

information

Suffolk County Council's duty to refer people who are homeless to a local housing authority



FIAS information item

New duty to refer homeless people to Local Housing Authorities

Effective from 1st October 2018

Introduction

From 1st October 2018 staff at Suffolk County Council are required by law to refer service users who may be homeless or who may be threatened with homelessness to a local housing authority. In most cases this is likely to require a referral to one of the seven district or borough councils in Suffolk.

The purpose of this requirement is to make sure that people who are homeless, or who are threatened with homelessness within 56 days, receive the help to which they are entitled under the homelessness legislation, which was amended by Homelessness Reduction Act on 3rd April 2018.

This information item provides a summary of the new legal requirement and includes details of local referral arrangements in Suffolk. Guidance from the Ministry of Housing, Communities & Local Government can be found [here](#) and you are welcome to contact the Welfare Rights Helpline for advice about homelessness (see below for contact details).

Local referral arrangements

Local referral arrangements in Suffolk are detailed below, but it should be noted that the person who may be homeless or threatened with homelessness can decide to be referred to any local housing authority in England.

For referrals to local housing authorities outside Suffolk it should be possible to obtain details of the referral procedure from the relevant council's website, or by making direct contact with the council.

The current procedures and the relevant forms for Suffolk's district and borough councils are contained in the links below:

Ipswich Borough Council

[Online](#)

Babergh DC & Mid Suffolk DC

[Online](#)

East Suffolk Councils (Suffolk Coastal DC & Waveney DC)

[Online](#)

By email: dutytorefer@eastsoffolk.gov.uk

East Suffolk Councils' online system involves registering with Housing Jigsaw, a "customer portal" designed to assist with homelessness applications, particularly personalised housing plans and the duty to refer.

You need register once only and once inside the system you can choose which authority to refer to, according to the homeless person's preference. There is a drop-down field listing all housing authorities and assurances have been given that all information is held securely.

For more information about the Housing Jigsaw Customer Portal, including a list of those authorities that have signed up so far click [here](#).

West Suffolk Councils (Forest Heath DC & St Edmundsbury BC)

[Online](#)

By email: dutytorefer@westsuffolk.gov.uk

Agreeing a referral with someone who is homeless

If you have reason to believe someone is or may be homeless or threatened with homelessness you must ask them:

- whether they agree to a local housing authority being notified
- which local authority in England they want to be notified, and
- how they may be contacted by the local authority

A referral cannot be made without obtaining the person's consent unless it is to safeguard children and vulnerable adults and is in accordance with SCC procedures.

Where consent is required it should be informed and can be written or oral, although section 6 of the [guidance](#) recommends obtaining the person's signature and recording their consent.

Information required for a referral

The minimum requirement for a referral is the homeless person's consent, their local authority preference and their contact details. However, the guidance and the online referral forms indicate that additional background information will be required, if available.

Most referral forms are likely to request the following information:

- Details of referrer and referring organisation
- Homeless person's details including:
 - Full name, previous names, nicknames
 - Date of birth
 - Gender / sexuality / nationality / ethnicity / language / disability
 - National insurance number / NHS number

- Details relating to formal identification (eg passport)
- Current / last address
- Contact details
- Full names and dates of birth of other household members
- Details of any support needs and of any agency involvement
- Whether any health or safety risks could be posed to members of staff
- Homelessness status, including date of homelessness and reason for homelessness

Where all the information requested cannot be provided the lack of detail should not prevent a timely referral. Rather than postpone a referral, you are advised to complete the referral form as best you can whilst explaining the reason for any absent information.

Definition of homelessness and threatened homelessness

County Council staff cannot be expected to become experts in the legal definition of homelessness, but Government guidance on this matter should help, as can the Welfare Rights Helpline.

A person is considered homeless if:

- they do not have accommodation which is available for them which they have a legal right to occupy (for example because they are sleeping rough, or there is a court order telling them that they must leave, or because they have been asked to leave by family or friends); or,
- it is not reasonable for the person to occupy their accommodation (for example because they are in fear of violence, or the home is in serious disrepair, or they are unable to afford to pay their rent or mortgage).

A person is threatened with homelessness if:

- they are likely to become homeless within 56 days: or,
- their landlord has served them with a valid 'section 21 notice' to leave their assured shorthold tenancy, and the notice expires within 56 days.

Chapter 6 of the Government's [Homelessness Code of Guidance](#) provides further detailed information about the legal definition of homelessness. The guidance should help with making a decision about a referral, but the best approach is to make a referral if there are any concerns about someone being homeless or threatened with homelessness.

Homeless 16 and 17 year olds

A homeless 16 or 17 year old should also be referred to Children's and Young People's Services because they will be entitled to an assessment under section 17 the Children Act. The outcome of the assessment will determine whether the 16 or 17 year old is a child in need and the type of assistance they will receive.

Case law ([R \(M\) v Hammersmith and Fulham \[2008\] UKHL 14](#) and [R \(G\) v Southwark \[2009\] UKHL26](#)) has determined that 16 and 17 year olds facing homelessness should be assisted under the Children Act. The legal position is that almost all homeless 16 and 17 year olds need more than a roof over their head – they also need support.

Updated guidance regarding the prevention of homelessness and the provision of accommodation for 16 and 17 year olds was issued in April 2018 by the Ministry of Housing, Communities & Local Government and the Department of Education.

The Government’s guidance outlines the respective roles and responsibilities of social service authorities and housing authorities and the primacy of the Children Act 1989 over Part 7 of the Housing Act 1996, which is the homelessness legislation. This guidance can be found [here](#).

In partnership with the seven district and boroughs of Suffolk, the County Council has developed a joint protocol for working with homeless 16 and 17 year olds. The protocol is entitled ‘*Joint protocol to address the needs of homeless 16-17 year old young people in Suffolk*’ and the current version can be found [here](#).

The protocol is currently being updated to take account of the new requirements introduced by the Homelessness Reduction Act and the Government’s new guidance.

In view of the above, a 16 or 17 year old who is homeless should be referred to the MASH (Multi-Agency Safeguarding Hub) so that they can be assisted under the Children Act. The professional consultation line for MASH is 03456 061 499 and information about making a referral can be found [here](#).

A referral to a local housing authority and Children’s Services (MASH) should not prevent the referrer from continuing to work with the young person or their family, because effective support services will require partnership work.

Who are the public authorities with a duty to refer?

The specified public bodies with a duty to refer are:

- Social service authorities (both adult and children’s)
- Prisons
- Young offender institutions
- Secure training centres
- Secure colleges
- Youth offending teams
- Probation services (including community rehabilitation companies)
- Jobcentres in England
- Emergency departments
- Urgent treatment centres
- Hospitals in the function of providing inpatient care

- Secretary of State for defence in relation to members of the regular armed forces

Voluntary referrals

Referrals can also be made by those organisations who are not legally required to do so. Some housing associations have signed up to a voluntary [commitment to refer](#).

Relevant legislation and guidance

Section 213B of Housing Act 1996 (as introduced by s10 of Homelessness Reduction Act 2017) (<https://www.legislation.gov.uk/ukpga/1996/52/section/213B>)

The Homelessness (Review Procedure etc.) Regulations 2018 (SI 2018 No. 223) (<http://www.legislation.gov.uk/uksi/2018/223/made>)

A guide to the duty to refer – Ministry of Housing Communities & Local Government (<https://www.gov.uk/government/publications/homelessness-duty-to-refer/a-guide-to-the-duty-to-refer>)

Homelessness Code of Guidance for local authorities (<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>)

FIAS Welfare Rights Helpline

Housing and homelessness is a complicated area of law – please do not hesitate to contact the Welfare Rights Helpline for help:

- Open: 9.30am to 3.00pm Monday to Friday
- Telephone: 01473 264545
- Email: welfarerightshelpline@suffolk.gov.uk

Please remember the Helpline is for practitioners only and is not available to members of the public. This means you are expected to contact the Helpline on behalf of your customer.