases where there is doubt as to the extent of any vulnerability authorities may also consider seeking a clinical opinion. However, the final decision on the question of vulnerability will rest with the housing authority. In considering whether such applicants are vulnerable, authorities will need to take account of all relevant factors including:

- (a) the nature and extent of the illness and/or disability;
- (b) the relationship between the illness and/or disability and the individual's housing difficulties; and,
- (c) the relationship between the illness and/or disability and other factors such as drug/alcohol misuse, offending behaviour, challenging behaviour, age and personality disorder.

8.27 Assessment of vulnerability due to mental health problems will require co-operation between housing authorities, social services authorities and mental health agencies. Housing authorities should consider carrying out joint assessments or using a trained mental health practitioner as part of an assessment team. NHS mental health services provide help under the [Care Programme Approach \(CPA\)](https://www.nhs.uk/conditions/social-care-and-support/care-programme-approach/) (<https://www.nhs.uk/conditions/social-care-and-support/care-programme-approach/>) for eligible patients, including people with severe mental illness (including personality disorder), who also have problems with housing. People who are homeless on discharge from hospital following a period of treatment for mental illness are likely to be vulnerable. Effective arrangements for liaison between housing, social services and mental health services will be essential in such cases but authorities will also need to be sensitive to direct approaches from former patients who have been discharged and may be homeless.

8.28 Learning or physical disabilities or long-term or acute illnesses which give rise to vulnerability may be readily discernible, but advice from health or social services should be sought wherever necessary.

Having been looked after, accommodated or fostered and aged 21 or over

8.29 A person aged 21 or over who is vulnerable as a result of having been looked after, accommodated or fostered has a priority need (other than a person who is a 'relevant student'). The terms 'looked after, accommodated or fostered' are set out in [section 24\(2\) of the Children Act 1989](https://www.legislation.gov.uk/ukpga/1989/41/section/24) (<https://www.legislation.gov.uk/ukpga/1989/41/section/24>) and this includes any person who has been:

- (a) looked after by a local authority (i.e. has been subject to a care order or accommodated under a voluntary agreement);
- (b) accommodated by or on behalf of a voluntary organisation;
- (c) accommodated in a private children's home;

(d) accommodated for a consecutive period of at least 3 months:

(i) by any Local Health Board, Special Health Authority or by a local authority in the exercise of education functions; or,

(ii) in any care home or independent hospital or in any accommodation provided pursuant to arrangements made by the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group under the National Health Service Act 2006 or by a National Health Service trust or an NHS foundation trust, or by a local authority in Wales in the exercise of education functions; or,

(e) privately fostered.

8.30 A 'relevant student' means a care leaver under 25 to whom [section 24B\(3\) of the Children Act 1989](https://www.legislation.gov.uk/ukpga/1989/41/section/24B) (<https://www.legislation.gov.uk/ukpga/1989/41/section/24B>) applies, and who is in full-time further or higher education and whose term-time accommodation is not available during a vacation. Under section 24B(5), where a social services authority is satisfied that a person is someone to whom section 24B(3) applies and needs accommodation during a vacation they must provide accommodation or the means to enable it to be secured.

8.31 Housing authorities will need to make inquiries into an applicant's childhood history to establish whether they have been looked after, accommodated or fostered in any of these ways. If so, they will need to consider whether they are vulnerable as a result.

8.32 For further guidance on assessing vulnerability, and on providing assistance to applicants who are care leavers see [Chapter 22](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-22-care-leavers) (<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-22-care-leavers>).

Having been a member of the armed forces

8.33 A person who is vulnerable as a result of having been a member of His Majesty's regular

armed forces has a priority need for accommodation. Former members of the armed forces will include a person who was previously a member of the regular naval, military or air forces.

8.34 For further guidance on assessing vulnerability, and on providing assistance to applicants who are veterans see [Chapter 24 \(https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-24-former-members-of-the-armed-forces\)](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-24-former-members-of-the-armed-forces).

Having been in custody

8.35 A person who is vulnerable as a result of having served a custodial sentence, been committed for contempt of court or remanded in custody has a priority need for accommodation.

8.36 For further guidance on assessing vulnerability, and on providing assistance to applicants who have been in custody or detention see [Chapter 23 \(https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-23-people-with-an-offending-history\)](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-23-people-with-an-offending-history).

Having left accommodation because of violence

8.37 A person has a priority need if they are vulnerable as a result of having to leave accommodation because of violence (other than domestic abuse) from another person, or threats of violence from another person that are likely to be carried out. It will usually be apparent from the assessment of the reason for homelessness whether the applicant has had to leave accommodation because of violence or threats of violence. In cases involving violence, the safety of the applicant and ensuring confidentiality must be of paramount concern.

8.38 Note, in this context violence does not include violence which relates to domestic abuse. For further guidance on dealing with cases involving domestic abuse see [Chapter 21 \(https://www.gov.uk/guidance/homelessness-code-of-](https://www.gov.uk/guidance/homelessness-code-of-)

Other special reason

8.39 [Section 189\(1\)\(c\)](#)

<https://www.legislation.gov.uk/ukpga/1996/52/section/189>) provides that a person has a priority need for accommodation if they are vulnerable for any 'other special reason.' The legislation envisages that vulnerability can arise because of factors that are not expressly provided for in statute. Each application must be considered in the light of the facts and circumstances of the case. Moreover, other special reasons giving rise to vulnerability are not restricted to the physical or mental characteristics of a person. Where applicants have a need for support but have no family or friends on whom they can depend they may be vulnerable as a result of another special reason.

8.40 Housing authorities must keep an open mind and should avoid blanket policies that assume that particular groups of applicants will, or will not, be vulnerable for any other special reason. Where a housing authority considers that an applicant may be vulnerable, it will be important to make an in-depth assessment of the circumstances of the case. Guidance on certain categories of applicants who may be vulnerable as a result of any other special reason is given below. The list below is not exhaustive and housing authorities must ensure that they give proper consideration to every application on the basis of the individual circumstances. In addition, housing authorities will need to be aware that an applicant may be considered vulnerable for any other special reason because of a combination of factors which taken alone may not necessarily lead to a decision that they are vulnerable (e.g. drug and alcohol problems, common mental health problems, a history of sleeping rough, no previous experience of managing a tenancy).

8.41 Any person who may reasonably be expected to die of a progressive illness within the next 6 months, or is in receipt of treatment that is reasonably considered to be palliative care, will

almost certainly have a priority need. Effective arrangements for liaison and co-ordination of support and palliative care between housing, social services and health services will be essential in such cases. These services will want to take account of good practice guides and toolkits for providing effective co-ordinated care for such cases.

8.42 Young people: the [2002 Order](#)

<http://www.legislation.gov.uk/ukxi/2002/2051/contents/made>) makes specific provision for certain categories of young homeless people. However, there are many other young people who fall outside these categories who could be vulnerable if homeless. Most young people can expect a degree of support from families, friends or an institution (e.g. a college or university) with the practicalities and costs of finding, establishing, and managing a home for the first time. But some young people, particularly those who are forced to leave the parental home or who cannot remain there because they are being subjected to violence or sexual abuse, may lack this back-up network and be less able than others to establish and maintain a home for themselves. Moreover, a young person who is homeless without adequate financial resources to live independently may be at risk of abuse or exploitation.

8.43 People fleeing harassment: housing authorities should consider whether harassment falls under the general definition of domestic abuse. For further guidance see [Chapter 21](#) (<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-21-domestic-abuse>) and [paragraphs 8.36–8.37](#). In some cases, however, severe harassment may fall short of actual violence or threats of violence likely to be carried out. Housing authorities should consider carefully whether applicants who have fled their home because of non-violent forms of harassment, for example, psychological or emotional or damage to property, are vulnerable as a result.

8.44 Victims of trafficking and of modern slavery: housing authorities should ensure that staff have an awareness of the possibility that applicants may be victims of trafficking or of modern slavery, and are able to assess whether or not they

are vulnerable as a result. For guidance on assessing vulnerability, and on providing assistance to applicants who are victims of trafficking or modern slavery see [Chapter 25](#)

(<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-25-modern-slavery-and-trafficking>).

8.45 COVID-19: Housing authorities should carefully consider the vulnerability of applicants from COVID-19. The vulnerability of applicants who have an underlying health condition which increases the risk of morbidity or mortality from COVID-19, [as recognised by the JCVI](#) (<https://www.gov.uk/government/publications/priority-groups-for-coronavirus-covid-19-vaccination-advice-from-the-jcvi-30-december-2020/joint-committee-on-vaccination-and-immunisation-advice-on-priority-groups-for-covid-19-vaccination-30-december-2020>), should be considered in the context of the COVID-19 pandemic.

8.46 Housing authorities should also carefully consider whether people with a history of rough sleeping should be considered vulnerable in the context of COVID-19, taking into account their age and underlying health conditions. Further guidance on clinical support for people with a history of rough sleeping can be found in the [COVID-19 clinical homeless sector plan](#) (<https://www.pathway.org.uk/wp-content/uploads/COVID-19-Clinical-homeless-sector-plan-160420-1.pdf>) (PDF, 851KB).