

27 August 2024

Our Ref: FOI 497

Request

We received your request on 21 August 2024 for the following information:

- 1) Can I have a copy of the Housing Executive staff handbook on homelessness?*
- 2) Any information the Housing Executive have in relation to housing a homeless disabled person?*

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

Our response

1) Can I have a copy of the Housing Executives staff handbook on homelessness.

Please find attached a copy of the Homelessness Guidance Manual which details the processes for assessment of a homeless application and the duties regarding Temporary Accommodation in line with the current statutory framework.

2) Any information the Housing Executive have in relation to housing a homeless disabled person?

When conducting housing solutions interviews with customers who present as homeless, Housing Advisors attempt to identify any support needs that the applicant may have and identify and make referrals to suitable support providers in that area. Where support needs are identified, staff will attempt to make referrals to a range of external support services tailored to the individual needs of the customer where available, regardless of the type of temporary accommodation they are placed in. In respect of the temporary accommodation itself, placements are made based on the availability at any given time, which will mean that not all of the requirements which may be considered for permanent housing may be met, although if alternative and more suitable temporary accommodation becomes available, staff will seek to move individuals if possible and ensure that support is continued as required.

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Chapter 1 – Introduction

1.0 Homelessness Guidance Manual

This manual provides staff with guidance on dealing with homeless applicants and on the Housing Executive's statutory duties in respect of homelessness.

This manual covers the legislation, policy, and procedures, and should be used in conjunction with the Housing (NI) Order 1988, as amended, and the Housing (NI) Order 2003.

The roles and responsibilities of Housing Executive officers are set out at [Chapter 13 – Administration](#) of this Guidance Manual.

Should there be any doubt about the policies and procedures in relation to homelessness there are a number of sources which staff can consult for guidance. The starting point should be for staff to refer to the policy and guidance - contained in this document - and also to training material. Following this staff should discuss the case thoroughly with their line manager or Team Leader and/or bring the case for discussion with their colleagues. When these actions have been taken, it may be appropriate to contact the relevant Policy staff at Head Quarters. In all cases, learning points that would be helpful to other staff in future cases should be shared with colleagues.

Housing Solutions and Support Approach

The Housing Executive has adopted a Housing Solutions and Support approach to dealing with a person who contacts us with a housing issue. This is a holistic approach that considers the individual circumstances, needs and aspirations of the person. Dedicated Housing Solutions and Support teams will work with the person to assist them in trying to find the most appropriate housing solution. Through the Housing Solutions and Support interview, if there is reason to believe that they are homeless or threatened with homelessness within 28 days, the Designated Officer

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must open and investigate a homeless application as the Housing Executive has a statutory duty under the Housing (NI) Order 1988, as amended, to investigate the homeless application. The Housing Solutions and Support approach should run in tandem with the investigation of homelessness, as a means to prevent homelessness and/or find an appropriate solution, however the investigation of homelessness and any duties owed to the person should be carried out in line with legislation and guidance set out within this manual and should not be delayed by the Housing Solutions and Support approach. The **Housing Solutions Handbook** will aid staff in carrying out this approach.

1.1 Legislative Background

The Housing (NI) Order 1988 (the 1988 Order) gave the Housing Executive statutory responsibility for responding to homelessness from April 1989. Prior to the introduction of the 1988 Order, Social Services had this responsibility.

The Housing (NI) Order 2003 (the 2003 Order) amended the provisions of the primary legislation i.e. the 1988 Order, by inserting additional provisions.

1.1.1 The Housing (NI) Order 1988

The primary legislation, the Housing (NI) Order 1988 (as amended by the 2003 Order), established the definitions and the duties surrounding homelessness (homeless/threatened with homelessness, priority need and intentionality), making enquiries, temporary accommodation and decision letters. The 2003 Order amended the provisions of the 1988 Order.

1.1.2 The Housing (NI) Order 2003

The Housing (NI) Order 2003 introduced changes to the definition of homelessness and to the provisions regarding becoming homeless intentionally, and introduced the additional requirement on the Housing Executive to assess an applicant's eligibility for housing assistance.

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The changes in the definition of homelessness and to the provisions regarding becoming homeless intentionally became effective from 1st November 2003. The requirement on the Housing Executive to assess an applicant's eligibility for housing assistance became effective from 1st February 2004.

The changes in relation to the assessment of those presenting as homeless or threatened with homelessness are:-

Homelessness will exist if the person has no accommodation anywhere in the United Kingdom or elsewhere for his or her occupation as opposed to solely within Northern Ireland; and

A person shall be treated as becoming homeless intentionally, or as becoming threatened with homelessness intentionally, if he or she contrived with family members, friends or landlord to "create" his or her homelessness.

Eligibility – a person may not be eligible for assistance if he or she is subject to immigration control, or he or she is a person from abroad who falls within a category of persons specified as ineligible, or if he or she is any other person from abroad who is ineligible for such assistance by virtue of regulations made by the Secretary of State, or he or she or a member of his or her household has been guilty of unacceptable behaviour. Eligibility for assistance is covered in **Chapter 4 – Eligibility**.

1.1.3 The Housing Amendment Act

This legislation introduced for the first time, a statutory right to request a review of any decision of the Housing Executive as to the person's eligibility for assistance, what duty (if any) is owed to persons found to be homeless and persons found to be threatened with homelessness. It also includes a statutory right to request a review as to the suitability of accommodation offered to the applicant by the Housing

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Executive when discharging its statutory duty under the legislation. This statutory right to a review also includes the suitability of accommodation offered to the applicant by a Housing Association.

1.2 Definitions

Outlined below are the statutory definitions in relation to Eligibility, Homelessness / Threatened with Homelessness / Priority Need / Intentionality:-

1.2.1 Eligibility for Housing Assistance as a Homeless person

A person is not eligible for assistance:-

- a) If he or she is a person from abroad, who is subject to immigration control and is ineligible for such assistance by virtue of Section 119 of the Immigration and Asylum Act 1999, unless re-qualified by regulations made by the Secretary of State
- b) If he or she is a person from abroad who is to be treated as ineligible for such assistance by virtue of regulations made by the Secretary of State
- c) If he or she is a person who the Housing Executive has decided is to be treated as ineligible for such assistance because the Housing Executive is satisfied that (1) he or she or a member of his or her household has been guilty of unacceptable behaviour serious enough to make him or her unsuitable to be a tenant of the Housing Executive; and, (2) in the circumstances at the time his or her application is considered, he or she is unsuitable to be a tenant of the Housing Executive by reason of that behaviour.

1.2.2 Homelessness / Threatened with Homelessness

A person is homeless if he or she has no accommodation available for his or her occupation in the United Kingdom or elsewhere.

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A person shall be treated as having no accommodation if there is no accommodation which he or she, together with any other person who normally resides with him or her as a member of his or her family or in circumstances in which it is reasonable for that person to reside with him or her –

- a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or
- b) has an expressed or implied licence to occupy, or
- c) occupies as a residence by virtue of any enactment or rule of law giving him or her the right to remain in occupation or restricting the right of another person to recover possession.

A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him or her to continue to occupy.

Regard may be had in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in Northern Ireland.

A person is also homeless if he or she has accommodation but –

- a) he or she cannot secure entry to it, or
- b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or
- c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he or she is entitled or permitted to place it and to reside in it.

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The legislation states that a person is threatened with homelessness if he or she will become homeless within 28 days from the day on which he or she gives written notice to the Housing Executive, that he or she is threatened with homelessness.

Where the Housing Executive is given verbal notice that a person will become homeless within 28 days from the day on which he or she gives that verbal notice, staff should undertake further enquiries, as are necessary, in order to confirm that the applicant is indeed threatened with homelessness.

Meaning of accommodation available for occupation

For the purposes of homelessness, accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him or her and by any other person who might reasonably be expected to reside with him or her; and references to securing accommodation for a person's occupation shall be construed accordingly.

1.2.3 Priority Need for Accommodation

The legislation states that the following have a priority need for accommodation –¹

- (a) A pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;
- (b) A person with whom dependent children reside or might reasonably be expected to reside;
- (c) A person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- (d) A person who is homeless or threatened with homelessness as a result of an emergency such as a flood, fire or other disaster;

¹ Terminology used in Article 5 is reflective of the legislation and therefore cannot be amended

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- (e) A person without dependent children, who satisfies the Housing Executive that he or she has been subject to violence and is at risk of violent pursuit or, if he or she returns home, is at risk of further violence;
- (f) A young person who satisfies the Housing Executive that he or she is at risk of sexual or financial exploitation

1.2.4 **Becoming Homeless Intentionally**

A person becomes homeless intentionally if he or she deliberately does or fails to do anything in consequence of which he or she ceases to occupy accommodation, whether in Northern Ireland or elsewhere, which is available for his or her occupation and which it would have been reasonable for him or her to continue to occupy.

A person becomes threatened with homelessness intentionally if he or she deliberately does or fails to do anything the likely result of which is that he or she will be forced to leave accommodation which is available for his or her occupation and which it would have been reasonable for him or her to continue to occupy.

An act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.

A person shall be treated as becoming homeless, or as becoming threatened with homelessness intentionally, if –

- a) he or she enters into an arrangement under which he or she is required to cease to occupy accommodation which it would be reasonable for him or her to continue to occupy, and
- b) the purpose of the arrangement is to enable him or her to become entitled to assistance under the homelessness legislation referred to in this Manual and there is no other good reason why he or she is homeless

1.3 General Outline of responding to Homelessness

Responding to homelessness is more than simply providing housing and is often a manifestation of social exclusion and a range of other factors, for example family disputes, relationship breakdown, financial difficulties, illness, addiction, crime, etc.

The Housing Executive has a statutory duty under the provisions of the Housing (NI) Order 1988, as amended, to investigate the circumstances of all applicants presenting as homeless. In carrying out its statutory duty to make enquiries into homelessness applications, the Housing Executive should consider whether or not the applicant is:-

- Homeless / threatened with homelessness
- Eligible for homelessness assistance
- In priority need
- Unintentionally or intentionally homeless

The Housing (Northern Ireland) Order, 1988, as amended only operates within the confines of Northern Ireland therefore an applicant must be present in Northern Ireland when making an application for homelessness assistance. The legal basis for this requirement is contained in Part II of the Housing (NI) Order 1988, as amended, and is broadly as follows –

1. In law there is “the presumption of applicability” or “comity” in respect of the extent and application of legislation.
2. The general principle is that “an enactment applies to all persons and matters within the territory to which it extends, but not to any other persons or matters” (Bennion Statutory Interpretation (4th Ed, 2002, page 306)).
3. The “extent” of an Act is the geographical area throughout which it is law. In this context, the term “Act” is taken to include Orders in Council and Statutory Instruments enacted in respect of Northern Ireland. Although the 1988 Housing Order does not expressly detail the extent of that Order, this is considered to be

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unnecessary / immaterial because they are Northern Ireland specific concerned with the governance of the subject matter in terms of the territory of Northern Ireland.

4. This means that as a general rule the legislature intends that the legislation is concerned with all conduct taking place in the geographical area to which it applies and not to other persons and matters. In the absence of any explicit provision to the contrary the general rule applies."

1.3.1 Equality

The Housing Executive is required to have regard to its obligations under the Race Relations (NI) Order 1997. All applicants should be treated fairly and on a consistent basis. It is important to be sensitive to the needs of the applicant. Enquiries should focus on the homeless circumstances and the same initial questions should be put to all applicants.

1.3.2 Language Support

Language support is available for those applicants who do not speak English as a first language, or have difficulty reading English. This should help to ensure that they are clear about the procedures for applying for housing assistance. 'thebigword' telephone based interpretation service is available at all offices across the organisation and can also be accessed by mobile phone, or if permission is given, via a domestic line during a visit. As 'thebigword' uses a Freephone number there are no charges for landline calls. However, as this may not be the case with all mobile phone providers, users should check with their own office administration. Additional communication support services e.g. face to face interpreters and translations can be booked through the Equality Unit. The Equality Unit manage all communication support services, including 'thebigword', and any new or additional applications for Access Numbers, requests for training, guidelines and assistance in booking language provision can be made through that unit. Further guidance is also available in Equality Bulletin 45 entitled 'Guidelines for Using Communication Support Services for People Needing Language Support and Alternative Formats for People with Disabilities' which

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is available on the Gateway Page.

The option to use ‘thebigword’ should be offered even where the applicant has brought a friend or relative to interpret for them. Housing Executive Officers should consider using a trained interpreter if there are concerns that the applicant does not fully understand the advice being given.

Where an officer has any concerns about an applicant’s capacity to fully understand and/or contribute to the interview because of vulnerability, they should consider the use of a suitable intermediary.

1.3.3 Inquiry Duties

The legislation states;

1.3.3.1 Inquiry into cases of possible homelessness or threatened homelessness

Article 7 (1) If —

(a) a person (an “applicant”) applies to the Executive for accommodation, or for assistance in obtaining accommodation, and

(b) the Executive has reason to believe that he may be homeless or threatened with homelessness,

it shall make such inquiries as are necessary to satisfy itself as to whether he is homeless or threatened with homelessness.

Article 7 (2) If the Executive is so satisfied it shall make any further inquiries necessary to satisfy itself as to—

(a) whether the applicant has a priority need, and

(b) whether he became homeless or threatened with homelessness intentionally.

1.3.3.2 The Definition of Inquiry Duties

In order to meet a person’s housing and homelessness needs, the Housing Executive must ensure the statutory duty to investigate homelessness is met. The Housing

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Executive aims to assist people with trying to find an appropriate and sustainable housing solution based on individual needs and circumstances using a housing solution approach. This approach **will be** in tandem with the statutory duties owed to a person under the legislation. The housing solutions approach or prevention measures will not be used to delay or defer the duties to make inquiries. The duty to make inquiries is based on a low threshold where the person “may” be homeless or threatened with homelessness.

Where there is no reason to believe the person to be homeless or threatened with homelessness, there will be no reason to proceed with a homelessness application, as the statutory trigger has not been met. The reasons for this decision must be explained to the person where it appears appropriate or necessary to do so (e.g. the person incorrectly believes that their circumstances mean that they are homeless or threatened with homelessness). The person will then be added as a person to HMS and the reasons for not undertaking a homelessness assessment will be clearly recorded on the notepad on the person record on HMS. Staff should proceed to work closely with the person to explore housing options and case manage the person to help them identify the most appropriate housing solution, based on their individual needs and circumstances.

- 1.3.3.2.1 Where a person applies to the Housing Executive for accommodation or assistance in obtaining accommodation and there is reason to believe that the person may be homeless or threatened with homelessness, all staff have an absolute duty to make such inquiries as are necessary to satisfy themselves if the person is homeless or threatened with homelessness.
- 1.3.3.2.2 When the Housing Executive has reason to believe that the applicant may be eligible, homeless or threatened with homelessness, and has an apparent priority need, even before it has completed its enquiries, it has an immediate duty to ensure that suitable temporary accommodation is made available if

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required, until it makes its final decision on the homelessness case [see Chapter 2 - Interim Duty to Accommodate](#).

- 1.3.3.2.3 The obligation to make enquiries and to establish whether a duty is owed rests with the Housing Executive and it is not for applicants to “prove their case”. The nature and scope of enquiries will vary in individual cases, but should be carried out as quickly as possible. Enquiries should establish the facts, and applicants should be given the opportunity to explain their circumstances, particularly on matters that could lead to a negative decision, for example, intentional homelessness.
- 1.3.3.2.4 Not only does the Housing Executive have a duty to enquire into the circumstances of those presenting as homeless, it also has a statutory duty to make enquiries where it may ‘appear’ that a person may be homeless. The assessment process is important in enabling the Housing Executive to identify the assistance which an applicant may need either to prevent him or her from becoming homeless or to help him or her to find another home.
- 1.3.3.2.5 Particular care should be taken to ensure that staff do not exercise any kind of informal “first screening” of applicants, either deliberately or by treating as informal, enquiries which should have been treated as actual, even if verbally made. For example, people should not be deterred from making a homeless application.
- 1.3.3.2.6 The Housing Executive should carry out an interview and assessment on the day the applicant contacts the Housing Executive for housing assistance or as soon as is possible thereafter i.e. the next working day. An early assessment will be vital to determine whether the Housing Executive has an immediate interim duty to accommodate pending further enquiries. The Housing Executive should aim to complete its enquiries and notify the applicant of its decision within a reasonable time.

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1.3.3.2.7 At the interview each applicant should receive a clear and simple explanation of the Housing Executive's procedures for handling homeless assessments, including the various steps involved and the likely timescale for each step. Staff should be mindful they do not overwhelm applicants with too much information. It may be more appropriate to give explanations at different key stages. For some applicants who are particularly upset or distressed it may be appropriate to deal with the initial "crisis" for example, taking basic details and arranging temporary accommodation, and defer the detailed interview to the next working day. Explanations should be presented in a manner which is accessible and can be understood by the applicant. There should be written as well as verbal explanation of the procedures, and leaflets may be useful in this regard. The applicant should be provided with the name and contact details of the Designated Officer dealing with his or her homelessness assessment.

1.3.3.2.8 All applicants should be advised that they can be accompanied during any interview relating to their application by a friend, family member or advisor who can speak for them if required. Applicants should have the opportunity to explain their circumstances, and should have access to a Housing Executive staff member of either sex, if so requested.

1.3.3.2.9 Assessment interviews may involve asking applicants personal and possibly distressing questions, and should, therefore, be conducted in private (where possible). When collating information as part of the assessment process, the Housing Executive should ensure that the appropriate Declaration is completed. Staff should make the applicant aware of the 'Your Information' section of the Housing Solutions Form and that we seek their consent to receive information back from others with whom the Housing Executive shares information with for the purposes of their application.² Where the

² Under GDPR the Housing Executive requires a legal basis for sharing information with or requesting information from third parties which we have under public task. However the releaser of the information also requires their own legal basis for releasing it to us, other statutory / public bodies will

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Housing Executive has reason to believe that an applicant is homeless, under legislation, it has the right to conduct enquiries even if the applicant does not sign the Declaration. In circumstances where the applicant refuses to sign the Declaration, staff should [see Housing Selection Scheme Guidance Manual- Chapter 10 Administration \(10.9.4\)](#) for further guidance.

It may also be necessary, when seeking confirmation of any risks/threats, to gather Information from other agencies such as **BASE2**. In such circumstances staff must obtain specific consent from the applicant granting the Housing Executive permission to seek information from **BASE2**. [See Appendix 5](#) for details.

1.3.3.2.10 Depending on the circumstances of each case, there are a range of duties associated with the Housing Executive's statutory homelessness responsibilities. These include the provision of temporary accommodation, protection of personal property and advice and assistance. In exceptional circumstances the Housing Executive may offer to transport an applicant to the temporary accommodation which the Housing Executive has arranged for them.

1.3.4 Decisions / Notifications

Notification of decisions will be made available to homeless applicants when the Housing Executive has completed its inquiries and made its final decision on the case.

The legislation states;

often do this under legal obligation or public task. The consent above is designed to allow third parties to release information to us in the absence of any other legal basis. As such it will only be used in certain circumstances and is not the basis by which we receive all information from third parties. More information on this, if required, can be sought from the Housing Services Governance team.

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1.3.4.1 Notification of decision and reasons

Article 9 (1) On completing its inquiries under Article 7, the Executive shall notify the applicant of its decision on the question whether he is homeless or threatened with homelessness.

Article 9 (2) If the Executive notifies the applicant that its decision is that he is homeless or threatened with homelessness, it shall at the same time notify him of its decision on the question whether he has a priority need.

Article 9 (3) If the Executive notifies the applicant that its decision is that he has a priority need, it shall at the same time notify him of its decision whether he became homeless or threatened with homelessness intentionally.

Article 9 (4) If the Executive notifies the applicant—

- (a) that it is not satisfied that he is homeless or threatened with homelessness, or
- (b) that it is not satisfied that he has a priority need, or
- (c) that it is satisfied that he became homeless or threatened with homelessness intentionally,

it shall at the same time notify him of its reasons.

Article 9 (5) The notice required to be given to a person under this Article shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available for a reasonable period at the office of the Executive to which he applied, for collection by him or on his behalf.

1.3.4.1.1 Notification of a Statutory Decision following inquiries

The notification of the decision to the applicant must be in writing and must give reasons for any negative decision for example, that he or she is ineligible for assistance, not homeless, not in priority need or homeless intentionally. The decision letter should be open and transparent; it must clearly set out the reasons for reaching a negative decision based on the inquiries made. The Housing Executive should not delay in providing such notifications and the decision letter should be provided as soon as the decision is made.

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It is important to ensure the applicant understands the nature of any housing duty that is owed by the Housing Executive. Where the decision is against the applicant's interests, the notification should explain clearly the reasons for the decision and make clear what assistance, if any, the Housing Executive can provide for the applicant.

Where a decision is against the interests of the applicant, decision letters must inform the applicant of his or her right to seek a review against the Housing Executive's decision. The decision letter should also inform the applicant of the time limit within which the request for a review must be made and the Housing Executive's discretion in relation to the provision of temporary accommodation.

In cases where the applicant may have difficulty understanding the implications of the decision, the decision maker must attempt to contact the person and explain the decision which has been reached. The current Housing Solutions practice of contacting an applicant to explain any decision reached in relation to their homelessness decision may be helpful.

The Legislation states, if a decision letter is not received by an applicant, it can be treated as having been given to him or her, if it is made available at the Local Office³ of the Housing Executive for a reasonable period that would allow it to be collected by the applicant or someone on his or her behalf. As a result of case law it has been established that a reasonable period would generally be 28 days.

Decision letters are covered at [Chapter 8 – Homeless Decision Letters](#).

[1.3.4.1.2 Notification of a Decision on Review](#)

An applicant has the right to request a review of any decision of the Housing Executive, which is against their interests–

³ Local Office: Please note that throughout the Homelessness Guidance Manual 'Local Office' is the term that is used to describe any Housing Executive office, outlet or Housing Solutions and Support Teams.

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- as to his or her eligibility for homelessness assistance
- as to what duty (if any) is owed to the applicant when he or she is homeless or threatened with homelessness
- as to the suitability of accommodation offered to the applicant in discharge of the Housing Executive's duty to those who are homeless or threatened with homelessness

The Housing Executive is also required to notify the applicant of the decision on review. Procedures for doing so are contained in separate legislation of The Housing (NI) Order 1988 which requires the Housing Executive to inform the applicant of a decision following its [initial] inquiries. Guidance in relation to Notifying the Applicant of a decision on Review is contained in separate guidance in [Chapter 11 – Review of Homelessness Decisions](#).

NOTE: Where English is not the person's first language, it is important to liaise with the Equality Unit who will be able to assist in arranging for letters to be translated into the person's preferred language. [see section 1.3.2 above]

1.3.5 Assessment of Housing Need

Where an applicant meets all of the legislative criteria, the Housing Executive awards Full Duty Applicant status (FDA), and will award the relevant points in line with the rules of the Housing Selection Scheme.

Where an applicant is not accepted as a FDA, he or she should still continue to be assessed in line with the rules of the Housing Selection Scheme, if he or she is eligible for a housing allocation in Northern Ireland.

1.3.6 Cancelling, Concluding, Preventing and Withdrawing a Homelessness application

The following provides guidelines and examples on the categories found on HMS when processing homeless applications. All processing of homelessness applications must be keyed in accordance with the HMS keying guidance.

1.3.6.1 Cancelling a Homelessness application

The only reason a Homelessness application should be cancelled is, if there has been an error made creating the application on HMS.

An example of this would be an active homeless application already existed or a homeless case has been created for the wrong person. Using the HMS Keying Guide, staff should proceed to cancel the 'duplicate' application that they have created. If it is determined that there is an existing application and this existing case is not in the ownership of the current office dealing with the case normal procedures should apply i.e. the ownership of the case will be determined by the customer's preference and if required ownership transferred after liaising with the other relevant office.

Please note that it may be appropriate to amend the Refer to section of the Housing application on HMS.

1.3.6.2 Concluding a Homeless application

After registering a homeless application on HMS, situations may arise where it is considered appropriate to conclude the application.

It is only appropriate to conclude a case on HMS when the circumstances as described in Tables 1 and 2 apply

- Concluding an application before a statutory decision has been reached, can take account of circumstances set out in table 1.
- Concluding an application after a statutory decision has been reached, can take account of circumstances set out in table 2.

Table 1: Concluding an application before a statutory decision has been reached,

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Conclusion Reasons	HMS Keying Instruction
The person has requested and provided consent to withdraw their homelessness application	A – App Withdrew Hless Applic
<p>Housing Advisors and Patch Managers will work with the homeless applicant from the first point of contact through to identifying and securing the most appropriate outcome for their individual circumstances. As the Housing Solutions and Support approach will run in tandem with carrying out a homeless assessment, there may be circumstances where the applicant chooses to withdraw their homeless application, for example if they choose to remain in their current accommodation or they have secured alternative accommodation before homeless investigations have been completed and a decision made on their homeless application.</p> <p>The applicant must at no point before a decision is reached, be made to feel compelled to withdraw their application. Where a decision is made by the applicant to withdraw their Homelessness application, an appropriate “cooling off” period must be provided; a reasonable period would generally be 28 days.</p> <p>The Designated Officer must be satisfied as to the capacity of the applicant to make a decision to withdraw their application and must fully explain the consequences of this decision in relation to any duties owed to them, by the Housing Executive, in relation to homeless assistance.</p> <p>The Designated Officer will ensure that there are clearly documented notes of the information provided to the applicant to allow them to make their own, informed decision. The applicant can request to withdraw their application verbally or in writing. When requesting to withdraw the application in writing the applicant should complete the “Withdrawal of Homeless Application Form”</p> <p>(Appendix 15 –Consent to Withdraw Homeless Application Form).</p> <p>Where a verbal request is received, a note must be added to HMS to record the</p>	

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relevant date and confirmation that the implications of the applicant's decision have been clearly explained to and understood by the applicant. In both circumstances where the applicant has withdrawn their application either verbally or in writing the Designated Officer will conclude the application on HMS and provide written confirmation **(Appendix 16 –Confirmation of Withdrawal of a Homeless Application Letter)** to the applicant that their application has been cancelled. The decision by the applicant to withdraw their homelessness application does not prejudice any future housing application or homelessness assessment. The applicant should therefore be advised of this.

While there is no statutory mechanism for the withdrawal of a homelessness application, it is considered that these measures may provide the Housing Executive and the applicant with adequate legal protection around the process of withdrawing a homelessness application.

Loss of contact from the person	B– Lost Contact/
<p>In situations where there has been a loss of contact with the applicant, the Designated Officers may conclude a homeless application.</p> <p>Since the person made a homelessness application, you have been unable to commence or complete your enquiries into the person's homelessness circumstances, which would allow you to reach a statutory decision as contact has been lost with the applicant. In these circumstances a reasonable period of time must be allowed within attempts to contact the applicant. At least three attempts, on three separate days, if possible by three different communication methods should be made. Evidence to support all attempts must be recorded in both file and HMS.</p> <p>If a decision is taken to conclude a homelessness application due to loss of contact, the case should be closed on CMS using the outcome, "cancelled by NIHE" and the "loss of</p>	

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contact” sub-outcome.

If a person renews contact within 3 months after the decision to conclude the Homelessness application was made, staff will need to reinstate the previous application and consider any change of circumstances that may affect the homeless assessment. Circumstances may arise where staff might need to reinstate the homelessness application outside of the 3 month period. Staff should exercise discretion in such cases and may take into consideration the time period outside the 3 months, circumstances preventing the person from making contact and any other relevant factors.

Any further approach from the person, beyond 3 months after the decision to conclude a case was reached may need to be considered as a fresh homeless application.

Applicant deceased

C – Applicant Deceased

In situations where staff, become aware that an applicant has died, staff should investigate if the applicant has availed of any duties owed under the 1988 Order, for example Temporary Accommodation, Furniture Storage, **etc.** and take any appropriate action in line with homeless guidance manual. -Where the applicant is deceased a **Date of Death** should be recorded in the corresponding Housing Application.

OOH/ No Further Action(Housing Advisor)

D – OOH/No Further Action required by Housing Advisor the following day

Covid 19 Rough Sleeper

E – Covid 19 Rough Sleeper

This is a temporary conclusion reason due to the Memorandum of Understanding (MOU) with the Department for Communities (DFC) and the Department of Health, to enable the Housing Executive to accommodate those rough sleepers who are ineligible

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for housing assistance as persons from abroad during the COVID-19 homelessness response. This code should only be used for these specific cases and if you are choosing this code you must consult with Homelessness Policy Unit first.	
16-17 year old; Looked After Child [LAC];	F – LAC/Relevant-Eligible
Eligible or Relevant Young Person. When a 16-17 year old presents as homeless to the Housing Executive, a homelessness application must be opened and a UNOCINI referral sent to the Trust. The Trust have 10 days to complete the UNOCINI and return the report to the Housing Executive. The homelessness application should be concluded if the outcome of the UNOCINI deems the Young Person to be a Looked After Child. See Appendix 3 - Meeting Accommodation Support Needs for 16-21 year olds.	

Table 2: Concluding an application after a statutory decision has been reached,

Conclusion Reasons	HMS Keying Instruction
NOTE: Where FDA has been awarded and the Designated Officer loses contact with the customer, no action should be taken to conclude the case but continued action must be taken in attempts to reinitiate contact	
Applicant deceased	C– Applicant Deceased
In situations where staff become aware that an applicant has died, staff should investigate if the applicant has availed of any duties owed under the 1988 Order, for example Temporary Accommodation, Furniture Storage etc. and take any appropriate action in line with homeless guidance manual If the applicant had a joint housing application, further investigation would need to be carried out to determine the	

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homelessness status of the surviving housing applicant. If further clarification is required, please contact Homelessness Policy.

This is the ONLY circumstance under which a live FDA application can be concluded.

1.3.7 False Statements / Failure to make Adequate Disclosure

Article 17 of the Housing (NI) Order 1988, as amended, provides that a person commits an offence if he or she, “with intent to induce the Housing Executive to believe, in connection with the exercise of its functions, that he or she or another person (a) is homeless or threatened with homelessness, or (b) has a priority need, or (c) did not become homeless or threatened with homelessness intentionally, knowingly or recklessly makes a statement which is false in material particular, or knowingly withholds information which the Housing Executive has reasonably required him or her to give in connection with the exercise of those functions” i.e. the assessment of his or her homelessness application. Furthermore, an applicant is under a duty to notify the Housing Executive as soon as possible if, prior to the making of a decision by the Housing Executive, there is any change of any facts material to his or her case. A person who fails to comply with that obligation is guilty of a criminal offence unless the Housing Executive did not explain the duty to him or her, or unless he or she has some other reasonable excuse for non-compliance.

In this regard, there is a declaration to be signed by the applicant(s) on the **Housing Solutions Form**.

1.3.8 Circumstances where Full Duty Applicant status can be discharged

Staff should be mindful that circumstances may arise where the award of Full Duty Applicant status can be discharged. Outlined below in table 3 are the unique situations where the Housing Executive can discharge its Homelessness Duties with regard FDA;

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Table 3: Circumstances where Full Duty Applicant status can be discharged: HMS Keying Instruction – Select Reason for Duty Discharge

Circumstances where Full Duty Applicant status can be removed – Duty Discharge	HMS Keying Instruction
The full homelessness duty has been discharged, because three reasonable offers have been made, and all of those offers have been refused;	A – Refused 3 reasonable offers
The full homelessness duty has been discharged, because the applicant has been offered and has accepted permanent housing;	B– Allocated NIHE Tenancy C– Allocated HA Tenancy
The full homelessness duty has been discharged, because the applicant has purchased a property;	D – Owner Occupier
The full homelessness duty has been discharged, because the applicant has obtained private rented accommodation for himself/herself and he/she intends that housing to be permanent;	E – Private Rental Permanent
There is currently no Private Rented Access Scheme (PRAS) in operation.	F – PRAS Tenancy
If a customer with a Management Transfer FDA Application chooses to withdraw their Transfer Application;	G – Withdrawal of Transfer
The applicant provided false information in connection with his/her application, and the award of full duty status is attributable to that false information, this is a serious allegation. Once the local office has completed its preliminary investigation, if required, staff should consider referring the case to the	H – Tenancy Fraud staff should liaise with Legal Services;

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Tenancy Fraud Unit [TFU] who are part of the Counter Fraud Security Unit [CFSU]. Following the outcome of any investigation, where enough evidence exists, the case should be referred to Legal Services in order to consider the removal of FDA;	
An applicant awarded FDA as an eligible [PFA] subsequently ceases to be eligible, Staff should refer to the relevant PFA guidance in Chapter 2.7 of the Housing Selection Scheme and assistance should be sought in the relevant policy teams.	I – PFA Ineligible

1.4 Judicial Review

In instances where an applicant (or a representative on his or her behalf) advises the Housing Executive that he or she intends to instigate Judicial Review proceedings, this should be brought to the **immediate** attention of the Housing Executive's Legal Services [see Chapter 11 - Review of Homelessness Decisions and Appeals to the County Court](#).

1.5 Complaints

Where an applicant is unhappy with something which we have done or have failed to do in the administration of their Homelessness application, they should be advised of our complaints procedure. However, staff should be clear that where an Applicant is unhappy with the 'outcome' of a homelessness decision, following our inquiries, this should be addressed under the statutory Review procedure [see Chapter 11 - Review of Homelessness Decisions and Appeals to the County Court](#).

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Chapter 2 – Interim Duty to Accommodate

2.0 Temporary Accommodation Pending Enquiries

The legislation states;

Article 8 (1) if the Executive has reason to believe that an applicant may be homeless and have a priority need, it shall secure that accommodation is made available for his or her occupation pending a decision as a result of its enquiries under Article 7.

Article 8 (2) the duty under paragraph (1) ceases when the Executive's decision is notified to the applicant even if the applicant requests a review of that decision under Article 11 a.

Article 8 (3) but the Executive may secure that accommodation is available for the applicants occupation pending a decision on the review. [See Chapter 11 Reviews of Homelessness Decisions – County Court Appeals](#)

2.1 Interim Duty to Accommodate in Case of Apparent Priority Need

2.1.1 The interim duty to secure that accommodation becomes available for an applicant and his or her household can arise immediately on consideration of an application i.e. before the Housing Executive has completed its enquiries, where the Housing Executive has reason to believe that the applicant may:-

- be homeless;
- be eligible for assistance, and
- have a priority need for accommodation

2.1.2 The duty persists until the Housing Executive makes a decision as to whether any duty is owed in line with the provisions of the legislation and if so what that duty is.

At the point of decision the Housing Executive must give the applicant written notification of its decision.

- 2.1.3 The accommodation (temporary accommodation) provided under the interim duty to accommodate should be suitable for the applicant and his or her household. Whilst Bed and Breakfast (B&B's), hotels and Houses in Multiple Occupation (HMOs) may need to be used in emergencies, where other more suitable forms of temporary accommodation are not available, the Housing Executive should avoid using such accommodation wherever possible. Where an applicant is placed in a B&B, hotel or HMO, the Housing Executive should make all reasonable steps to ensure that he or she is relocated to alternative more suitable temporary accommodation as soon as possible.
- 2.1.4 As far as is reasonably practicable, an applicant who is being placed in temporary accommodation will be asked to sign a statement in relation to standards of behaviour in temporary accommodation provided by the Housing Executive, pursuant to its homelessness duties. "Standards of Behaviour in Temporary Accommodation Provided by the Housing Executive" form can be found at [Appendix 1 – Standards of Behaviour in Temporary Accommodation](#), this form is provided by the Housing Executive to the applicant pursuant to its Homelessness Duties, for applicants placed in NIHE Hostels [Appendix 1A – Licence Agreement Housing Executive Hostels](#), this form should be completed. The statement should be explained to the applicant, a copy given to him or her, and the original held in his or her homeless file or scanned and saved on Housing Management System (HMS).
- 2.1.5 The interim duty to accommodate ends once the Housing Executive has notified the applicant of its final decision on his or her homeless assessment, even if the applicant requests a review of the decision. However, there may also be circumstances in which the Housing Executive will treat this interim duty as having been discharged, for example, where the applicant is evicted from temporary

accommodation due to his or her unacceptable behaviour. In these circumstances staff must complete [Appendix 1B: Letter to applicant confirming closure of Temporary Accommodation Placement due to Unacceptable Behaviour during Interim Duty](#).

- 2.1.6 Where, having completed its enquiries, the Housing Executive has concluded that it is under no further duty to secure accommodation; the applicant should be notified in writing that he or she must vacate the temporary accommodation provided for him or her under the interim duty. Usually the applicant will be given a reasonable period to vacate the temporary accommodation (in relation to applicants who are homeless and in priority need), [see Chapter 7 – The Main Accommodation Duties](#).
- 2.1.7 The interim duty to accommodate ceases when the Housing Executive has concluded that the applicant is a Full Duty Applicant (FDA). In such cases, the Housing Executive is under a full housing duty which is to secure that accommodation becomes available for his or her occupation. A notification in relation to the continuation of temporary accommodation is not necessary in such cases (even where the applicant remains in the same temporary accommodation in line with the full housing duty), [see Chapter 7 – The Main Accommodation Duties](#).

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Chapter 3 – Homelessness / Threatened with Homelessness

3.0 Definition of Homelessness / Threatened with Homelessness

Article 3 (1) A person is homeless if he or she has no accommodation available for his or her occupation in the United Kingdom or elsewhere.

Article 3 (2) A person shall be treated as having no accommodation if there is no accommodation which he or she, together with any other person who normally resides with him or her as a member of his or her family or in circumstances in which it is reasonable for that person to reside with him or her –

- a) Is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or
- b) Has an expressed or implied licence to occupy, or
- c) Occupies as a residence by virtue of any enactment or rule of law giving him or her, the right to remain in occupation or restricting the right of another person to recover possession.

Article 3 (3) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him or her to continue to occupy.

Article 3 (4) Regard may be had in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in Northern Ireland.

Article 3 (5) A person is also homeless if he or she has accommodation but –

- a) he or she cannot secure entry to it, or
- b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or
- c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he or she is entitled or permitted to place it and to reside in it.

Article 3 (6) A person is threatened with homelessness if it is likely that he or she will become homeless within 28 days from the day on which he or she gives written notice to the Housing Executive that he or she is threatened with homelessness.

Meaning of accommodation available for occupation

Article 4 For the purposes of homelessness, accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him or her and by any other person who might reasonably be expected to reside with him or her; and references to securing accommodation for a person's occupation shall be construed accordingly.

3.1 Homelessness

When a Designated Officer is gathering information about the housing circumstances of a person who is requesting accommodation or assistance in obtaining accommodation and it appears to them that the person may be homeless or threatened with homelessness during an interview / visit, the Designated Officer must consider whether the duty to conduct inquiries under Article 7 of the Housing (NI) Order 1988 has been triggered even in the absence of an explicit homelessness application.

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If the Housing Executive has reason to believe that an applicant may be homeless, it shall make such enquiries as are necessary to satisfy themselves as to whether he or she is homeless.

Each case must be assessed individually and decisions made on the particular circumstances of the case. The Designated Officer should take into account, the information provided by the applicant together with any additional information considered appropriate, by way of interview, visit or further enquiries.

3.1.1 No Accommodation in the UK or Elsewhere

Checks should be made to determine if the applicant has accommodation of any tenure in any country. Such checks should be initiated when considering the information on the Housing Solutions Form.

If the Housing Executive considers that there is accommodation available for the applicant outside of Northern Ireland, then that accommodation is subject to the same tests as accommodation in the UK, for example, it must be reasonable for the applicant to continue to occupy that accommodation - [see 3.2. Reasonable to Continue to Occupy](#)

Checks may include making enquires with Housing Associations, landlords, building societies, local authorities, family members, Immigration Office, etc.

3.1.2 Availability for occupation

Accommodation shall be treated as available for a person's occupation only if it is available for occupation by him or her together with:

- a) any other person who normally resides with him or her as a member of his or her family, or
- b) any other person who might reasonably be expected to reside with him or her

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The first group covers those members of the family who normally reside with the applicant. The phrase “as a member of his or her family” although not defined in the legislation, will include those with close blood or marital relationships and cohabiting partners including same sex relationships, and, where such a person is living in accommodation as an estranged member of the household, the accommodation must provide for him or her as well.

The second group relates to any other person, and includes those who may not have been living as part of the household at the time of the assessment, but whom it would be reasonable to expect to live with the applicant as part of his or her household. Persons in the second group might include a housekeeper or companion for the elderly or disabled person or children who are being fostered by the applicant or a member of his or her family. The second group will also include those members of the family who were not living as part of the household at the time of the assessment but who nonetheless might reasonably be expected to form part of it.

It is for the Housing Executive to assess whether any other person might reasonably be expected to live with the applicant and there will be a range of situations that may need to be considered.

Persons who normally live with the applicant but who are unable to do so because there is no accommodation in which they can all live together should be included in the assessment. When dealing with a family where there has been a relationship breakdown, the Housing Executive will need to reach a decision as to which members of the family normally reside, or might reasonably be expected to reside with the applicant. In case involving the care of children the courts may have made a residence order indicating with whom children are to

live, or it may be a matter of agreement between the parents and a court will not have been involved. In such cases the Designated Officer will need to reach a decision based on the individual circumstances of each case and the information available to them.

3.1.3 Entitled to occupy

A person is homeless if he or she has no accommodation, which he or she has a legal right to occupy.

This will include a person who has been occupying accommodation as a licensee and whose licence has been revoked, such as

Temporary accommodation / sharing

It is important to distinguish between accommodation which is clearly being occupied on a temporary basis because it is crisis accommodation for example, a women's refuge / other hostel, and accommodation which may be considered more permanent such as sharing with a relative or friend.

Licencee

A person who has been occupying accommodation as a licensee and whose licence has been revoked is homeless because he or she no longer has a legal right to continue to occupy that accommodation (despite the fact that that person may continue to occupy). For example, an applicant who has been asked to leave their parent's or other family member's home.

3.2 Reasonable to Continue to Occupy

An applicant may be homeless if they are occupying accommodation which it would not be reasonable for them to continue to occupy, together with any other person who normally resides with them as a member of his or her family or who might reasonably be expected to reside with him or her.

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There is no simple test of reasonableness. It is for the Housing Executive to make a judgement on the facts of each case taking into account the circumstances of the applicant, which may include (but is not limited to) the following:

- a) The applicant's accommodation is unfit for human habitation (see 3.5.2.1)
- b) The physical characteristics of the accommodation make it unsuitable for the applicant or a member of the applicant's household for example, due to a physical disability
- c) Applicants accommodation is adversely affecting the mental health of the applicant or a member of the applicant's household
- d) Living in overcrowded conditions which is having a detrimental effect on the applicant or a member of the applicant's household
- e) The **housing costs** associated with the accommodation are causing financial hardship
- f) Violence or threats of violence including domestic abuse, harassment or intimidation
- g) The applicant's accommodation is negatively impacting on the applicant or a member of the applicant's household for some other reason that is not included in the above list

3.3 Inability to Secure Entry to Accommodation

A person is homeless if he or she has a legal right to occupy accommodation, but is unable to secure entry to it, for example:

- 1. those who have been evicted illegally, or
- 2. those whose accommodation is being occupied illegally by squatters.

Although legal remedies may be available to the applicant to regain possession of the accommodation, the Housing Executive cannot refuse to assist while he or she is actually homeless.

3.4 Threatened with Homelessness

A person is threatened with homelessness if he or she is likely to become homeless within 28 days. This includes:

- A tenant who has received notice to quit
- A licensee who has been told to leave their accommodation (e.g. a son or daughter whose parents have asked them to leave)
- An owner occupier whose home is about to be repossessed due to mortgage arrears
- An employee in tied accommodation who is about to lose his / her job and therefore also lose his / her home

In such circumstances the Designated Officer should take reasonable steps to prevent the loss of the applicant's current home where possible by providing appropriate advice and assistance.

Evidence that an applicant is threatened with homelessness will be required from the applicant's landlord / parents / court / employer. Where the Housing Executive is given verbal notice that a person will become homeless within 28 days the Designated Officer should undertake further enquiries in order to satisfy themselves that the applicant is threatened with homelessness.

3.5 Possible Reasons for Homelessness / Threatened with Homelessness

Although it would be impossible to detail all of the circumstances the Housing Executive may have to make enquiries into and consider, some of the most frequently presented situations are outlined below, together with the type of

enquiries Designated Officers might undertake in such situations, and the type of information that may assist in decision making. The circumstances outlined are not exhaustive, and it should be stressed that each case should be considered on its individual circumstances.

Note: the following circumstances reflect the homelessness reasons provided on the Homelessness Assessment Form. The corresponding homelessness reason has therefore been included for ease of reference.

3.5.1 Asked to Leave Accommodation by Family or Friends (Homeless Reason 01)

Some applicants may have been asked to leave their present accommodation by family or friends, with whom they have been living with. In such cases, the Housing Executive will need to consider carefully whether the applicant's licence to occupy the accommodation has in fact been revoked. The Housing Executive may need to interview the parents or friends to establish whether they are genuinely revoking the licence to occupy, and thus rendering the applicant homeless.

Requests to leave by parents, relatives or friends account for a significant proportion of homeless presentations. In some cases there will be genuine reasons why the applicant is unable to stay in their accommodation and in others there may be scope for preventing or postponing homelessness and providing the applicant with an opportunity to plan their future accommodation and pursue other housing options with advice and assistance from the Housing Executive.

3.5.2 Relationship Breakdown (Including Breakdown in Co-habitation and Breakdown in Same Sex Relationships)
(Homelessness Reason 02)

An applicant may be homeless or be threatened with homelessness as a result of a relationship breakdown. If the applicant has sought legal assistance there are a number of documents he or she may have that may assist the Housing Executive in arriving at a decision in relation to homelessness / threatened homelessness:-

- a) An Order for Maintenance, Residence or Contact
- b) An Occupation or Non-Molestation Order
- c) A Decree of Judicial Separation or Divorce
- d) Dissolution Order – in the case of breakdown of civil partnership
- e) Documents from a solicitor
- f) If co-habiting evidence of residency should be sought

Other sources of information which may be relevant in assessing homelessness / threatened homelessness can include:

- a) Information from a bona fide voluntary group for example, Women's Aid, that the applicant has taken up residence in a hostel as a result of relationship breakdown and/or domestic abuse
- b) Information from the police, social worker, Social Security Agency, or other reputable source that the applicant has been forced to leave the marital home as there has been marital or relationship breakdown
- c) If information provided by GP it should be accepted and relevance considered

In some cases, information may not be available from any other source. In such cases, it is for the Housing Executive to reach a decision as to whether the

applicant is homeless or threatened with homelessness based on the information available (even if the only source of information is the statement from the applicant).

3.5.3 Intimidation – Paramilitary / Sectarian / Racial / Sexual Orientation / Disability / ASB

(Homeless Reasons 03, 03A, 03B, 03C, 03D, 03E)

Written or verbal responses from the police will be the most likely source of information and the Housing Executive should seek a written report where appropriate [see Appendix 1 – PSNI: Pro Forma](#).

Information to assist in the decision making process may also be sourced from voluntary sector organisations for example, Base 2 [see Appendix 2 - Base 2: Pro Forma](#), voluntary sector hostels etc.

The decision as to whether or not the applicant is homeless / threatened with homelessness rests with the Housing Executive, and not with any individual or agency which provides the Housing Executive with information.

Note: decisions relating to intimidation must be made in accordance with Standing Orders

3.5.4 Bomb / Fire Damage

(Homelessness Reason 04)

Where damage has been caused to an applicant's home that renders the property uninhabitable, the applicant should be considered to be homeless if they have no other accommodation anywhere else available for their occupation and which he or she has a legal right to occupy.

It may also be appropriate to request a report from, for example, the Fire Authority to confirm that the accommodation has been rendered uninhabitable.

3.5.5 Neighbourhood Harassment **(Homelessness Reason 05)**

Harassment is when someone behaves in a way, which makes a person feel distressed, humiliated or threatened. It could include behaviour such as unwanted phone calls, letters, emails or visits, abuse and bullying online, stalking, verbal abuse and threats, smashing windows or using dogs to frighten a person. Harassment can include situations where there have been a substantial number of incidents including those of a minor nature, although consideration should be given where one incident has occurred which has had a seriously detrimental effect on the victim or members of his/ her family.

Hate harassment is any incident committed against a person or property which is perceived by the victim or any other person as being motivated by an offender's prejudice or hatred because of their Ethnicity, Sexual Orientation, Gender identity, Religion or Disability.

Where an applicant alleges that they are being harassed it will be necessary to make enquiries whether or not the applicant can return to their accommodation or whether or not it would be reasonable to expect them to do so.

Each case should be taken on its own merits to determine the severity of the circumstances. The Designated Officer should take into account the ongoing nature of harassment, the length of time and/or frequency. Where one of the parties involved is a Housing Executive / Housing Association tenant it will be necessary to make enquiries to establish if there is any current, past or ongoing ASB investigations. Information to assist in the decision making process may also

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be sourced from the Housing Executive's HMS System, contact with the PSNI, council and other statutory bodies.

Where one of the parties is a Housing Executive tenant and there is not an active ASB case, the Designated Officer should open one when and consult the ASB manual for further guidance.

3.5.6 Violence / Sexual Abuse

(Homelessness Reasons 06 & 07)

When considering cases where violence or a threat of violence is alleged, the legislation states that:

"A person is...homeless if he or she has accommodation but it is probable that occupation of it will lead to violence from some other person residing there or to threats of violence from some other person residing in it and likely to carry out the threats".

All violence (including sexual abuse) and threats of violence likely to be carried out against the applicant or a member of the applicant's household should be taken into account when considering whether an applicant is homeless / threatened with homelessness. The fact that violence may not yet have occurred does not, on its own, mean that it is not likely to occur. Designated Officers should investigate the particular circumstances of the case and liaise with the relevant agencies / individuals in order to arrive at a decision. Investigations into such cases will need to be conducted sensitively. It is essential that enquiries do not provoke further violence. At no time should the alleged perpetrator be approached as this could incite further violence.

NOTE: Designated Officers should also have regard for the "NIHE-Women's Aid Joint Protocol". This protocol sets out the roles and responsibilities of the key

statutory and voluntary agencies in providing services to those experiencing domestic abuse, sexual abuse. See Appendix 3 -NIHE-Women's Aid Joint Protocol.

It is acknowledged that in cases of domestic abuse the victim may not have involved the police. However, this should not prejudice the applicant's case and the Designated Officer will be required to exercise discretion based on their investigations and the information available.

In cases involving violence the Housing Executive may wish to inform applicants of the option of seeking a Non-Molestation Order. It should be made clear to the applicant however that there is no obligation for him or her to do so. Where an applicant wishes to pursue this option it is advisable that they obtain independent advice. Designated Officers should be aware that court orders compelling persons not to molest, or not to enter the home of the applicant, may not be effective in deterring perpetrators from carrying out violence, further violence or threatening violence. Applicants should not automatically be expected to return home on the strength of a court order and applicants may not have confidence in their effectiveness.

Where there would be a probability of violence (including sexual abuse) if the applicant continued to occupy his or her present accommodation, the Housing Executive must treat the applicant as homeless and should not expect him or her to remain, or return to the accommodation. In all cases involving violence the safety of the applicant and his or her household should be the primary consideration at all stages of the decision making process.

In assessing whether threats of violence are likely to be carried out, the Housing Executive should only take into account the probability of violence and not

actions which the applicant could take (such as Non-Molestation Orders against the perpetrator) but which he or she may not intend to take.

3.5.7 Applicants Leaving the Armed Forces

Armed forces personnel are generally provided with accommodation by the Ministry of Defence (MOD) but are required to leave this when they are discharged from the service. Many will not have alternative accommodation of their own and hence some will present as homeless to the Housing Executive. Homelessness application from those discharged or approaching discharge from the armed forces should be dealt with in the same way as all other homelessness applications.

The MOD recognises that the Housing Executive will need to be satisfied that entitlement to occupy service quarters will end on a certain date in order to determine whether applicants who are service personnel discharged or approaching discharge are homeless or threatened with homelessness. For this purpose MOD issues a **“Certificate of Cessation of Entitlement to Occupy Service Quarters and of Impending Homelessness”**. These certificates indicate the date that homelessness will occur, and the Housing Executive should not insist upon a court order for possession in such cases. Certificates are produced by the appropriate area office in the “Defence Infrastructure Organisation” (of the MOD) and are usually issued six months before discharge.

3.5.8 Illegal Occupants

The Housing Executive will initiate a homelessness assessment in relation to cases of illegal occupation of Housing Executive dwellings. An illegal occupant does not have a legal right to occupy a Housing Executive dwelling and hence the Housing Executive must determine if indeed that applicant is homeless / threatened with homelessness.

An illegal occupant may be homeless if he or she has no accommodation in the UK or elsewhere which is available for his occupation and which that person has a legal right to occupy. An illegal occupant may also be homeless where he or she has accommodation but cannot secure entry to it, or where he or she has accommodation that is a moveable structure (such as a caravan or house boat) and there is no place where it can be placed in order to provide accommodation. An illegal occupant who has accommodation elsewhere is to be treated as homeless where it would not be reasonable for him or her to continue to occupy that occupation.

In summary, the fact that an applicant is illegally occupying a Housing Executive dwelling and, therefore, not “roofless”, does not automatically mean that he or she is not homeless / not threatened with homelessness.

The Housing Executive should treat in the same way, homeless applications from those illegally occupying dwellings belonging to social landlords and private sector landlords.

3.5.9 Occupation Order

An applicant may be homeless if an Occupation Order, excluding him or her from his or her accommodation, is made against him or her. In such cases, the applicant can be asked for a copy of the relevant Order. If this is not provided, information can be sought from a solicitor.

3.5.10 Accommodation Not Reasonable

(Homelessness Reason 08)

IN ALL CASES BEFORE RECORDING REASONS FOR HOMELESSNESS / THREATENED WITH HOMELESSNESS STAFF SHOULD LOOK AT THE PRIMARY REASON BEFORE LOOKING AT ‘ACCOMMODATION NOT REASONABLE’.

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An applicant is homeless if his or her accommodation is such that it is unreasonable for him /her to continue to occupy it. Whether or not it is reasonable to continue to occupy accommodation relates not only to the applicant but also to any other person who might reasonably be expected to reside with the applicant as a member of their household.

The Context of Reasonableness

What is "reasonable" is a matter for judgement and will depend in some cases on the personal circumstances of the applicant - for example what might be reasonable for adults may not be for households containing children.

Whether accommodation is reasonable to continue to occupy can be looked at in two contexts:

- The characteristics of the property
- The personal circumstances of the applicant

Continue to Occupy

The phrase "to continue to occupy" means that occupation is to be looked at over time. Staff will therefore need to consider the applicant's circumstances as they are at the time of application, whilst also considering whether it would be reasonable for them to continue to occupy their accommodation for the foreseeable future. In looking to the future the Designated Officer must be certain that a particular set of circumstances are likely to arise before they can be factored into the decision making process.

For example, when considering a homeless application involving a household member who is pregnant, which is made on the grounds that it is not reasonable for the household to continue to occupy their accommodation (e.g. when the baby is born the property will be overcrowded or it may be that the property is an unsuitable environment for children generally), the Designated Officer will

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need to consider whether the impending birth would make the accommodation unsuitable for the purposes of Article 3(3) of the 1988 Order.

Whether it is reasonable for the household to continue to occupy the property will depend on the severity of the problem that will arise, or the degree to which an individual or family concerned suffers serious inconvenience / risk, giving their living conditions.

When assessing whether an applicant's accommodation is reasonable for them to continue to occupy, the Designated Officer should consider the applicant's ability to function in their current accommodation and whether rehousing would alleviate their reported difficulties.

A visit to the property should be carried out in all instances.

Note: the only exception would be in the event of a very robust OT report being received in support of the applicant.

3.5.10.1 Property Unfitness
(Homeless Reason 08A)

Private Rented Sector

Where consideration is being given as to whether or not a privately rented or an owner-occupied property is reasonable for an applicant to continue to reside in due serious disrepair, the case must be referred to the Environmental Health Department in the relevant council area to undertake a fitness inspection.

Where a privately rented property is deemed to be unfit, the Environmental Health Department may serve a Notice of Unfitness on the landlord or the landlord's agent. This will not guarantee that landlord will comply to a Notice of Unfitness and the Designated Officer will therefore have to liaise closely with the Environmental Health Department when considering if the applicant's

accommodation is reasonable for them to continue to occupy for the purposes of determining if he or she is homeless. See Appendix 14 Pro Forma for Unfitness (Environmental Health)

Owner Occupied

Where an owner-occupied property is deemed to be unfit, the owner of the property will be responsible for undertaking the necessary repairs. In such cases, staff may need to consider the financial implications on the applicant for remedying the repairs, the applicant's available income and whether it would be reasonable for the applicant to meet the costs associated with the work required to the dwelling.

Social Housing

Housing Executive and Housing Association properties should be referred to the relevant Maintenance Section.

3.5.10.2 Physical Health (Homeless Reason 08B)

It may not be reasonable for household to continue to occupy accommodation if the dwelling does not meet the physical needs of the applicant or a member of the applicant's household. When considering the physical characteristics of the property, the Designated Officer must also explore the possibility of the property being adapted to better meet the needs of the disabled person.

Home Improvement Grant Applications / Disabled Facilities Grant

There are a range of grants available to help with the cost of adaptations to the home of a disabled person. These grants are available to owner-occupiers or Private Tenants (not NIHE Tenants or Housing Association Tenants). Applicants

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who have been successful in securing an Improvement Grant for their home will not normally be considered as homeless / threatened with homelessness.

For further details in relation to Home Improvement Grants, which are currently available, please see website:

https://www.nihe.gov.uk/index/benefits/home_improvement_grants/grants_available.htm

3.5.10.3 Mental Ill Health
(Homeless Reason 08C)

Where there is reason to believe that accommodation is adversely affecting the mental health of an applicant or a member of the applicant's household, the Designated Officer should consider whether it is reasonable for the household to occupy their home. The Designated Officer should also consider whether rehousing would alleviate the adverse effect felt by the applicant, or if the applicant could be supported to sustain their tenancy with the appropriate support services in place.

It is important to note that an assessment of whether an applicant's accommodation is unreasonable for them to continue to occupy is not based solely on the presence of mental ill health, but on the impact the applicant's accommodation is having on their mental health.

Staff will need to satisfy themselves that the applicant's housing is having a detrimental effect on his or her mental health. The Designated Officer should seek this information directly from professional sources such as Social Workers, District Nursing Staff, Occupational Therapists, and Mental Health services, etc.

Whilst consideration should be given to any medical evidence provided, it is important for staff to remember that it is for the Housing Executive to decide

whether it is reasonable for an applicant to continue to occupy their home due to mental ill health. Where medical evidence suggests that a property is exacerbating an applicant's mental health, the Designated Officer may nevertheless conclude that the property is reasonable to continue to occupy, having had regard to the individual circumstances of that applicant. Where a negative homeless decision is reached staff must provide applicant with sound reasons for the decision.

It is important for staff to note that the existence of mental ill health alone is not sufficient to conclude that it is unreasonable for applicant to continue to occupy his or her home. The Designated Officer will be expected to understand and address the customer's needs, including their support needs. It is important that the Designated Officer considers if an applicant could be supported to help sustain the tenancy and prevent the applicant from becoming homeless. Where support needs have been identified, the Designated Officer should either signpost or support the customer to engage with relevant support services.

**3.5.10.4 Overcrowding
(Homeless Reason 08D)**

It is important to note that overcrowding alone should not lead to a decision that an applicant is homeless as their accommodation is unreasonable to continue to occupy. Staff should instead consider the effect the overcrowding may be having on the household and whether the impact of living in overcrowded conditions is having a detrimental impact on the household or a household member. Where overcrowding exists the Designated Officer may still decide that the applicant's accommodation is reasonable for them to continue to occupy, having had regard to the applicant's particular circumstances.

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3.5.10.5 Financial Hardship
(Homeless Reason 08E)

When considering whether accommodation is reasonable for an applicant to continue to occupy Designated Officers will have to determine if the accommodation is affordable. Staff will need to consider whether the applicant can meet his or her reasonable living expenses which will include their housing costs excluding any shortfall. Living expenses are deemed reasonable where budgeted expenses are within the applicant's personal / standard allowance (i.e. amount of income an applicant would be entitled to receive for their household if their sole income is / was means tested social security benefits). All applicants in receipt of full means tested benefits will automatically be considered as in financial hardship.

Where an applicant is not in receipt of means tested benefits, or they receive partial benefits because, for example, they are working, staff will need to apply a notional test to determine what the applicant would be entitled to claim for their household if they were to make a claim for benefits and they had no other source of income. This is the baseline amount that the government deem is reasonable for an individual or household to survive. Any income above the baseline will be assessed and the reasonableness of the expenditure will determine if the individual or household is in financial hardship or not.

In order to assist with the application of the notional test staff should access the Benefit and Budget Calculator on Gateway. It is vitally important that **consent is given by the applicant** before this assessment is carried out. See [LSAN HS WBU BB Calculator 01 21](#).

Should the applicant refuse consent staff should advise them that they can access the main website on;

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<https://www.nihe.gov.uk/My-Housing-Executive/Advice-for-Housing-Executive-Tenants/Making-Your-Money-Work>

for self-assessment.

The calculator enables staff to calculate benefit entitlements, explain complex benefit changes, and provide customers and tenants with the advice they need to make decisions. The calculator has an integrated budgeting solution which will allow staff to quickly compare a customer or tenant's (potential or real) income with their expenditure and highlight areas in which savings can be made. Use of the calculator will be complementary to existing support mechanisms such as the full **Making Your Money Work Service** and referrals to **Financial Inclusion Officers**.

Regardless of the outcome of the homelessness decision, it is good practice to consider whether the applicant could benefit from debt counselling or other advice. Details of Northern Ireland advice agencies can be found at [HousingAdviceNI](https://www.housingadviceNI.org/) and relevant information can be passed on to the applicant.

3.5.10.6 Violence
(Homeless Reason 08F)

Where an applicant or a member of the applicant's household has been subjected to or is at risk of violence in their accommodation, the Designated Officer should consider if it would be reasonable for them to continue to occupy their home. It is not solely domestic abuse that is relevant but all forms of violence, including violence motivated by a person's race, sexual orientation, disability, religion, or paramilitary threats of violence.

Threats of violence, intimidating behaviour and other forms of abuse that may give rise to harm are also considered forms of violence. When undertaking

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enquiries Designated Officers must carefully consider if the continued occupation of the dwelling would, or could, lead to violence or a threat of violence. The fact that violence may not yet have occurred does not, on its own, mean that it is not likely to occur.

The Designated Officer should investigate the particular circumstances of the case and liaise with the relevant agencies / individuals in order to arrive at a decision. Investigations should be undertaken sensitively, however, in some cases, there might be no other source of information other than that provided by the applicant. In such cases it is for the Designated Officer to satisfy themselves as to whether the applicant is homeless or threatened with homelessness based on the information available to them.

Where the Designated Officer is satisfied there would be a risk of violence if the applicant continued to occupy his or her present accommodation, the Housing Executive must treat the applicant as homeless and should not expect him or her to remain, or return to the accommodation. In all cases involving violence the safety of the applicant and his or her household should be the primary consideration at all stages of the decision making process.

3.5.10.7 Other
(Homeless Reason 08G)

It is not possible to provide for every set of circumstances that may render an applicant's accommodation as being unreasonable for them to continue to occupy. Some circumstances may arise that are not set out in 3.5.10 – 3.5.10.6 and may need to be categorised as "other".

3.5.11 Fire, Flood, Other Emergency

(Homelessness Reason 09)

This category includes all emergencies consisting of physical damage or threat of physical damage to the dwelling, for example, gas explosion, earthquake, landslide etc.

In order to determine if the applicant is homeless, a visit to the dwelling may be appropriate. It may also be appropriate to request a report from, for example, the Fire Authority / Environmental Health Department, to confirm that accommodation has been rendered uninhabitable.

3.5.12 Mortgage Arrears

(Homelessness Reason 10)

An owner-occupier may be threatened with homelessness if he or she is about to lose their home due to mortgage arrears. The Designated Officer should take into consideration any mitigating circumstances that prevent the applicant making their repayments. Confirmation of the mortgage arrears and / or any court action should be sought from the applicant or other appropriate sources e.g. solicitor, mortgage lender, court service etc.

3.5.13 Release from Prison

(Homelessness Reason 11)

To establish if an applicant who is about to leave prison or who has just been released from prison is homeless, it will be necessary to make enquiries as to the availability of his or her last settled address and whether or not he or she can

return to it. The Northern Ireland Prison Service and/or Housing Rights Service, Housing Advice Development Worker, located in the relevant prison may be able to assist with enquiries about applicants leaving prison.

Designated Officers should have regard for the “Protocol for the management of the accommodation and related support needs of people in custody in Northern Ireland”. This protocol sets out the roles and responsibilities of the key statutory and voluntary agencies in the management of those leaving prison [see Appendix 5 – A Protocol for the Management of the Accommodation and Related Support Needs of People in Custody in Northern Ireland](#).

3.5.14 Persons in the Care of an Institution

(Homelessness Reason 12)

In the case of discharge from hospital, care home, or similar institution, it will be necessary to make enquiries as to the availability of an applicant’s last settled address and whether or not he or she can return to it. Information should also be sought from the appropriate hospital authorities; social services etc. and should include the date of discharge.

It is preferable that such information is sought and provided in writing.

3.5.15 Young Person Previously Cared for by the Trust

(Homelessness Reason 13)

16 and 17 year olds

The Housing Executive should accept and register all homelessness applications submitted by 16 and 17 year olds. When considering a homeless application

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submitted by a 16 / 17 year old, regard should be had to the Regional Good Practice Guide agreed by the Housing Executive and the Health and Social Services Trusts “Meeting the Accommodation and Support Needs of 16 – 21 year olds” [see Appendix 6 – Meeting the Accommodation and Support Needs of 16 – 21 Year Olds: Regional Good Practice Guidance Agreed by the Northern Ireland Housing Executive and the Health & Social Care Trusts](#). This protocol document sets out the respective roles and responsibilities of the two lead agencies (i.e. the Housing Executive and the Trust) with statutory responsibility for vulnerable young people who are homeless or at risk of becoming homeless.

18 to 21 year olds

When a homeless application is received from a young person (18-21 year old) regard should be given to the possibility of this applicant being a former Looked After Child, appropriate enquiries must be undertaken with the relevant Trust to determine if the applicant is a Relevant or a Former Relevant child to whom the Trust continues to owe a duty.

Staff should refer to the Regional Good Practice Guide agreed by the Housing Executive and the Health and Social Services Trusts “Meeting the Accommodation and Support Needs of 16 – 21 year olds” at [Appendix 6 - Meeting the Accommodation and Support Needs of 16 – 21 Year Olds: Regional Good Practice Guidance Agreed by the Northern Ireland Housing Executive and the Health & Social Care Trusts](#)

3.5.16 Loss of Private Rented Accommodation

(Homelessness Reason 14)

Homelessness Reason - 14A	Affordability,
Homelessness Reason - 14B	Property sale,

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Homelessness Reason - 14C	Landlord dispute,
Homelessness Reason – 14D	Fitness/repairs or
Homelessness Reason – 14E	Other reason

The homelessness reasons set out above reflect those available on HMS when an applicant presents as homeless due to loss of private rented accommodation. Staff should choose the appropriate category when recording an applicant's reason for homelessness.

It is possible that the applicant has not yet lost their Private Rented accommodation; however, their landlord may have issued a notice to quit or may be pursuing court action in respect of homelessness reasons 14A-E above.

Where it is claimed that a notice to quit has been served or a possession order is being sought / obtained, it is appropriate to ask for a copy of the relevant court order or for written confirmation from the landlord / solicitor. In addition to written information received, verbal contact with the landlord is essential to discuss prevention possibilities and establish that an arrangement hasn't been entered into.

The Designated Officer must ensure that their enquiries are balanced and take into consideration the views of all parties.

Information sourced here may also assist with the assessment of other elements of the legislation such as intentionally.

**3.5.17 Loss of Housing Executive Tenancy/Housing Association Tenancy
(Homelessness Reason 15 or 18b)**

Notice Seeking Possession (NSP) / Notice of Possession (NOP)

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Notice Seeking Possession / Notice of Possession (Introductory Tenancy)

Where an eviction date is set the homelessness assessment should be undertaken as a matter of urgency.

The Designated Officer must ensure that their enquiries are balanced and take into consideration any mitigating circumstances of the applicant as is relevant.

Information sourced here may also assist with the assessment of other elements of the legislation such as eligibility and intentionally.

3.5.18 Other

(Homelessness Reason 16)

The Designated Officer must ensure that every effort is made to establish the last settled address for the purposes of determining why or how an applicant became homeless or threatened with homelessness. The use of this homelessness reason should only arise in exceptional circumstances, where no last settled address can be established.

Note: It is not possible to cover ever set of circumstances that may render a person homeless or threatened with homelessness. It is the responsibility of the Designated Officer to apply the full rigour of the legislative criteria set out in this chapter and to reach a decision that is supported by facts and which adheres to the principles of P.L.A.N (Proportionate, Legal, Auditable and Necessary)

3.5.19 No Accommodation in Northern Ireland or Elsewhere

(Homelessness Reason 17)

The Housing (NI) Order, 2003 expanded the assessment criteria to include accommodation that is available to an applicant in Northern Ireland but also in other geographical areas. When an applicant arrives in Northern Ireland from elsewhere with no established links to Northern Ireland and presents as homeless

to the Housing Executive, the Designated Officer should consider what accommodation is available to the applicant to occupy not only in Northern Ireland but also elsewhere.

Checks should be made to determine if the applicant has accommodation anywhere which they have a legal right to occupy. Such checks should be initiated when considering the information on the Housing Solutions Form.

If the Housing Executive considers that there is accommodation available for the applicant outside of Northern Ireland, then that accommodation is subject to the same tests as accommodation in Northern Ireland. Checks may include making enquires with Housing Associations, landlords, building societies, local authorities, family members, Immigration Office, etc.

3.6 In General

It is important for the Designated Officer to remember at this stage of the assessment, that consideration is being given to determining if the applicant is homeless / threatened with homelessness (even though information may be made available at the same time to assist with decisions in relation to eligibility, priority need, intentionality).

If the Designated Officer is satisfied that an applicant is homeless / threatened with homelessness, they must proceed to assess whether the applicant is in priority need and/or intentionality tests.

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Chapter 4 – Eligibility for Homeless and Housing Assistance

4.0 Introduction

The Housing Executive should be satisfied, so far as practicable, that a person is eligible before providing housing and homelessness assistance.

There are two areas of eligibility that must be given consideration;

- 1) Persons guilty of unacceptable behaviour
- 2) Persons from abroad

For the purposes of this Manual housing assistance includes assistance under the Homelessness Legislation and an allocation of accommodation under the Housing Selection Scheme.

Eligibility of a person guilty of unacceptable behaviour will depend on a number of factors, including the application of the 3 Step Test and the provision of independent, specific and verifiable evidence, see Chapter 2.6 of the Housing Selection Scheme Guidance Manual.

Unacceptable Behaviour Post FDA

Section 3 of the Housing (Amendment) Act (Northern Ireland) 2010 amends Article 7A(5) of the 1988 Order. This change was aimed at providing the Housing Executive with the power to treat an Applicant as ineligible for social housing at any time up to the point of allocation. In effect, this permits the Housing Executive to remove an Applicant's FDA status if they have subsequently engaged in unacceptable behaviour before an allocation of housing has been made.

Where Housing Executive staff are considering a course of action which will lead to a decision that an FDA is no longer eligible for homelessness assistance on the basis of unacceptable behaviour, they must gather all relevant information and apply the 3 step test prior to seeking advice from Homelessness Policy or Legal Services. If they have been placed in temporary accommodation, advice should be sought from Homelessness Policy on the procedures to follow and staff should refer to chapter 7 of the Homelessness Guidance Manual. Applicants found to be Ineligible are entitled to advice and assistance and staff should also refer to chapter 15.7 of the Homelessness Guidance Manual for guidance on the nature and extent of this duty.

Eligibility of persons from abroad will depend on a number of factors including the applicant's, immigration status, nationality, habitual residence and economic status;

See Chapter 2.7 of the Housing Selection Scheme Guidance Manual.

4.1 Legislative Context

Article 7(A)(5) of the Housing (NI) Order 1988 (1988 Order) and Article 22A(6) of the Housing (NI) Order 1981 provide that the Housing Executive may decide to treat an 'Applicant' as ineligible for homelessness assistance* / an allocation of housing† if it is satisfied that:

- (a) He, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the Housing Executive; and
- (b) In the circumstances at the time his application is considered, he is unsuitable to be a tenant of the Housing Executive by reason of that behaviour. ‡

A subsequent amendment to Article 7A (5) of the 1988 Order changed 'Applicant' to 'person'. The purpose of this change was to ensure that the Housing Executive has the ability to determine that a person is ineligible as a result of being guilty of unacceptable behaviour right up to the time when they are being allocated accommodation, rather than just for the period pending their acceptance onto the waiting list as an 'Applicant'.

* Article 7(A) (5) of the Housing (NI) Order 1988

† Article 22(A) (6) of the Housing (NI) Order 1981

‡ Article 22A (7) of the Housing (NI) Order 1981

For the purposes of this guidance any reference to an 'Applicant' should also be read as meaning a 'person' in the context of Article 7A(5).

Article 22A (7) of the 1981 Order** further provides that the only behaviour which may be regarded by the Executive as unacceptable is—

- (a) behaviour of the person concerned which would (if he were a secure tenant of the Executive) entitle the Executive to a possession order under Article 29 of the Housing (Northern Ireland) Order 1983 (NI 15) on Ground 2 or Ground 3 in Schedule 3 to that Order; or
- (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the Executive) entitle the Executive to such a possession order.

4.2 DfC Guidance

This guidance is drafted in line with statutory guidance on Anti-Social Behaviour which is issued by the Department for Communities to the Housing Executive on how to

determine if an Applicant / person is to be treated as ineligible for an allocation of social housing or for homelessness assistance. Annex E and Annex F of the Department's Guidance can be found in Appendices 1 and 2.

Guidance issued by the DfC emphasises that whilst the Executive's powers under Article 22A(6) are discretionary, an Applicant whose behaviour meets the criteria set out in Article 22A(7) is, by definition, unsuitable to be a tenant of social housing and, unless the circumstances are exceptional, such Applicants should be treated as ineligible.

4.3 Executive Standing Orders

For Housing Executive staff, decisions relating to Eligibility for an allocation of housing and / or homelessness assistance must be made in accordance with Standing Orders as follows:

Housing / Homeless Application positive Eligibility Decision Unacceptable Behaviour.

Housing Advisor* (L5), Patch Manager* (L5) or any more Senior Officer to this Post Holder.

Housing / Homelessness Application negative / Ineligible Decision on the Grounds of Unacceptable Behaviour.

Team Leader* (L6) or any more Senior Post Holder to this Post.

Where an Applicant has applied for social housing and is also being assessed under the homelessness legislation, there are **two separate decisions** which require individual consideration. Where a decision has been made that an Applicant is Ineligible for housing / homelessness assistance, they should be issued with **two individual decision letters**. Ineligibility decisions along with a rationale for such decisions should be appropriately recorded on HMS.

The provisions on eligibility can be complex and if staff is in any doubt about an applicant's eligibility they should contact Housing Policy, HQ for additional guidance.

Homelessness Policy staff are available to provide guidance on issues with eligibility that specifically relate to a homelessness assessment.

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Chapter 5 – Priority Need

The main homelessness duties (to secure accommodation) apply only to applicants who have a priority need for accommodation.

5.0 Priority Need for accommodation

Article 5 (1) The following have a priority need for accommodation:-

- (a) A pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;
- (b) A person with whom dependent children reside or might reasonably be expected to reside;
- (c) A person who is **vulnerable** as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- (d) A person who is homeless or threatened with homelessness as a result of an emergency such as a flood, fire or other disaster;
- (e) A person without dependent children, who satisfies the Housing Executive that he or she has been subject to violence and is at risk of violent pursuit or, if he or she returns home, is at risk of further violence;
- (f) A young person, who satisfies the Housing Executive that he or she is at risk of sexual or financial exploitation.

5.1 Assessment of Priority Need

Enquiries as to whether an applicant has a priority need must be carried out in all cases where the Housing Executive has reason to believe that an applicant may be homeless or threatened with homelessness.

5.2 Pregnant Women

Pregnancy at any stage qualifies the applicant as being in priority need.

A pregnant woman and anyone with whom she lives with or whom she might reasonably be expected to live with, has a priority need for accommodation. This is regardless of the length of time that the woman has been pregnant.

The applicant may be asked to provide documentary evidence of the pregnancy. This need not be a medical certificate, but may consist of proof of ante-natal classes etc. Designated Officers should apply their discretion in requiring confirmation.

If a pregnant woman suffers a miscarriage or terminates the pregnancy during the assessment process, prior to a decision being made, the Housing Executive should consider whether the applicant continues to have a priority need as a result of some other factor for example, they may be vulnerable as a result of another special reason vulnerability is covered at 5.4 of this chapter.

5.3 Dependent Children

An applicant is in priority need if he or she has one or more dependent children who normally live with him or her, or who might reasonably be expected to live with him or her.

The key issues are, therefore:-

- Is the relevant individual a dependent child
- Is the relevant individual a child residing with the applicant, and if not, is it reasonable to expect the child to reside with the applicant in the future
- Is the relevant individual a child who is dependent on the applicant?

Dependent children need not necessarily be the applicant's own children by birth but could, for example, be related to the applicant or his or her partner or be adopted or fostered by the applicant. There must, however, be some form of parent / child relationship; a person who is over the age of 18 years with a spouse under the age of 18 years old, for example, would not have a priority need under this provision.

5.3.1 Separated Parents

When considering priority need criteria in relation to the issue of children from an applicant separated from their spouse or partner, the Housing Executive should firstly consider the issue of residence.

5.3.2 Residence

There must be actual residence (or a reasonable expectation of residence) with some degree of permanence or regularity, rather than a temporary arrangement whereby the child is merely staying with the applicant for a limited period.

In some cases where parents separate, a 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 which of them will have care of the child, and in most instances, these are the type of situations the Housing Executive is required to consider.

Residence does not have to be full time and a child can be considered to reside with one parent even where the child divides his or her time between both parents. However, as outlined above, there must be some regularity to the arrangements.

If the child is not currently residing with the applicant the Housing Executive will need to consider if there is an agreement or arrangement between the child's parents. However, this agreement or arrangement may not automatically lead to a conclusion that it would be reasonable for the child to reside with the parent making the homelessness application.

Difficult considerations arise in circumstances where a child stays a more or less equal number of nights per week with each parent. Similarly, difficulties arise in circumstances in which there is a considerable variation in the patterns of staying over.

Possible issues for consideration:-

- How many nights does the child reside with the applicant
- How long have any arrangements been in place

- What accommodation arrangements are made i.e. where do they sleep, where do they keep their clothes and school books
- Who takes them to school and who collects them
- Have discussions with both parents. Where possible and appropriate, visits may be necessary

The Housing Executive should be mindful that where parents separate, it will often be in the best interests of the child to maintain a relationship with both parents.

Every case must be considered on its individual circumstances. Where necessary, the Team Leaders or other Management staff should seek advice in the first instance from the Homelessness Policy Unit. If necessary, Homelessness Policy Unit will seek appropriate advice from the Legal Department.

5.3.3 Dependence

If the Housing Executive concludes that a child does not reside with the applicant nor would such a child reasonably be expected to reside with the applicant, then there is no requirement to consider if the child is a dependent child.

The Housing (NI) Order 1988, as amended, does not define a dependent child. Normally the Housing Executive would consider children under 16 years as dependent, as well as children aged 16-18 years who are in, or about to begin full time education or training, or who for other reasons are unable to support themselves and who live at home.

Is the child dependent on the applicant?

The meaning of dependency is not, however, limited to financial dependency. Thus, children over the age of 16 years who are in full time employment and are financially independent of their parents, would not normally be considered to be dependents. However, there may be circumstances where there are sound reasons for considering such children to be dependent, for example, because of insufficient maturity to live independent of their parents. The relevant enquiries should not be

limited to financial dependency; other factors such as social, emotional and physical dependency may be relevant.

5.3.4 Child in Care of Social Services

Where the applicant's children are being looked after by Social Services in some way for example, in foster care or in a care home, and are not living with the applicant, liaison with Social Services will be essential. Joint consideration with Social Services will ensure that the best interests of both the applicant and the children are served.

5.4 Vulnerability

To meet this category of priority need the relevant person (who may be the applicant or a person with whom the applicant resides or might reasonably be expected to reside) must:-

- Be presently vulnerable, and
- Be vulnerable as a result of one of the prescribed statutory reasons see [5.0 above – Definition of Persons in Priority Need](#) or some other special reason.

It is a matter of judgement whether an applicant's circumstances make him or her vulnerable. When making a decision on vulnerability, the Housing Executive should consider whether, when homeless, the applicant would be less able to fend for himself or herself than an ordinary homeless person, and so would suffer injury or detriment in circumstances where the ordinary homeless person would not.

Vulnerability is determined by assessing whether or not the person has more difficulty than a person who is not vulnerable in finding and keeping accommodation and fending for themselves while homeless. In deciding if someone is vulnerable for the purposes of priority need the comparator that should be used is that of the ordinary person, should he/she become homeless, rather than the ordinary person who is actually homeless.

Some of the factors which may be relevant in determining whether a particular applicant is vulnerable are set out below:-

5.4.1 Old Age

The test is not whether the relevant person has reached “old age” but whether as a result of old age the relevant person is less able to fend for themselves. All applications from person over 60 years need to be considered carefully. Each case will need to be considered in light of the individual circumstances.

5.4.2 Mental Illness or Handicap or Physical Disability

The Housing Executive 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 the Housing Executive may also consider seeking a clinical opinion. However, the final decision on the question of vulnerability will rest with the Housing Executive. In considering whether such applicants are vulnerable, the Housing Executive will need to take account of relevant factors including the:-

- Nature and extent of the illness and or disability which may render the applicant vulnerable,
- Relationship between the illness and or disability and the individual’s housing difficulties,
- Relationship between the illness and or disability and other factors such as drug and/or alcohol misuse, offending behaviour, challenging behaviours, age and personality disorder

Though not definitive or a prerequisite Possible indicators of vulnerability may include:-

- Receipt of incapacity benefit or other state benefits indicating illness or disability, for example, Personal Independence Payment (PIP), Disability Living Allowance (DLA)
- Evidence of mental ill health / discharge from psychiatric hospital / release from prison

Assessment of vulnerability due to mental illness will require close co-operation between the Housing Executive, social services and mental health agencies. The

Housing Executive should consider carrying out joint assessments or using a trained mental health practitioner as part of an assessment team. This includes, but is not limited to; people discharged from psychiatric hospitals and hostels for people with mental health problems who are likely to be vulnerable. Effective and timely liaison between the Housing Executive and Health and Social Services Trusts will be essential in such cases but the Housing Executive will also need to be sensitive to direct approaches coming from former patients who have been discharged and may be homeless.

Learning or physical disabilities or long term acute illness, such as those defined by the Disability Discrimination Act 1995, which impinge on the applicant's housing situation and give rise to vulnerability may be readily discernible, but advice from health professionals or social service may sometimes be considered necessary.

5.4.3 "Other Special Reason"

The legislation provides that a person has a priority need for accommodation if he or she is vulnerable for any "other special reason". A person with whom such a vulnerable person normally lives or might reasonably be expected to live, also have a priority need. The legislation envisages that vulnerability can arise because of factors that are not expressly provided for in statute. Each assessment 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.

Where the Housing Executive 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 examples are not exhaustive and the Housing Executive must ensure that it gives proper consideration to every assessment on the basis of the individual circumstances. In addition, the Housing

Executive 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 (for example drug and alcohol problems, common mental health problems, a history of sleeping rough, no previous experience of managing a tenancy).

Some examples of circumstances which might amount to the relevant individual being vulnerable due to “other special reason” may include (but is not limited to):-

Chronically sick people, this may include people with AIDS and HIV-related illnesses: People in this group may be vulnerable not only because their illness has progressed to the point of physical or mental disability (when they are likely to fall within one of the specified categories of priority need) but also because of the manifestations or effects of their illness, or common attitude to it, make it very difficult for them to find and maintain stable or suitable accommodation. Whilst this may be particularly true of people with AIDS, it could also apply in the case of people infected with HIV (who may not have overt signs or symptoms) if the nature of their infection is known.

Young people: Young people could become homeless and be vulnerable in certain circumstances. When assessing young people under the age of 21 years who do not fall within any of the specific categories of priority need, the Housing Executive should give careful consideration to the possibility of vulnerability. The Housing (NI) Order 1988 makes specific provision for young homeless people “who satisfies the Executive that he or she is at risk of sexual or financial exploitation”. 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 have no back-up network, and may be less able than others to establish and maintain a home for themselves. Moreover, a young person on the streets without adequate financial resources to live independently may be at risk of abuse or prostitution.

Former asylum seekers: Former asylum seekers who have been granted refugee status or exceptional leave to remain, humanitarian protection, or discretionary leave may be eligible for homelessness assistance and may be at risk of homelessness as a result of having to leave accommodation that had been provided for them by National Asylum Support Service (NASS) in the period before a decision was reached on their asylum claim.

Former asylum seekers may well have experienced persecution or trauma in their country of origin or severe hardship in their efforts to reach the UK and may be vulnerable as a result. In assessing homeless presentations from this client group, the Housing Executive should give careful consideration to the possibility that such an applicant may be vulnerable as a result of an “other special reason”. The Housing Executive should be sensitive to the fact that former asylum seekers may be reluctant to discuss, or have difficulty in discussing, their potential vulnerability, if, for example, they have experienced humiliation, painful or traumatic circumstances such as torture, rape or the killing of a family member.

Note: If a former asylum seeker makes a subsequent homelessness application, their priority need should not be considered under “other special reason”, consideration will have to be given to the applicant having a priority need under Article 5 (1) (a) (b)(c)(d)(e)(f), see above.

Discharge from psychiatric hospital / release from prison: In the case of those applicants who have been discharged from hospital or released from prison, the length of time spent in such an institution may be relevant. It does not, however, follow that vulnerability could not occur as a result of a short period in a psychiatric hospital or in detention. It may also be necessary to consider if the applicant was, or may have been vulnerable, prior to hospitalisation / imprisonment. The Probation Service considers a four year prison sentence to be the minimum period for a long-term sentence. Applicants who have served a prison sentence of less than 4 years, for example, may still be vulnerable for an “other special reason”, or indeed may meet any of the other priority need criteria. The length of time since an applicant was discharged from hospital or released from prison, and the extent to which he or

she had been able to obtain and / or maintain accommodation during that period in hospital or prison may be relevant.

Designated Officers should have regard for the “Protocol for the management of the accommodation and related support needs of people in custody in Northern Ireland”. This protocol sets out the roles and responsibilities of the key statutory and voluntary agencies in the management of those leaving prison see [Appendix 2 – A Protocol for the Management of the Accommodation and Related Support Needs of People in Custody in Northern Ireland](#).

Drug addiction or alcoholism: Vulnerability may be indicated by a history of drug addiction or alcoholism. Drug or alcohol addiction and the risk of relapsing could fall within this category, if the relevant person is vulnerable as a result of it.

In assessing vulnerability, the Housing Executive should determine whether or not the special circumstances affecting the applicant significantly affect his or her ability to find and keep accommodation, and his or her ability to fend for himself or herself while homeless. Vulnerability is determined by assessing whether or not the person has more difficulty than a person who is not vulnerable in finding and keeping accommodation and fending for themselves while homeless. In deciding if someone is vulnerable for the purposes of priority need the comparator that should be used is that of the ordinary person, should he/she become homeless, rather than the ordinary person who is actually homeless.

5.5 Emergencies such as Fire, Flood or Other Disaster

Applicants have a priority need for accommodation if they are homeless or threatened with homelessness as a result of an emergency such as fire, flood or other disaster. To qualify as an “other disaster” the disaster must be in the nature of flood or fire, and involve some form of physical damage or threat of damage, such as, gas explosion, landslide. Applicants have a priority need by reason of such an

emergency whether or not they have dependent children or are vulnerable for any other reason.

In order to determine if the applicant is in priority need, a visit to the dwelling may be appropriate. It would also be appropriate to request a report from, for example, the Fire Authority, as acceptable information / confirmation that accommodation has become uninhabitable.

5.6 Violence / Risk of Violence

A person has a priority need if he or she had to leave accommodation because of violence 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. It is not only domestic violence that is relevant, but all forms of violence, including racially motivated violence, homophobic violence, disability, religious, sectarian, paramilitary violence, or threats of violence likely to be carried out. Enquiries of the perpetrators of violence should not be made. In assessing whether it is likely that threats of violence are likely to be carried out, the Housing Executive should only take into account the probability of violence, and not actions which the applicant could take (such as injunctions against the perpetrators).

In considering whether applicants have a priority need for accommodation as a result of violence or threats of violence likely to be carried out, the Housing Executive may take into account the following factors:-

- the nature of the violence or threats of violence (there may have been a single but significant incident or a number of incidents over an extended period of time which have a cumulative effect)

- the impact and likely effects of the violence or threats of violence on the applicant's current and future well being
- whether the applicant has any existing support networks, particularly by way of family or friends

Other sources of information which may be relevant in assessing priority need may include:-

- Information from a bona fide voluntary group for example, Women's Aid that the applicant has taken up residence in a hostel as a result of violence or domestic violence
- Information from the police, a doctor, social worker, Social Security Agency, or other reputable source that the applicant has been the victim of violence or threats of violence
- NIHE records such as previous applications or transfer requests, maintenance records indicating damage to dwelling etc.

5.6.1 Domestic Abuse

A person has a priority need if he or she had to leave accommodation because of domestic abuse. Domestic abuse includes psychological, physical, verbal, sexual, financial or emotional, which is inflicted on one person by another where they have been partners, family members irrespective of gender, sexual orientation, social class, ethnicity, disability or lifestyle. **In cases involving domestic abuse, the safety of the applicant and ensuring confidentiality must be of paramount concern.**

It should be noted that the alleged perpetrator of domestic abuse should NEVER be contacted in the course of your investigations. In assessing whether it is likely that domestic abuse is likely to be carried out, the Housing Executive should only take into account the probability of domestic abuse, and not actions which the applicant could take (such as injunctions against the perpetrators).

In considering whether applicants have a priority need for accommodation as a result of domestic abuse, the Housing Executive may take into account the following factors:-

- the nature of the domestic abuse (there may have been a single but significant incident or a number of incidents over an extended period of time which have a cumulative effect)
- the impact and likely effects of the domestic abuse on the applicant's current and future well being
- whether the applicant has any existing support networks, particularly by way of family or friends

Other sources of information which may be relevant in assessing priority need may include:-

- Information from a bona fide voluntary group for example, Women's Aid, that the applicant has taken up residence in a hostel as a result of domestic abuse
- Information from the police, a doctor, social worker, Social Security Agency, or other reputable source that the applicant has been the victim of domestic abuse
- NIHE records of the applicant such as previous applications or transfer requests, maintenance records indicating damage to dwelling etc.

It should be noted that the absence of information should not automatically lead to the conclusion that the applicant has not been the victim of domestic abuse. Each case should be assessed on its own merit and a statement from the applicant may be sufficient in confirming that they have been the victim of domestic abuse.

5.7 A Young Person who is at Risk

(A Young Person who satisfies the Housing Executive that he or she is at Risk of Sexual or Financial Exploitation)

Young person in this context represents someone over compulsory school age but not yet 21 years.

Applicants who have been or are at risk of sexual assault from someone residing in their accommodation will fall into this category, as will victims of incest.

Information from Social Services and or the Police may be sought where appropriate, although a decision may be based on the basis of an interview with the applicant.

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Chapter 6 – Intentionality

6.0 Becoming Homelessness Intentionally

Article 6 (1) A person becomes homeless intentionally if he or she **deliberately does or fails to do** anything in consequence of which he or she **ceases to occupy accommodation**, whether in Northern Ireland or elsewhere, which is **available for his or her occupation** and which it would have been **reasonable for him or her to continue to occupy**.

Article 6 (2) A person becomes threatened with homelessness intentionally if he or she deliberately does or fails to do anything the likely result of which is that he or she will be forced to leave accommodation which is available for his or her occupation and which it would have been reasonable for him or her to continue to occupy.

Article 6 (3) For the purposes of (1) or (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.

The Housing (NI) Order 1988 was amended by the Housing (NI) Order 2003 Article 6 (3A) A person shall be treated as becoming homeless, or as becoming threatened with homelessness intentionally, if in certain circumstances which are set out below:-

- (a) a person enters into an arrangement under which he or she is required to cease to occupy accommodation which it would be reasonable for him or her to continue to occupy, and
- (b) the purpose of the arrangement is to enable him or her to become entitled to assistance under the Housing (NI) Order 1988, as amended,

and there is no other good reason why he or she is homeless.

Article 6 (4) Regard may be had in determining whether it would have been reasonable for a person to continue to occupy accommodation to the general circumstances prevailing in relation to housing in Northern Ireland.

6.1 General Rules

There are 3 rules all of which must be satisfied before the applicant can be deemed to be intentionally homeless. These are:-

- a. He or she must have deliberately done or failed to do something in consequence of which he or she ceased to occupy accommodation which was available or if threatened with homelessness something of which the likely result was that he or she would be forced to leave such accommodation
- b. it must have been reasonable for him or her to have continued to occupy the accommodation, and
- c. he or she must have been aware of all relevant facts (an act or omission in good faith on the part of someone unaware of any relevant facts is not to be regarded as deliberate).

The duty owed towards **eligible applicants** who are homeless, or threatened with homelessness, and who have a priority need for accommodation will depend upon whether they became homeless, or threatened with homelessness, unintentionally or intentionally.

It is for the Housing Executive to satisfy itself whether an applicant is homeless or threatened with homelessness intentionally. Generally, it is not for applicants to “prove their case” in that there is no onus on the applicant to satisfy the Housing Executive that he or she did not become homeless intentionally. The exception is where an applicant seeks to establish that, as a member of a household previously found to be homeless intentionally, he or she did not acquiesce in the behaviour that led to the homelessness. In such cases, the applicant will need to demonstrate that he or she was not involved in the acts or omissions that led to homelessness, and did not have control over them.

Decisions about intentional homelessness or threatened homelessness in any particular case must be based on the investigations carried out in that case. In each case, the Housing Executive must form a view in light of all of their enquiries about that particular case. Where the original incident of homelessness occurred some years earlier and the facts are unclear, it may not be possible for the Housing

Executive to satisfy itself that the applicant became homeless intentionally. In such cases, the applicant should be considered to be unintentionally homeless.

The Housing Executive should normally disregard any matters which took place more than one year prior to the date of application. There may be exceptional circumstances in which such matters are relevant and, therefore, will be considered. These may include those homeless:- as a result of illegally occupying Housing Executive accommodation, as a result of a prison sentence, as a result of taking up an unsecure tenancy.

6.2 Whose Conduct Results in Intentional Homelessness?

Every applicant is entitled to individual consideration of his or her homeless assessment. This includes applicants where another member of their family or household has made, or is making, a separate homeless presentation. It is the **applicant** who must have deliberately done or failed to do something which resulted in homelessness or threatened homelessness. Where the Housing Executive has found an applicant to be homeless intentionally, there is nothing in the legislation to prevent another member of his or her household making a separate application.

Situations may arise where one or more members of a household found to be intentionally homeless were not responsible for the actions or omissions that led to the homelessness. For example, a person may have deliberately failed to pay the rent or defaulted on the mortgage payments, which resulted in homelessness or threatened homelessness, against the wishes or without the knowledge of his or her partner. However, where applicants were not directly responsible for the act or omission which led to their family or household becoming homeless, but they acquiesced in that behaviour, then they may be treated as having become homeless intentionally themselves. In considering whether an applicant has acquiesced in certain behaviour, the Secretary of State recommends that the Housing Executive

take into account whether the applicant could reasonably be expected to have taken that position through a fear of actual or probable violence.

6.3 Ceased to Occupy Accommodation

For intentional homelessness to be established there must have been actual occupation of accommodation which has ceased (the accommodation in question can be other than in the UK). However, occupation need not necessarily involve continuous occupation at all times, provided the accommodation was at the disposal of the applicant and available for his or her occupation.

6.4 Consequence of a Deliberate Act or Omission

For homelessness, or threatened homelessness, to be intentional it must be a consequence of a deliberate act or omission. Having established that there was a deliberate act or omission, the Housing Executive will need to decide whether the loss of the applicant's home, or the likelihood of its loss, is the reasonable result of that act or omission. This is a matter of cause and effect. An example would be where a person voluntarily gave up settled accommodation that it would have been reasonable for him or her to have continued to occupy, moved into alternative accommodation let on a short term basis and subsequently became homeless when that tenure came to an end. In this particular example, in order to determine whether the current incidence of homelessness is the result of a deliberate act or omission, it would be necessary for the Housing Executive to look back to the last period of "settled accommodation", and the reasons why the applicant left that accommodation.

Where a person becomes homeless intentionally, that status may persist until the link between the act or omission and the intentional homelessness has been broken. It could be broken, for example, by a period in settled accommodation which follows the intentional homelessness. A period in settled accommodation after an incidence of intentional homelessness would make the deliberate act or omission which led to

that homelessness irrelevant in the event of a subsequent homeless presentation for assistance. Conversely, occupation of accommodation that was merely temporary rather than settled, for example, staying with family or friends on an insecure basis, may not be sufficient to break the link with intentional homelessness.

6.5 Deliberate Act or Omission

The act or omission which led to homelessness must have been deliberate, and applicants should be given the opportunity to explain such behaviour. An act or omission should not be treated as deliberate, even where deliberately carried out, if it was forced upon the applicant through no fault of their own, for example, where non-payment of rent was the result of poverty. Also, an act or omission in good faith where someone was genuinely ignorant of a relevant fact should not be treated as deliberate.

Generally, it should not be considered a deliberate act or omission where:

- The Housing Executive has reason to believe the applicant is incapable of managing his or her own affairs for example by reason of old age, mental illness or handicap
- Particular acts or omissions were the result of limited mental capacity or the result of temporary instability caused by mental illness or frailty
- Imprudence or lack of foresight on the part of an applicant led to homelessness but the act or omission was in good faith
- The applicant has fled his or her home because of violence or threats of violence likely to be carried out, and the applicant has failed to pursue all legal remedies against the perpetrator(s) because of fear of reprisal or because he or she is unaware of the remedies available

Examples of acts or omissions which could be regarded as deliberate may include the following:-

- Where someone chooses to sell his or her home in circumstances where he or she is under no risk of losing it, or has lost it because of wilful and persistent refusal to pay rent or mortgage payments
- Where someone could be said to have significantly neglected his or her affairs having disregarded sound advice from qualified persons
- Voluntary surrender of adequate accommodation in the UK or elsewhere which it would have been reasonable for him or her to continue to occupy
- Where someone is evicted because of anti-social behaviour such as nuisance to neighbours, harassment etc.
- Where someone is evicted because of violence or threats of violence by him or her to another person
- Where the applicant lost his or her accommodation because of a prison sentence
- Where someone leaves a job with tied accommodation and the circumstances indicate that it would have been reasonable for him or her to continue in the employment and reasonable to continue to occupy the accommodation

6.6 Reasonable to Continue to Occupy

An applicant cannot be treated as intentionally homeless unless it would have been reasonable for him or her to have continued to occupy the accommodation. Guidance on “reasonable to continue to occupy” is also provided in [Chapter 3 Homeless/ Threatened with Homelessness see 3.6 - Reasonableness of Accommodation](#). Careful consideration should be given to the circumstances of the applicant and the household, in each case. Reasonableness may also include consideration of the applicant’s financial circumstances, family circumstances, physical and or mental health issues, violence or risk of violence etc.

6.7 Acts or Omissions in Good Faith

Acts or omissions made in good faith, where someone was genuinely unaware of a relevant fact, must not be regarded as deliberate. Provided that the applicant has acted in good faith, there is no requirement that ignorance of the relevant fact be reasonable.

A general example of an act made in good faith would be a situation where someone gave up possession of accommodation in the belief that they had no legal right to continue to occupy the accommodation and, therefore, it would not be reasonable for them to continue to occupy it. This could apply where someone leaves rented accommodation in the private sector having received a valid notice to quit, and the former tenant was genuinely unaware that he or she had a right to remain until the court granted an order for possession.

Further examples of acts or omissions that could be made in good faith might include situations where:-

- i. A person gets into rent arrears, being unaware that he or she may be entitled to housing benefit or other state benefit
- ii. An owner occupier faced with foreclosure or possession proceedings to which there is no defence, sells before the mortgagee recovers possession through the courts or surrenders the property to the lender; or
- iii. A tenant, faced with possession proceedings to which there would be no defence, and where the granting of a possession order would be mandatory, surrenders the property to the landlord

In (iii) although the Housing Executive may consider that it would have been reasonable for the tenant to continue to occupy the accommodation, the act should not be regarded as deliberate if the tenant made the decision to leave the accommodation in ignorance of material facts.

Where there was dishonesty there could be no question of an act or omission having been made in good faith.

6.8 Applicant Enters into an Arrangement

The Housing Executive will need to be alert to the possibility of collusion by which a person may claim that he or she is obliged to leave accommodation in order to take advantage of the homelessness legislation. Collusion is not confined to those staying with family or friends but can also occur, for example, between landlords and tenants. The Housing Executive needs to be satisfied that collusion exists, and must not rely on hearsay or unfounded suspicion. For collusion, to amount to intentional homelessness, there should be no other good reason for the applicant's homelessness. Other examples of collusion may include the pretence of overcrowding or the pretence of a breakdown in relations between the applicant and his or her host or landlord. In some cases involving collusion the applicant may not actually be homeless if there is no genuine need for the applicant to leave the accommodation.

6.9 When Can an Applicant Re-apply?

There is no period of disqualification if someone wants to make a fresh homeless presentation after being found intentionally homeless. The test is whether the second application is on exactly the same facts as the previous application. Where a person whose homeless assessment has just been decided makes a fresh homeless presentation, the Housing Executive will need to decide whether there are any new facts in the fresh homeless presentation which render it in any way different from the earlier homeless presentation. If this application is on exactly the same facts the Housing Executive would not be required to complete a new homeless assessment. However, where the fresh homeless presentation does reveal substantive new facts, the Housing Executive should treat the fresh homeless presentation in the same way as it would any other homeless presentation for accommodation or assistance in obtaining accommodation. Therefore, if the Housing Executive has reason to believe

that the person is homeless or threatened with homelessness, it will make enquiries and decide whether any homelessness duty is owed.

6.10 Assessment of Intentionality

Enquiries will normally cover such matters as the size and structure of the household, the nature and location of the accommodation last occupied; the reasons for leaving it, the prospects for returning to the property and the availability of accommodation elsewhere. Any particular associated problems such as illness, disability, violence etc. will also be relevant, as well as many other factors such as place or type of employment, financial circumstances, family connections, attendance at hospital etc. Enquiries may include seeking information from third parties.

The Housing Executive is under a statutory duty to make such enquiries as are necessary to satisfy itself as to whether the applicant became homeless unintentionally or intentionally.

The Housing Executive will take into consideration relevant information provided but will make its own decision. It should be noted that the decision on intentionality belongs to the Housing Executive.

6.11 Possible Circumstances for Consideration

Although it would be impossible to detail all of the circumstances the Housing Executive may have to make enquiries into and consider, some of the most frequently presented situations which are outlined below, together with the type of enquiries Designated Officers might undertake in such situations, and the type of information that may assist in decision making. The circumstances outlined are not exhaustive, and it should be stressed that each case should be considered on its individual circumstances.

6.11.1 Domestic Abuse

Generally, an applicant should not be considered to be intentionally homeless if he or she has fled his or her home because of domestic abuse likely to be carried out, whether or not he or she has pursued legal remedies against the perpetrator(s). Domestic abuse includes psychological, physical, verbal, sexual, financial or emotional, which is inflicted between people who have been intimate partners or family members, irrespective of gender, sexual orientation, social class, ethnicity, disability or lifestyle all forms of violence, domestic, racial, disability, homophobic, religious, sectarian, paramilitary etc. and applies to violence from within the home and from external sources.

Where the Housing Executive has concluded that an applicant is homeless on the grounds that his or her accommodation is not reasonable to continue to occupy because he or she has been subject to domestic abuse or threats of domestic abuse, it is unlikely that he or she is intentionally homeless.

It should be noted that the alleged perpetrator of domestic abuse should NEVER be contacted in the course of your investigations

Depending on the particular circumstances of the homeless application, enquiries may include making contact with the police, medical professionals, social services, voluntary sector groups etc. Whilst written information is preferable, information may be accepted verbally and recorded on file or on Housing Management System (HMS). Information provided by a third party may assist the Housing Executive in its decision making process; however, the decision will be that of the Housing Executive, and not the decision of any third party who provided information.

Designated Officers have the discretion to make decisions based on information provided by the applicant, despite the content of information from a third party, or the fact that there is no information from a third party.

The lack of information from any other agency should not automatically lead to a decision that the applicant has not been a victim of domestic abuse or of threats of domestic abuse likely to be carried out.

6.11.2 Intimidation

Where the Housing Executive has concluded that an applicant is homeless on the grounds that his or her accommodation is not reasonable to occupy because of intimidation, it is unlikely that he or she will be found to be intentionally homeless. Intimidation includes all forms of intimidation – racial, homophobic, disability, religious, sectarian, paramilitary.

It should be noted that the alleged perpetrators of intimidation should NEVER be contacted in the course of your investigations

Depending on the particular circumstances of the homeless presentation, enquiries may include making contact with the Police, Statutory Agencies and Voluntary Sector Groups etc. Whilst written information is preferable, information may be accepted verbally and recorded on file or on HMS. Information provided by a third party may assist the Housing Executive in its decision making process. However, the decision will be that of the Housing Executive, and not the decision of any third party who provided information.

The lack of information from any other agency should not automatically lead to a decision that the applicant has not been intimidated.

6.11.3 Financial Difficulties

An applicant who chooses to sell his or her home, or has lost it because of wilful and persistent refusal to pay rent; or who has shown such disregard of advice as to amount to neglect of his or her affairs; may well be regarded as having become homeless intentionally.

If, due to real personal, or financial difficulties (for example, unemployment, illness, etc.) an applicant's house was sold because he or she genuinely could not keep up the mortgage repayments, or he or she got into rent arrears, even after claiming benefits, and no further financial help was available, his or her acts or omissions should not be regarded as having been deliberate.

Staff will need to consider whether the applicant can meet his or her reasonable living expenses which will include their housing costs excluding any shortfall. Living expenses are deemed reasonable where budgeted expenses are within the applicant's personal / standard allowance (i.e. amount of income an applicant would be entitled to receive for their household if their sole income is / was means tested social security benefits). All applicants in receipt of full means tested benefits will automatically be considered as in financial hardship.

Where an applicant is not in receipt of means tested benefits, or they receive partial benefits because, for example, they are working, staff will need to apply a notional test to determine what the applicant would be entitled to claim for their household if they were to make a claim for benefits and they had no other source of income. This is the baseline amount that the government deem is reasonable for an individual or household to survive. Any income above the baseline will be assessed and the reasonableness of the expenditure will determine if the individual or household is in financial hardship or not.

In order to assist with the application of the notional test staff should access the Benefit and Budget Calculator on Gateway. It is vitally important that **consent is given by the applicant** before this assessment is carried out. See [LSAN HS WBU BB Calculator 01 21](#).

Should the applicant refuse consent staff should advise them that they can access the main website on;

<https://www.nihe.gov.uk/My-Housing-Executive/Advice-for-Housing-Executive-Tenants/Making-Your-Money-Work>

for self-assessment.

The calculator enables staff to calculate benefit entitlements, explain complex benefit changes, and provide customers and tenants with the advice they need to make decisions. The calculator has an integrated budgeting solution which will allow staff to quickly compare a customer or tenant's (potential or real) income with their expenditure and highlight areas in which savings can be made. Use of the calculator will be complementary to existing support mechanisms such as the full **Making Your Money Work Service** and referrals to **Financial Inclusion Officers**.

Regardless of the outcome of the homelessness decision, it is good practice to consider whether the applicant could benefit from debt counselling or other advice. Details of Northern Ireland advice agencies can be found at [HousingAdviceNI](#) and relevant information can be passed on to the applicant.

6.11.3 (i) Owner Occupiers

An applicant may be considered intentionally homeless or intentionally threatened with homelessness where:-

- The sale of the dwelling was the result of a deliberate act or omission on the part of the applicant for example, deliberate failure to make mortgage repayments

Among the points to be considered in assessing intentionality in relation to mortgage arrears or the sale of an owner occupied dwelling, are the following:-

- Did the applicant make reasonable efforts through his or her building society or bank to come to financial arrangement to make mortgage payments or repay arrears,
- Did the applicant's circumstances change sufficiently to make the payment of his or her mortgage difficult for example, unemployment, sickness, or other reason,
- In assessing whether or not the applicant's current financial position was the result of a deliberate act or omission, and whether he or she was aware of the consequences etc. relevant matters may include the applicant's income, payment history, and his or her financial position at the time the mortgage was taken out,
- In the context of cases which involve mortgagors, it may be necessary to look at the applicant's ability to pay the mortgage commitment when it was taken on and his or her financial circumstances at that time, as well as his or her financial circumstances and ability to pay at or around the time of the financial difficulties and / or the time of the homeless assessment.

Appendix 4 - Financial Hardship Assessment – Owner Occupiers, will assist Designated Officers when considering cases where the applicant has stated financial difficulties in relation to the payment of his or her mortgage.

6.11.3 (ii) Tenants (Private & Public Sector)

In assessing the issues of intentionality, no distinction should be made between public and private sector tenants, where homelessness is due directly or indirectly to financial problems.

An applicant may be considered intentionally homeless or intentionally threatened with homelessness where:-

- the loss or imminent loss of the tenancy is the result of a deliberate act or omission on the part of the applicant for example, deliberate failure to pay the rent

Among the points to be considered in assessing intentionality in relation to rent arrears, are the following:-

- Did the applicant make reasonable efforts through his or her landlord (social or private) to come to a financial arrangement to make rental payments, a reasonable arrears agreement and was such an agreement maintained?
- Did the applicant claim Housing Benefit (HB) or discretionary award? What was HB entitlement?
- Was there a shortfall between the contractual rent and the eligible rent for HB purposes and if so was the tenant aware of this at the outset of the tenancy etc?
- In relation to private sector tenants – was the rent excessive or was there an excessive increase?
- In the context of cases which involve tenants, it may be necessary to look at the applicant's ability to pay the rent when the tenancy commenced and his or her financial circumstances at that time, as well as his or her financial circumstances and ability to pay the rent at or around the time of the financial difficulties and the homeless assessment.

6.11.4 Loss of Private Sector Tenancy

Not all private tenants have the same rights. The tenancy agreement usually outlines the rights and responsibilities of both tenant and landlord.

All tenants have four basic rights:-

- the right to a rent book
- the right to at least four weeks' Notice To Quit (NTQ) dependant on the duration of the tenancy held
- the landlord must get a court order before evicting
- freedom from harassment and illegal eviction

The following, although not exhaustive, are circumstances which Local Offices may have to consider. All cases should be considered on their individual circumstances:-

(i) Breach of tenancy conditions

The landlord sought or is seeking possession of the dwelling on the grounds of a breach of the tenancy conditions for example, abuse of the dwelling, non-payment of rent, anti-social behaviour etc.

In such cases the Housing Executive should seek details from both the tenant and the landlord in relation to such matters as (1) reasons for NTQ (2) copy of tenancy agreement (3) copy of NTQ (4) effective date of possession (5) copy of any court orders.

(ii) Landlord seeking possession – reasons other than breach of tenancy conditions

where an NTQ is sought on mandatory grounds under the Rent Order (1978) or against an unprotected tenant, a Court Order will not normally be required to establish threatened homelessness.

In such cases the landlord should be asked to state clearly, and in writing, his or her reason(s) for seeking possession.

6.11.5 Tied Accommodation

An applicant is likely to be intentionally homeless or intentionally threatened with homelessness if he or she voluntarily leaves employment and thereby loses tied accommodation, and the circumstances indicate that it would have been reasonable for him or her to continue in the employment and reasonable to continue to occupy the accommodation (retirement, redundancy or unfair dismissal, is not to be treated as intentional).

Such an applicant may be intentionally homeless for example, if he or she has lost his or her job, and hence lost his or her tied accommodation, due to breach of his or her terms of employment.

Information from the employer (preferably in writing) should be sought in relation to the cessation of employment and hence the loss of tied accommodation. Information sought should include the reason for the employment ceasing and the relevant date, confirmation of the date that tied accommodation is no longer available, and any other relevant information.

If written information is not forthcoming from the employer, a request for a visit, or an interview by telephone call should be made.

This information may have been obtained by the Housing Executive when it was requesting information from the employer in order to determine if the applicant was homeless / threatened with homelessness.

6.11.6 Leaving the Armed Forces

Armed forces personnel who have been provided with accommodation by the Ministry of Defence (MOD) are required to leave such accommodation when discharged from the forces.

The MOD recognises that the Housing Executive will need to be satisfied that entitlement to occupy service quarters will end on a certain date in order to determine whether applicants who are service personnel discharged or approaching discharge are homeless / threatened with homelessness. Where it is accepted that the applicant is homeless / threatened with homelessness and in priority need, enquiries should usually include seeking the reasons for discharge from the MOD, in order to assess intentionality. Such an applicant may be intentionally homeless for example, if he has lost his job, and hence lost his MOD accommodation, due to breach of his terms of employment.

6.11.7 Occupation / Non Molestation Orders

An applicant may be intentionally homeless if he or she has lost his or her accommodation due an Occupation Order or a Non Molestation Order issued against him or her. In such cases, the applicant should be asked for a copy of the relevant Order. If this is not provided, information may be sought from a solicitor if appropriate.

6.11.8 Release from Prison

An applicant may be intentionally homeless if he or she lost his or her accommodation due to imprisonment. Information in relation to released prisoners will be available from the relevant prison services and from the Probation Board for Northern Ireland (PBNI).

A released prisoner who has accommodation to return to but has been prevented from doing so, for example, due to intimidation, may not be intentionally homeless.

Designated Officers should have regard for the “Protocol for the Management of the Accommodation and Related Support Needs of People in Custody in Northern Ireland”. This protocol sets out the roles and responsibilities of the key statutory and voluntary agencies in the management of those leaving prison [see Appendix 2 – A Protocol for the Management of the Accommodation and Related Support Needs of People in Custody in Northern Ireland](#).

6.11.9 Families with Children Under 18

Where the Housing Executive is satisfied that a customer is intentionally homeless, and the applicant has children under 18, the Housing Executive **has the discretion where appropriate to disclose the essential facts of the customer’s case to Social Services if there is a perceived risk to the children**. Designated Officers should also ensure that the ‘intentionally homeless duty’ as detailed in [Chapter 7 – The Main Accommodation Duties see section 7.1.2 \(ii\)](#) is adhered to in these circumstances.

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Chapter 7 – The Main Accommodation Duties

7.0 Introduction

The Housing (NI) Order 1988 (“the 1988 Order”) imposes a number of different “accommodation duties” on the Housing Executive. These “accommodation duties” can be divided into two broad categories.

The first category relates to the provision of accommodation pending enquiries – sometimes referred to as the interim duty to accommodate. This has been described in detail in [Chapter 2 – Interim Duty to accommodate](#) (temporary accommodation pending enquiries).

The second category of accommodation duties are those which arise out of the final homeless decision.

This chapter is concerned with this second category of accommodation duties which will be referred to as “the main accommodation duties”.

7.1 “The Main Accommodation Duties”

There are **two** main duties to accommodate which are set out below. The particular duty to accommodate which will be owed to an applicant will depend upon the final homelessness decision:-

The Legislation states;

Full Housing Duty – (Full Duty Applicants)

Article 10 (2) Where the Housing Executive is satisfied that the applicant has a priority need and is not satisfied that he or she became homeless intentionally, it shall secure that accommodation becomes available for his or her occupation.

Article 11 (2) Where the Housing Executive is satisfied that the applicant has a priority need and is not satisfied that he or she became threatened with homelessness intentionally, it shall take reasonable steps to secure that accommodation does not cease to be available for his or her occupation.

Accommodation on a Temporary Basis

Article 10 (3) Where the Housing Executive is satisfied that the applicant has a priority need but is also satisfied that he or she became homeless intentionally, it shall –

- (a) Secure that accommodation is made available for his or her occupation for such a period as it considers will give him or her a reasonable opportunity of securing accommodation for his or her occupation, and
- (b) Provide the applicant with advice and assistance of such type as may be prescribed by the Department in any attempts he or she may make to secure that accommodation becomes available for his or her occupation.

Article 7A (7) Where the Housing Executive is satisfied that a person is not eligible for assistance under this Part by virtue of paragraph (1)(c) of this Article but has a priority need, it shall treat him or her in the same manner as an applicant to whom paragraph (3) of Article 10 applies.

7.2 Principles for providing Temporary Accommodation

Where it is identified that the Housing Executive has a statutory duty to make accommodation available to an applicant, the accommodation is provided on the following principles:

- That the applicant is in need of temporary accommodation for themselves and for those household members named on their application and has accepted an offer of temporary accommodation;
- That the applicant requires the temporary accommodation on a continuing basis, until they are permanently rehoused;
- That the accommodation is used for the purposes for which it was provided;
- That the applicant [and those household members named on their application] agrees to be bound by terms and conditions applied by the Housing Executive as the placement organisation contained in the Standards of Behaviour in Temporary Accommodation and those set out by the accommodation provider.
- That the person agrees to be bound by any licence agreement between them and the accommodation provider.

7.3 The Full Housing Duty (FDA)

This is the duty to secure that accommodation is available for the applicant where the Housing Executive has decided that he or she has a priority need and is not homeless intentionally, (Article 10(2) and Article 11(2) of the 1988 Order, as set out above). This is sometimes referred to operationally as FDA - the Full Duty Applicant.

7.4 Accommodation on a Temporary Basis

This is the duty to secure that accommodation is made available for an applicant's occupation for such a period as the Housing Executive considers will give him or her a reasonable opportunity of securing accommodation for his or her occupation. This temporary accommodation duty is owed to an applicant in the following circumstances:-

- i. Where the Housing Executive is satisfied that the applicant has a priority need and that he or she became homeless intentionally (Article 10(3) (a) of the 1988 Order, as set out above). This is often referred to as the **Intentionally Homeless Duty**.

- ii. Where the Housing Executive is satisfied that an applicant is to be treated as a person who is not eligible for homeless assistance on grounds of serious unacceptable behaviour but has a priority need (Article 7A (7) of the 1988 Order as inserted by the 2003 Housing Order, as set out above).

In deciding the period for which temporary accommodation is provided each case must be considered on its individual merits. This means that there is no standard period of time which will give an applicant reasonable opportunity to obtain accommodation for him or herself. In some cases a few weeks may be reasonable, however, some applicants may require more or less time. The accommodation secured for such an applicant must be suitable in terms of both the applicant and the household. Refer to additional guidance contained in [7.6 Suitability of Temporary Accommodation](#).

In deciding the period of time which it is considered will give the applicant a reasonable opportunity of obtaining their own accommodation, consideration should be given to the following matters in relation to local circumstances and the needs of the applicant and the members of their household:-

- The availability of alternative accommodation in the locality – this will normally be private rented sector accommodation. Account should be taken of how readily other accommodation is available in the locality.
- The ability of the household to secure alternative accommodation – issues to be considered should include;
- What resources are available to the applicant to pay the rent in advance and / or deposit where this may be required from private landlords?
- The designated officer should give consideration to referring the applicant to the relevant Financial Inclusion Managers for benefits/income maximisation advice.
- Has the applicant personal issues which would impair his/her ability to secure accommodation for example, learning difficulties or language barriers?
- Support needs – there may be circumstances where a household's legitimate desire to reside in a particular locality will affect the length of time taken to secure

accommodation. In these instances any relevant education, health and support needs of the household should be taken into account.

An applicant with dependent children should be told at an early stage that assistance may be available from Social Services in respect of the family obtaining accommodation. If the applicant wishes to seek such assistance he or she should be asked to consent to the referral of their circumstances to Social Services before the temporary accommodation comes to an end.

The Designated Officer should agree a Housing Support Plan with the applicant documenting relevant advice and assistance see [Appendix 10 –Housing Support Plan](#). The Designated Officer should ensure that the Declaration see [Appendix 11 – Declaration Form](#) and [Appendix 11a Telephone Statement Re: Data Protection and Customer Declaration](#) is signed, dated and a copy provided. A copy of the Declaration and the Housing Support Plan is provided to the applicant and a copy held on the customers file and/or on HMS.

In cases where the Designated Officer is addressing the duty owed to applicants who are intentionally homeless the issues and circumstances considered in relation to the time period for which temporary accommodation is made available by the Housing Executive should be reviewed regularly and recorded on the customers file and/or HMS.

7.5 Use of Temporary Accommodation

The Housing Management System (HMS) holds details of temporary accommodation available to the Housing Executive for the purposes of meeting its statutory accommodation (temporary) duties.

Each Regional Homelessness Officer/Regional Principal Officer or, in Belfast, the Housing Solutions Manager is responsible for the maintenance of temporary accommodation details held on HMS. Properties may be added to or deleted from HMS as appropriate and

in accordance with the [Temporary Accommodation Area Homeless HMS Step by Step Manual](#).

The identification of suitable temporary accommodation for the placement of homeless applicants in such accommodation is the responsibility of the Designated Officer within the Housing Executive Office/Housing Solutions & Support Teams and Patch (where appropriate).

[In circumstances where an applicant is subject to PPANI – see 7.6 Suitability of Temporary Accommodation.](#)

As a matter of policy, temporary accommodation should be utilised based on the applicants support needs.

Below is a list of the types of accommodation available for selection:-

- i. NIHE temporary accommodation
- ii. Voluntary sector hostels
- iii. Private sector – Dispersed Intensively Managed Emergency Accommodation (DIME -Procured Contract)
- iv. Private sector – single lets
- v. Private sector – hotels / B&B's (Emergency Situations Only)

In exceptional circumstances, where the Designated Officer is considering using non-standard temporary accommodation they must ensure that a member of the Management Team has given their approval for its use in order to enable the Housing Executive to meet its statutory duty to a homeless applicant. This may include having to source temporary accommodation outside of the HMS Bed Bureau. Designated Officers who use non-standard temporary accommodation must actively begin an exit strategy immediately and Case Manage to avoid lengthy stays in non-standard accommodation. Where non-standard accommodation i.e. Hotels and B&B's are being selected, it is important that Designated

Officers negotiate optimum rates and conditions of occupation and record the rate on HMS (Voucher Notes).

7.6 Suitability of Temporary Accommodation

Designated Officers arranging temporary accommodation should seek to secure suitable temporary accommodation to meet the needs of the applicant and the members of his or her household who normally reside with him or her or might reasonably be expected to reside with him or her. When assessing the suitability of the temporary accommodation relevant factors to be considered include size and location of the property; personal circumstances of the household such as affordability; proximity to hospitals, schools, care services and family; the accessibility of public transport . This is not a prescriptive list that encompasses suitability as each applicant's circumstances will be different and the Designated Officer should take their own view on the evidence available to them.

When assessing the suitability of the temporary accommodation for those released from prison, securing stable accommodation is a recognised protective factor in assisting offenders from reoffending. While the day-to-day management of PPANI Offenders in the community rests with Probation, Police and the Trust, the Housing Executive plays a key role in securing temporary and permanent accommodation to facilitate this management. In line with the PPANI Manual of Practice Information Sharing Agreement, the Housing Executive has a designated Single Point of Contact (SPOC) role located within the Homelessness Policy Unit and this SPOC role is shared by two NIHE PPANI Representatives.

All applicants who are released from prison and are subject to PPANI, staff must refer to guidance contained in [Appendix 17 – Guidance for those subject to Public Protection Arrangements Northern Ireland \(PPANI\)](#).

The Housing Executive must ensure that temporary accommodation is made available to the applicant and the members of his or her household who normally reside with him or her or might reasonably be expected to reside with him or her in order to meet its statutory duty. This may result in an applicant (and his or her household) being placed in temporary accommodation that does not meet all of the relevant suitability factors for the household.

Note: The Housing Executive can meet its duty by keeping an applicant in accommodation that would not be suitable to occupy on a long term basis but it would not be unreasonable for the applicant to occupy for a short period whilst the Housing Executive looks for a permanent housing solution.

Should the applicant wish to challenge the suitability of the offer being made please refer to [Chapter 11 Review of Homelessness Decisions – County Court Appeals](#).

Whilst not a statutory duty the Designated Officer should also determine if it is necessary to provide transport to the temporary accommodation and this process is detailed in [Chapter 10 – Transport](#).

7.7 Standards of Behaviour in Temporary Accommodation

Where an applicant has been placed in temporary accommodation which has been arranged by the Housing Executive, staff should ensure in all cases, that the appropriate documentation in relation to that service is completed and signed by the applicant. Staff must ensure the applicant signs a statement in relation to Standards of Behaviour in Temporary Accommodation. The documentation is found in [Appendix 1 Standards of Behaviour in Temporary Accommodation](#). The implications of not conforming to the conditions of this document must be fully explained to the applicant, in particular to those applicants being placed under the interim duty. Those individuals consistently guilty of unacceptable behaviour whilst placed under the interim duty are at risk of this duty being withdrawn. Staff should note that the pattern of unacceptable behaviour should be established and documented in conjunction with any Adverse Incidents Forms see

[Appendix 11b Adverse Incident Report Forms](#) received from Providers. This information should be used for the justification of the withdrawal of the interim duty. See [Appendix 1B Closure of Temporary Accommodation due to Unacceptable Behaviour during interim duty](#).

Failure to have the applicant complete Standards of Behaviour in Temporary Accommodation form may result in them being unaware of and/or failing to be compliant. The signed statement should be uploaded on to Housing Management System (HMS) and/or in the applicant's homeless file.

7.8 Arranging a Temporary Accommodation Placement

Local Offices/Housing Solutions & Support Teams and Patch (where appropriate) should follow the procedures outlined below when arranging a temporary accommodation placement;

- i. Arrange the placement in accordance with procedures set out in the [HMS Homeless Services Keying Guide](#) (including telephone liaison with the temporary accommodation provider).
- ii. Applicants must sign a copy of the Standards of Behaviour in Temporary Accommodation as above.

Please refer to [Appendix 1 – Standards of Behaviour in Temporary Accommodation Provided by the Housing Executive Pursuant to Homelessness Duties](#). A copy should be retained on the applicant's file and/or recorded on HMS. Designated Officers should adhere to the processes outlined in [LSAN HSG 08/21 Temporary Accommodation Offer Letters/Closure of Temporary Accommodation due to Unacceptable Behaviour](#) as set out in [7.7 Standards of Behaviour in Temporary Accommodation](#) above.

- iii. Print the offer letter and voucher (where appropriate).
- iv. A copy of the voucher should be given to the applicant and/or provider or send direct to the provider). Designated Officers should confirm with the applicant that they have a clear understanding of their responsibilities in temporary accommodation. A copy should be retained on the applicant's file and/or recorded on HMS.
- v. Complete a Housing Benefit form/Online Housing Benefit form (except for placements in the voluntary sector who complete Housing Benefit forms with their residents).
- vi. Forward Housing Benefit form/Online Housing Benefit form to the relevant Housing Benefit Office.
- vii. If an applicant feels an offer of temporary accommodation is not suitable then they should be advised of their Right to Request a Review of the suitability of the Temporary Accommodation offered. Designated Officers should adhere to the processes outlined in [LSAN HSG 08/21 Temporary Accommodation Offer Letters/Closure of Temporary Accommodation due to Unacceptable Behaviour](#)

7.9 Temporary Accommodation

The Housing Executive will use a range of temporary accommodation options, for example, Housing Executive hostels, voluntary sector hostels, Diverse Intensively Managed Emergency Accommodation (DIME), and properties from the private rented sector in order to discharge its Accommodation Duty.

The Designated Officer should fully discuss the affordability of all temporary accommodation options with applicants before making a placement and should give

consideration to referring the applicant to the relevant Financial Inclusion Manager for benefits/income maximisation advice, if applicable.

7.9.1 Voluntary Sector, Housing Executive Hostels, and Dispersed Intensively Managed Emergency (DIME) Accommodation

A ring-around of vacancies in Supporting People funded hostels is circulated to staff daily and updates are provided throughout the day. This information is also distributed to the Out Of Hours staff for reference after hours. This information is collected for all hostels across Northern Ireland and is designed to eliminate the need for multiple staff to contact individual projects where there are no vacancies. This is circulated with a Temporary Accommodation Directory which provides detailed information on individual hostels including eligibility criteria, referral process, type of accommodation, and the relevant client group. Staff should ensure eligibility criteria is referred to before a referral is made.

Referral procedures

There are approximately 80 different Supporting People funded homeless accommodation based services across Northern Ireland. Each has specific eligibility criteria and an agreed referral process. These details are contained within the Temporary Accommodation Directory.

Through the Housing Solutions Interview the Designated Officer will gain an understanding of the applicant's needs, the Designated Officer should consider availability within the Supported People funded hostel portfolio first if the applicant has support needs. The starting point to establish availability should be the most up to date ring-around information. The Designated Officer should then consult the Temporary Accommodation Directory to establish if the applicant meets the criteria for the available projects.

The Designated Officer should discuss the accommodation options with the applicant and make referrals to the most appropriate provider/s. It should be noted that hostel accommodation is considered a reasonable temporary accommodation offer for customers falling into the eligibility criteria of projects in the Temporary Accommodation Directory.

When completing the relevant referral documentation it is essential that the form contains as much information as possible, is accurate and comprehensive. This will reduce the need for follow up questions from the provider and therefore avoid unnecessary delays. It will also ensure that the provider can make an informed decision on their ability to accommodate the needs of the applicant.

If the referral is accepted, the Designated Officer should provide the applicant with the relevant access information and arrange for transport to the accommodation if necessary.

All temporary accommodation placements must be keyed and maintained on HMS as per [the HMS Homeless Services Keying Guide](#). It is essential to record all placements in a timely manner so that Out of Hour and the day staff have the most up to date information pertaining to that applicant.

This will ensure the 20 interim accommodation points are triggered at the appropriate threshold and will evidence usage of accommodation.

If the referral is rejected, the Designated Officer should ask the provider to complete the Record of Refusal to Access to Service See [Appendix 11c Record of Refusal Access to Service](#) and record it on HMS.

7.9.2 Single Lets

What is a Single Let?

A single let is private sector accommodation to which the Housing Executive may refer persons requiring temporary accommodation.

[General arrangements for existing single-lets and COVID-19 single-let properties](#)

The COVID 19 single let portfolio and the new block booked properties, referred to as COVID-19 properties, should be considered as separate and distinct temporary accommodation supply options;

Ordinary (existing) Single Lets

The existing single let portfolio should be exhausted first. Designated Officers should note that existing single lets will be used when any of the following circumstances apply:

- For homeless applicants who are eligible and to whom we owe an interim or full duty and who have low or no support needs.
- At all times, when possible, for those homeless applicants who are eligible and to whom we owe an interim or full duty and who need to self-isolate, whether due to risks of COVID-19, or displaying the symptoms associated with COVID-19.
- Placements must be reviewed on a regular basis. Consideration should be given to them being moved on from this accommodation and, as part of these reviews, consideration should be given to the applicant's support requirements and how these are being met, or not, within the current placement;
- For those individuals who are homeless and currently in supported accommodation but have been identified as no longer requiring support by the provider and therefore can be moved on from this accommodation
- On occasions, for homeless applicants with medium or high support needs on occasions when all other supported temporary accommodation have been exhausted. In these cases, the Designated Officer should explore available wraparound or floating support options available to help sustain the placement and make the relevant referrals as required. If this type of support is not available or is inadequate, and supported hostel type accommodation is the most appropriate option for the customer, efforts should be made to move them on to this accommodation at the earliest opportunity.

- For confirmed FDA applicants in non-standard hotel/B&B accommodation who need to move on to more appropriate accommodation. **Placements in hotel/B&B accommodation should be on an emergency and exceptional only and should be reviewed on a daily basis.**
- In relation to the practical management of existing single lets staff should note that guidance contained within 'The Transitional Arrangements for the Acquisition and Management of Single Lets' remain applicable.

Rent Liability for an ordinary Single Let

The payment for a single let is derived from a number of sources, which may include a Housing Benefit payment and/or a contribution from the applicant where they are not in receipt of full Housing Benefit. The payment for a single let may also include a 'Top Up' payment. The 'Top Up' is the amount paid by the Housing Executive to the accommodation provider that is above the Local Housing Allowance and/or Rates element and the amount agreed with the accommodation provider. The Designated Officers should ensure that in all cases the applicant completes a Housing Benefit Form when being placed in a single let.

Please refer to [LSAN HSG 14/18 Procedures for placing customers in Temporary, or Single Let Accommodation](#)

COVID-19 SINGLE LET PROPERTIES

COVID-19 properties, were acquired to ensure the Housing Executive has a sufficient supply of accommodation to meet our statutory duties;

Please refer to [LSAN Covid No. 3 2020 Acquiring Single Let Accommodation Covid 19 Contingency](#).

- For homeless applicants who need to self-isolate due to either risks associated with underlying medical conditions in the context of the PHA guidance, or displaying COVID-19 symptoms.

- For homeless applicants with COVID-19 symptoms currently living in other temporary accommodation with shared facilities where self-isolation is required but cannot be facilitated (see guidance below for applicants requesting to move from one temporary accommodation placement to another)
- For applicants who are homeless and currently in supported accommodation but have been identified as no longer requiring support by the provider and therefore can be moved on from this accommodation to create a vacancy in supported hostel accommodation.
- For confirmed FDA applicants in non-standard hotel/B&B accommodation who needs to move on to more appropriate accommodation. Placements to hotel/B&B accommodation should be an emergency and exceptional only and should be reviewed on a daily basis;
- On occasions when all other voluntary sector hostel, NIHE hostel and existing single let options have been exhausted

Local offices will manage their own COVID-19 properties, as with the existing single let supply. Regional Homelessness Officers in North and South regions and the Single Lets team in Belfast will update local staff on properties as they are added to, and removed from, the block booking arrangements. Local Housing Solutions teams will be the point of contact for access to the COVID-19 properties within their Area. As with all temporary accommodation, applicants from other Areas may avail of accommodation in any area considered reasonable for the applicant's needs. To access a COVID-19 property in another Area, the Designated Officer should contact the local Housing Solutions team to check for availability and agree placements.

COVID-19 properties are block booked, and providers are being paid for in advance directly by the Housing Executive from the Homelessness Budget; **Housing Benefit**

applications/Online Housing Benefit form MUST be completed and MUST identify the landlord as the Housing Executive. This will enable costs to be recovered to the Homelessness Budget.

The designated officer should fully discuss the affordability of all temporary accommodation options with applicants before making a placement and should give consideration to referring the applicant to the relevant Financial Inclusion Manager for benefits/income maximisation advice.

If an applicant who is **not** in receipt of full HB is placed in a COVID-19 property they will be required to pay to the level of their Local Housing Allowance (plus rates). In cases where it is assumed the applicant will have a partial or nil entitlement to Housing Benefit, staff should email covid19homeless@nihe.gov.uk with details of the placement so that Homeless Contracts team can follow up and issue temporary rent cards and advise the applicant of their charge. This email should confirm if an online Housing Benefit form has been completed or if the applicant is working and likely to have nil entitlement to Housing Benefit.

On a weekly basis Homelessness Contracts team will receive a report from Housing Benefit unit listing cases in receipt of partial Housing Benefit and the charge required. Homeless Contracts will advise the applicant of requirements. Equally, when a placement ends in a property where the applicant is making payments, staff should email the above inbox so that Homeless Contracts are aware that payments should now cease.

When a placement is ended in a COVID-19 property, the Designated Officer should engage with the provider to organise essential repairs. These are expected to take no longer than a week, unless there are exceptional circumstances such as substantial damage. If the Designated Officer experiences delays or difficulties with providers, they should escalate this to their Regional Homelessness team (Single Let team in Belfast) for resolution. Regional Teams should engage with providers to resolve the issue, or discuss with COVID-19 team if uncertain on the appropriate action.

7.9.3 Non-Standard Temporary Accommodation (Hotels/B&Bs)

When placing an applicant in non-standard hotel/B&B accommodation the Designated Officer should advise the applicant that this is an emergency placement and that move-on will be facilitated as soon alternative more appropriate temporary accommodation becomes available. Applicants should be advised that smoking in hotel/B&B accommodation is strictly forbidden and may incur a charge. Similarly, if they cause damage in the accommodation, this may also result in a charge.

Should you place an applicant in an ad-hoc hotel/B&B accommodation you MUST key the placement via External Placement folder on HMS as HMS guidance, you MUST then create and issue a voucher to enable payment to be made. If Designated Officers have exhausted options in the standard temporary accommodation portfolio (voluntary sector hostels, single-lets, DIME) or where the applicant is refused from these providers, should a placement be made elsewhere to ad-hoc hotels/B&B accommodation

7.10 Practicalities of Placements

All temporary accommodation placements should be keyed onto HMS.

It has been agreed that Designated Officers can complete a Housing Benefit form/Housing Benefit online application form on behalf of the applicant. This will negate the need for a signature and ensure, where applicable, that Housing Benefit is paid for placements. Where Designated Officers cannot access the online system, a hard copy Housing Benefit form completed over the phone with the applicant and will normally be accepted without the applicant's signature, as long as there is an accompanying email or written confirmation from the Designated Officer, stating that they have completed the application over the phone with the applicant in question.

Forms that may be completed by phone in the manner described above include:

- HB application form
- Change of address application form
- Hostel HB application form
- NIHE Temporary Hostel HB application form

Designated Officers should support applicants to complete applications for Housing Benefit in all cases where a claim is required. Forms should be completed with as much information and supporting evidence as possible and passed to Housing Benefit 'clean'. **Applications for Housing Benefit should be completed within 2 working days of the placement commencing.**

7.10.1 COVID-19 properties and Housing Benefit

For COVID-19 properties (and existing single lets) a Booking In Confirmation Form must be completed. This form should be saved and uploaded through the additional evidence link on the online facility.

Designated Officers should follow the below specific guidance in relation to Housing Benefit and COVID-19 properties:

In cases where the applicant(s) are placed in COVID-19 properties for two weeks self-isolation only, no HB claim is to be submitted on the COVID-19 property (relevant payments should continue to be made for any existing placement).

In cases where the applicants(s) remains in the COVID-19 property at the end of the two weeks **OR** where the applicant is placed in a COVID-19 property as a regular placement and not for self-isolation

Any tenancy or hostel placement that they hold must be terminated immediately along with any Housing Benefit claim to a landlord or Hostel.

The placement in the COVID-19 accommodation then becomes a regular placement.

In these cases a Booking-In Form should be completed and clearly marked COVID-19 Accommodation with HB to be claimed.

The Housing Solutions (or Patch) team making the placement is responsible for ensuring that the Housing Benefit claim is submitted within 2 working days of the placement commencing and with as much information and supporting evidence as possible in order to ensure efficient processing. It remains the responsibility of these staff to liaise with the applicant and the relevant Housing Benefit staff to ensure that any follow-up information required to assess the claim is provided by the applicant in a timely manner.

In COVID-19 properties the Housing Benefit should then be claimed online with the Housing Executive listed as the landlord due to the block-booking arrangements in place. This will allow HB to be paid to the Housing Executive. **This application and attached Booking In Confirmation should be completed within 2 working days of the placement commencing.**

Cases are to be marked as 'COVID-19' to ensure HB staff are aware to process these under specific arrangements for these properties.

Applicants should be advised that failure to provide the required Housing Benefit information may result in arrears and, if not resolved, the subsequent termination of the placement.

When a placement ends, a Booking Out Confirmation form MUST be completed and forwarded to the relevant Housing Benefit Unit within 2 working days of the placement ending.

In these cases a Booking-In Form should be completed and clearly marked COVID-19 Accommodation with HB to be claimed.

The Housing Solutions (or Patch) team making the placement is responsible for ensuring that the Housing Benefit claim is submitted within 2 working days of the placement commencing and with as much information and supporting evidence as possible in order to ensure efficient processing. It remains the responsibility of these staff to liaise with the customer and the relevant Housing Benefit staff to ensure that any follow-up information required to assess the claim is provided by the customer in a timely manner.

In COVID-19 properties the Housing Benefit should then be claimed online with the Housing Executive listed as the landlord due to the block-booking arrangements in place. This will allow HB to be paid to the Housing Executive. **This application and attached Booking In Confirmation should be completed within 2 working days of the placement commencing.**

Cases are to be marked as 'COVID-19' to ensure HB staff are aware to process these under specific arrangements for these properties.

Applicants should be advised that failure to provide the required Housing Benefit information may result in arrears and, if not resolved, the subsequent termination of the placement.

When a placement ends, a Booking Out Confirmation form MUST be completed and forwarded to the relevant Housing Benefit Unit within 2 working days of the placement ending.

Please note recording these properties as COVID-19 and identifying the landlord as the Housing Executive on the Housing Benefit and Booking In forms is VITAL.

7.10.2 COVID-19 properties for customers with no, or partial Housing Benefit Entitlement

As noted above, from 1st December 2020, applicants who have either a nil or partial Housing Benefit entitlement will have to make payments to the Housing Executive using a temporary rent card. Homelessness Contracts team will deal with the administration of this process; they will issue rent cards and advise applicants of their charge. If an applicant who is **not** in receipt of full HB is placed in a COVID-19 property they will be required to pay to the level of their Local Housing Allowance (plus rates).

In cases where it is assumed the applicant will have a partial or nil entitlement to Housing Benefit, staff should email **covid19homeless@nihe.gov.uk** with details of the placement so that Homeless Contracts team can follow up and issue temporary rent cards and advise the applicant of their charge.

This email should confirm if an online Housing Benefit form has been completed or if the applicant is working and likely to have nil entitlement to Housing Benefit. On a weekly basis Homelessness Contracts team will receive a report from Housing Benefit unit listing cases in receipt of partial Housing Benefit and the charge required. Homeless Contracts will advise the applicant of requirements.

Equally, when a placement ends in a property where the applicant is making payments, staff should email the above inbox so that Homeless Contracts are aware that payments should now cease. Payments will not be requested for the period of any placement prior to 1st December 2020.

The Designated Officer should fully discuss the affordability of all temporary accommodation options with applicants before making a placement and should give

consideration to referring the applicant to the relevant Financial Inclusion Manager for benefits/income maximisation advice.

7.10.3 Existing Single Lets and Housing Benefit

It should be noted that the principles of the previously issued 'Transitional Arrangements for the Acquisition and Management of Single Lets' applicable for existing single lets. As per that document, determining Housing Benefit entitlement for customers at sign-up is essential in ensuring that providers are paid promptly & correctly.

Costs up to the Local Housing Allowance are met from the HB budget or by the applicant where there is no or partial HB entitlement. The difference between the agreed rent and the Local Housing Allowance (top-up) is paid to the provider via Discretionary Housing Benefit and funded from the Homeless budget.

The Designated Officer should fully discuss the affordability of all temporary accommodation options with applicants before making a placement and should give consideration to referring the applicant to the relevant Financial Inclusion Manager for benefits/income maximisation advice.

Applicants placed in Single Let accommodation where they are not entitled to full Housing Benefit will have a contribution to pay. The relevant HB officer will advise the applicant, the provider and email the relevant Housing Solutions Team inbox.

All applicants must complete an application for Housing Benefit at sign-up. As per the above note, this claim should be completed online. Even if the stay is likely to be only one or two nights a claim for Housing Benefit must be completed. **NOTE: All questions on the application form must be answered and ID provided.**

A change of address form is adequate where the claimant is in receipt of HB and moving either from single let to single let or from rented accommodation to single let as long as there is no breaks in the dates of occupation. Where no HB is in payment or where there is a break between leaving one property and moving into the other, even if it is only a one day break, then a full HB application is required.

Should you encounter an applicant that does not wish to complete an HB application form they must however complete as a minimum an HB pro forma, which is required to ensure the provider receives the top up element of the single let payment via the DHP functionality in I-world.

Failure to complete a claim for Housing Benefit will mean eligible housing costs will not be paid via Housing Benefit. Should this occur the applicant will be responsible for payment up to the Local Housing Allowance rate.

In all cases a Booking In Confirmation Form must be completed. If Housing Benefit is claimed online this form should be saved and uploaded through the additional evidence link on the online facility.

A completed Booking In Confirmation Form must be attached with the claim and all information should be sent to the relevant Housing Benefit Unit within 2 working days of the placement.

The Designated Officer should ensure appropriate applicant ID is attached to the claim and uploaded through the additional evidence link on the online HB facility.

If the Housing Executive books an applicant out of single let accommodation a 'Single Let Booking Out Confirmation Form' [Housing Benefit Booking Out Confirmation Form] must be sent to the relevant Housing Benefit Unit within 2 working days of the placement ending.

7.11 The Licence Agreement

Applicants occupy single let temporary accommodation under a licence agreement. Therefore, in addition to the Standards of Behaviour in Temporary Accommodation, the accommodation provider must have the applicant sign a licence agreement document. Broadly speaking, a licence agreement will set out the conditions of the customer's occupation of the property. However, The Designated Officer should be aware that the Housing Executive is not party to the accommodation licence agreement (Single Lets) unless it is the accommodation provider itself, for example, the applicant has been placed in a Housing Executive hostel See [Appendix 1a Licence Agreement Housing Executive Hostels](#).

7.11.1 Obtaining a copy of a Licence Agreement

Where the Housing Executive has placed an applicant in temporary accommodation, the Designated Officer must ensure they obtain from the single let accommodation provider a copy of the signed licence agreement for record purposes only.

7.11.2 Obtaining a Licence Agreement for placements in a Housing Executive Hostel

Temporary Accommodation owned and managed by the Housing Executive or owned by the Housing Executive but managed by an external operator, the signed licence agreement should be completed by the Designated Officer when placing the applicant in a Housing Executive Hostel. (See [Appendix 1a for Copy of Licence Agreement for Housing Executive Hostels](#)) The Licence Agreement should be uploaded to the Housing Management System (HMS) and/or placed in the applicant's homeless file.

7.12 Refusal to Leave Non-Standard Temporary Accommodation

On Occasion the applicant may need to be placed in non-standard temporary accommodation for a variety of reasons as referred to in section [7.5 Use of Temporary Accommodation](#).

For example;

- no available standard temporary accommodation,
- refusal by provider to accept the customer in standard temporary accommodation etc.

It should be noted that the placement in non-standard temporary accommodation is for a limited time and this must be fully explained to the applicant when the placement in non-standard temporary accommodation is being sourced. The Designated Officer will actively case manage the applicant by continually seeking suitable standard temporary accommodation. Once standard temporary accommodation becomes available it must be offered to the applicant and arrangements made to move the applicant to the alternative standard accommodation in a timely manner.

Where an applicant refuses to vacate the non-standard temporary accommodation, the Designated Officer must advise the applicant that an offer of standard temporary accommodation has been made available for the customer to occupy, and in making this offer the Housing Executive is fulfilling its phased duty discharge. The Designated Officer should make it clear to the applicant that the placement in non-standard temporary accommodation will be closed from the date the standard accommodation is available. If the applicant insists on remaining in non-standard temporary accommodation it should be explained to the applicant that this would be as a private arrangement and at their own expense. The Designated Officer will advise the non-standard temporary accommodation provider of the closure of the placement by the Housing Executive and terminate placement via HMS. If the applicant feels that the standard temporary accommodation offered is unsuitable, the Designated Officer should inform the applicant of their legal right to request a review of this decision as set out below

LSAN HSG 08/21 Temporary Accommodation Offer Letters Closure of Temporary Accommodation due to Unacceptable Behaviour

Designated Officers should keep a note of this advice on HMS.

The Designated Officer should inform the applicant that should they require alternative temporary accommodation in the future they should contact the Housing Executive requesting temporary accommodation.

Robust notes of all discussion with the applicant must be kept on HMS.

7.13 Bail Addresses

Designated Officers should establish if the Housing Executive has a duty to the applicant under The Housing (NI) Order 1988 (as amended) to discharge its homeless duties found therein, namely Article 8 (interim duty to accommodate) or Article 10 (duties to persons found to be homeless). If there is a duty on the Housing Executive to accommodate, this duty be it an Interim Duty (pending enquiries) or a Main Duty to Accommodate remains and the Housing Executive must identify/make available to the applicant, temporary accommodation under the relevant provisions.

Accommodation that the Housing Executive provides at part of its duty under the '88 Order should not be interpreted to mean that the Housing Executive is providing a bail address. If an applicant contacts the Housing Executive for accommodation and is on bail and the Housing Executive owes them a duty as outlined above, then once temporary accommodation is identified and made available to the applicant, it must be stressed to the applicant that if they take up the offer of temporary accommodation then the responsibility lies with them to arrange for the terms of their bail conditions to be amended be that with the police or through the courts.

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Chapter 8 – Homeless Decision Letters

8.0 Notification of Decisions and Reasons

Notification of decisions must be given to all homeless applicants when the Housing Executive has completed its enquiries and made its final decision on the case.

The Housing Executive must notify the applicant of its decision on:-

- whether the applicant is eligible for homelessness assistance
- whether he or she is homeless or threatened with homelessness
- (if he or she is eligible for assistance and homeless or threatened with homelessness), whether he or she has a priority need, and;
- (if he or she is eligible and in priority need), whether he or she is unintentionally or intentionally homeless

The notification to the applicant of the above decisions:

- **must be in writing**
- **must give the reason(s)**
- **must give a concise explanation of the reason for any decision against the interests of the applicant.**

It should be issued promptly following the final decision.

It is important to understand that the requirement to give reasons for an adverse decision, in respect of any of the matters listed above, is imposed on the Housing Executive by housing legislation. This means that it is a statutory duty and must be complied with.

The reasons for a decision should be intelligible and adequate so that the applicant knows why the decision was made.

It is important to ensure the applicant fully understands the decision and the nature of any housing duty that is owed. In cases where the applicant may have difficulty understanding the implications of the decision, it is recommended that the Housing Executive considers arranging for a Designated Officer to provide and explain the notification in person prior to or after the letter has been issued depending on the individual circumstance of the applicant.

The decision letter will also inform the applicant of his/her right to request a review of the Housing Executive's decision; the time within which a request can be made and the power / discretion of the Housing Executive to secure accommodation for the applicant's occupation pending the outcome of the review and / or appeal to the County Court on a point of law.

If a decision letter is not received by an applicant, it can be treated as having been given to him or her, if it is made available in the Office of the Housing Executive to which he or she applied for a reasonable period that would allow it to be collected by the applicant or by someone on his or her behalf.

A signed copy of the homeless decision letter should always be kept appropriately (electronically on HMS or on the applicant's homeless file) see [Appendix 14 Suite of homeless letters](#).

8.1 Housing Association Tenants

When issuing a homeless decision letter to a Housing Association tenant, whether positive or negative, a signed copy should be sent to the relevant Housing Association for their information. A copy of the letter will also be made available to all Housing Associations on HMS.

8.2 Prisoners

When issuing a homeless decision letter to an applicant who has not yet been released from a prison or young offenders' centre, whether positive or negative, a copy should be sent to the Housing Rights Service, Housing Advice Development Worker in the prisons. It is often the case that a person in custody does not receive mail for 4-5 days after it has been received at the prison or young offenders' centre.

8.3 Homelessness Leaflets

Enclose a copy of **Homeless? Threatened with Homelessness?** Leaflet with **ALL** homeless decision letters:-

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Chapter 9 – Protection of Property (Furniture Storage)

9.0 The Legislative Duty

Protection of property of homeless persons and persons threatened with homelessness.

The legislation states that duty arises where:-

Article 13 (1) This Article applies where the Executive has reason to believe that an applicant is homeless or threatened with homelessness (or, in the case of an applicant to whom it owes a duty under Article 8 (interim duty to accommodate pending inquiries), that he may be homeless) and that—

- a. there is a danger of loss of, or damage to, any personal property of his by reason of his inability to protect it or deal with it, and
- b. no other suitable arrangements have been or are being made.

Article 13 (2) If the Executive has become subject to a duty towards the applicant under Article 8, 10(2) or (3)(a) or 11(2) (duty to accommodate during inquiries and duties to persons found to be homeless or threatened with homelessness), then, whether or not it is still subject to such a duty, it shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it; and if it has not become subject to such a duty, it may take any steps it considers reasonable for that purpose.

9.0.1 Establishing if the duty arises

Staff should be aware that the duty may not arise in all circumstances when an applicant makes a homeless application.

The duty to protect the property of homeless persons and persons threatened with homelessness **only** arises where:

The Housing Executive has reason to believe that an applicant is eligible, homeless or threatened with homelessness and further enquiries are being undertaken (Interim Duty)

or

The Housing Executive has established that an applicant is eligible, homeless and has a priority need and became homeless unintentionally (Full Duty Applicant)

and that

there is a danger of loss of, or damage to, any personal property of his or her, by reason of his or her inability to protect it or deal with it,

and

no other suitable arrangements have been or are being made.

Before making arrangements to protect and store an applicant's personal property, staff may wish to consider the following;

Danger, damage and inability to protect personal property

Where the homeless duty has arisen, either as an Interim Duty or main duty (FDA), **staff must ensure** the second element of the test in relation to protection of property is considered; which relates to "danger of loss of, or damage to, any personal property of his or her, by reason of his or her inability to protect it or deal with it, **and** no other suitable arrangements have been or are being made". It is understood to mean that the duty to protect personal property is more than a person simply leaving their personal property in a dwelling and requesting that it be moved or stored. In all cases the decision maker should make the necessary enquiries in order to satisfy themselves that **all aspects of the statutory test have been met**. Staff are reminded to reach a decision by considering the individual facts of each case. It may be useful to consider the following factors during their enquiries;

Danger of loss or damage to - is the personal property left behind in a secure dwelling? Is there somewhere available to store their items? For example, a garage, a family member's or friend's home. This list is not exhaustive.

Inability to protect or deal with the personal property - are there financial issues? Vulnerabilities? Access to support from family and/or friends? Access to another property?

Suitable arrangements - if no suitable arrangements have been made or cannot be made, they may not have the ability to do so due to factors such as finance, vulnerabilities, and a lack of support or an absence of another property.

It should be noted that applicants may be able to make suitable arrangements for some but not all of their property; in such circumstances the Housing Executive may decide to store the remainder of the property which the applicant cannot make suitable arrangements for themselves.

9.0.2 Storage of Personal Property throughout the Homeless Journey

The need to arrange Furniture Storage may occur at any stage of the homeless journey, not solely at the point of presentation. This can be due to a change in the applicant's circumstances. In such circumstances, the Designated Officer will follow the Furniture Storage procedures that are required as if the applicant was presenting as homeless and needing assistance for the first time from the Housing Executive, in relation to the protection of his or her personal property.

9.0.3 Where an applicant is ineligible for homeless assistance

If it can be determined from the outset that the applicant is ineligible, the interim duty under Article 8 of the 1988 Order (pending inquiries) does not arise. There is therefore no duty to provide Furniture Storage - Protection of Personal Property regardless that the Applicant may be homeless.

9.1 The Procedure

Personal property can only be collected from an address in Northern Ireland and redelivered to an address in Northern Ireland.

Each Region has a list of furniture storage companies who have tendered for the Housing Executive contract, these companies are the only companies to be used by the Housing Executive in responding to duties in relation to homelessness legislation (except in exceptional circumstances when necessary instructions will be issued e.g. civil disturbance or other emergencies).

Removal and redelivery will normally be on week days and during office hours (except in exceptional circumstances e.g. civil disturbance or other emergencies).

The following procedures should be followed when arranging the collection and storage of the personal property of applicant's seeking assistance under homelessness legislation, **AND** also where the personal property of a homeless applicant requires to be moved from one location to another, without the need for storage (A to B).

9.2 Selecting a Furniture Storage Company

The Housing Executive has a Furniture Collection, Storage and Delivery Service contract, which commenced on the 7th January 2019 and will be due to expire on 6th January 2021.

The current contract has been divided into three Lots:

- Belfast Region
- North Region
- South Region

Contracts have been awarded to 3 companies and the companies have been ranked 1-3 within each Lot as outlined below:

Lot One – Belfast Region

Coastways Storage and Removals Ltd – 1st Place

Swift Shift – 2nd Place

Browns – 3rd Place

Lot Two – North Region

Coastways Storage and Removals Ltd – 1st Place

Swift Shift – 2nd Place

Browns – 3rd Place

Lot Three – South Region

Coastways Storage and Removals Ltd – 1st Place

Swift Shift – 2nd Place

Browns – 3rd Place

Staff arranging to store personal property (or move personal property from A to B without the need for storage) should select the company ranked 1. In the event that company ranked no. 1 does not have the capacity to deliver the service the company ranked number 2 should be offered the work. In the event that company ranked number 2 does not have the capacity to deliver the service the company ranked number 3 should be offered the work. Initial contact with the furniture storage company will generally be by telephone.

[See 9.5 for documenting Storage Company used.](#)

9.2.1 Furniture Storage Company Response Times as set out in the Contract

The Furniture Storage company is required to collect and store (or move personal property from A to B without the need for storage) within 3 working days (excluding weekends and Bank/Public Holidays). Whilst the response time specified in the contract is 3 days, staff should give the storage company as much notice as possible and dates should be agreed with and shaped around the applicant as far as is feasible.

9.2.2 If no Furniture Storage Company can respond within the Contract Times

In the event that no Furniture Storage company can respond within the agreed time frame and where the customer requires the service within this timescale staff should obtain three quotes from other providers and the cheapest of these should be used. It is envisaged this mechanism would only be used in very exceptional circumstances.

9.3 Discussions with the applicant on preparing personal property for going into storage

It is important to inform the applicant that they should make adequate preparations for their personal property which is going into storage. This can include discussion on:

Valuable Items - Ensure any items considered valuable are identified to the storage company and recommend that the applicant considers making their own insurance arrangements against loss or damage for these.

Downsizing - Only store the items that they will have space for in their new accommodation. This is particularly relevant if downsizing to a smaller property.

What items cannot be placed into storage - This may include but is not limited to;

- Perishable items, for example food
- Liquids, including for example chip pans or deep fat fryers containing oil
- Medication
- Flammables, for example paint
- Damp items, including washing machines containing wet clothes
- Wet garden furniture
- Smoke damaged items

- Blood stained items
- Illegal items such fire arm or drugs
- Property which does not belong to you or a member of your household who is to be rehoused with you

9.3.1 The use of furniture storage and taxi service in the context of COVID 19

Please refer to LSAN COVID (HSHSS) No. 24 2020 Update to guidance on the use of furniture storage and taxi service

9.4 Terms and Conditions

All homeless applicants for whom the Housing Executive arranges the storage of their personal property, or arranges the transportation of personal property from one location to another, **must** sign the “Terms and Conditions” [at 9.18 of this guidance manual](#).

Applicants should be made aware that the Terms and Conditions contain provisions for disposal in certain circumstances. This agreement should be retained and stored appropriately (electronically on HMS and/or held on the applicant’s homeless file) and a copy given to the applicant.

Where the applicant cannot, for some reason, be in attendance when his or her personal property is being taken into storage and cannot arrange for a representative to be there on his or her behalf, the Designated Officer dealing with the case will point out the relevant clause in the Terms and Conditions (i.e. [clause 4](#)).

The **TERMS AND CONDITIONS** set out at [9.18](#) **MUST ALWAYS BE SIGNED**

In emergency situations and in other exceptional circumstances where the Terms and Conditions cannot be signed when arrangements are being made, they must be signed as soon as possible thereafter.

9.5 Documenting Storage Company used

For every homeless application where the Housing Executive is arranging storage of personal property of a homeless applicant (or arranging transportation from one location to another), the Designated Officer arranging the storage should ensure that the furniture storage company used is in line with rankings set out above. In cases where the furniture storage company

ranked 1 is unable to fulfil its contractual obligations details should be recorded on HMS and/or on the applicant's homeless file.

9.6 The Furniture Storage Voucher

A furniture storage voucher **must** be keyed in accordance with procedures set out in the **HMS Homelessness Services Keying Guide**. This voucher is critical in order to ensure that invoices submitted by the Furniture Storage Company can be reconciled and payments made by the Housing Executive in a timely manner, to allow for effective financial planning and management of the relevant budget.

If personal property is being moved from one location to another, (A to B with no storage) relevant notes should be detailed on the voucher.

The voucher should be printed and forward to the furniture storage company, a copy may also be held in the applicants file.

Staff should note that all Furniture Storage companies are instructed by the Homelessness Contracts Team, not to take on a job if no furniture storage voucher is provided which coincides with the request. Furniture Storage companies have given their commitment to this arrangement.

9.7 Informing the Furniture Storage Company of Special Arrangements

The furniture storage company **must** be made aware of any special arrangements in advance of the collection date, for example;

- who as a representative of the applicant will be in attendance,
- no applicant and no representative of the applicant will be in attendance, in these circumstances the name of Housing Executive Designated Officer to be in attendance,
- disconnection of appliances is required,
- where we are aware that the person has an unusually high level of personal property,
- provide cartons and pack personal property
- transfer items from one address to another without the requirement for storage, i.e. A to B

9.8 The Inventory

At the time of collection, a detailed inventory of items stored (or items moved from A to B) will be taken. Applicants should be advised to ensure that any items they consider to be 'valuable' are identified to the furniture storage company

and staff should recommend that applicants make their own insurance arrangements against loss or damage.

The inventory must be signed by the furniture storage company and by the homeless applicant (or his/her representative).

The furniture storage company must retain a copy of the inventory and furnish the applicant with a copy of it.

The furniture storage company will forward a copy of this inventory to the Housing Executive, to be stored appropriately (electronically or held on the homeless applicant's file). It is essential that copies of all inventories are stored appropriately in the event that the Housing Executive may have to consider disposal at a later stage.

9.9 At the Time of Collection (or Moving Personal Property from One Location to Another Only – A to B)

The following are some examples of circumstances which may arise:-

9.9.1 Applicant cannot for Some Reason be in Attendance When Personal Property is Being Taken into Storage

9.9.1.1 Applicant has arranged for a representative

If Furniture Storage is being arranged and the applicant cannot be in attendance, a representative should be present at the property, where possible, on the applicant's behalf.

- The furniture storage company will complete an inventory in the applicant's absence (as outlined in [clause 3 of the Terms and Conditions](#)) and must be signed by **all** present.
- It would be helpful to photograph the property both before and after the process of providing furniture storage.
- It would be appropriate to forward any personal correspondence found at the accommodation on to the applicant's new address if known. Alternatively, it may be considered appropriate to place items such as personal correspondence into storage along with the applicant's other personal property.
- Reasons for non-attendance by the applicant at the time of personal property being collected for storage should be recorded appropriately (electronically on HMS and/or on the applicant's homeless file).

9.9.1.2 Applicant or a representative on their behalf is unable to be present

If Furniture Storage is being arranged and the applicant or a representative on their behalf is unable to be present at the property, a member of staff from the Housing Executive must attend to oversee the entire process.

Where storage is arranged from temporary accommodation, a representative on the accommodation providers' behalf must be present.

- The furniture storage company will complete an inventory in the applicant's absence (as outlined in [clause 3 of the Terms and Conditions](#)) and must be signed by **all** present.
- It would be helpful to photograph the property both before and after the process of providing furniture storage.
- Where the applicant or their representative is not present it would be appropriate to forward any personal correspondence found at the accommodation on to the applicant's new address if known. Alternatively, it may be considered appropriate to place items such as personal correspondence into storage along with the applicant's other personal property.
- Reasons for non-attendance by the applicant and/or their representative at the time of personal property being collected for storage should be recorded appropriately (electronically on HMS and/or on the applicant's homeless file).

9.9.2 Furniture Storage Company responds to a Request by Housing Executive as Agreed – Applicant Fails to be in Attendance (Aborted Call)

In instances where the furniture storage company has responded to an arranged collection and this has not taken place (applicant / representative of the applicant fails to be in attendance), the company will advise the Housing Executive accordingly. As the furniture storage company has responded to the request raised it is most likely they will request payment from the Housing Executive. In such circumstances, the Housing Executive will:-

- Determine from the applicant the reason for his or her non-attendance
- Meet reasonable costs requested by furniture storage company based on their pricing schedule
- Re-arrange the storage of the applicant's personal property if still required

- Update HMS notes and/or the applicant's homeless file with all relevant details

9.9.3 Furniture Storage Arrangements Cancelled at Applicant's Request (Aborted Call)

Where the applicant informs the Housing Executive that the arranged date is no longer suitable the Housing Executive will need to give notice to the Furniture Storage Company to cancel (abort) a collection which has already been arranged. It is important that the applicant is asked to provide the reasons for requiring the cancellation, particularly where the Housing Executive will incur a cost. Staff should update HMS notes and/or the applicant's homeless file with all relevant details.

How a cost will arise

Where notice of 1 working day (excluding weekends and Public Holidays) is given to the Furniture Storage Company for a cancellation the Housing Executive will not be liable for any payment. However, where a cancellation does not give 1 working day's to the Furniture Storage Company, the Housing Executive will be liable for a payment.

9.9.4 No Response - Furniture Storage Company Does Not Respond as Arranged with Housing Executive

Situations may arise when the homeless applicant is in attendance at the location where his or her personal property is to be collected from, and the furniture storage company does not arrive, or arrives at a much later time than that agreed, and the applicant cannot, for some reason, continue to wait for the company.

Should such a situation arise, the Designated Officer will collate all details from both the applicant and the furniture storage company. The applicant's homeless file and/or HMS notes should be updated accordingly.

Staff should check with the storage company the next working day and confirm details before arriving at a decision whether or not to meet the costs (or part of the costs) and the applicant's homeless file and/or HMS notes updated accordingly. The decision should be informed on when the company reached the property in the context of the original appointed time.

The Designated Officer should consider if it is necessary to re-arrange the storage of the homeless applicant's personal property (or the moving of personal property from one location to another without storage) where it has

not taken place as previously arranged Depending on availability, this may, or may not be with the same company (a new furniture voucher will be required in accordance with procedures set out in the HMS Homelessness Services Keying Guide).

9.10 Access to Property While in Storage

There may be occasions when a homeless applicant whose property are in storage may require access to remove or add additional items into storage.

In most instances applicants will be liable for the costs associated with access in order to remove or add personal property to the existing storage. Arrangements should be made directly by the applicant with the storage company. In exceptional circumstances the Housing Executive may facilitate payment.

9.10.1 Request to Remove Personal Property from Storage

When a homeless applicant approaches the Housing Executive seeking to remove personal property which is already in storage the Designated Officer will consider any such request on its individual merits, and may take into account the following:-

- Reason for the applicant's request
- Type of item(s) being requested
- Length of time applicant has been waiting or may be waiting, to be rehoused
- Availability of storage company to facilitate request
- Any associated costs
- Previous requests
- Other relevant factors

Where access occurs whether arranged by the applicant or agreed by the Housing Executive and personal property are removed the furniture storage company will provide the applicant with an updated inventory, signed by the applicant and a company representative, and forward a copy of same to the Housing Executive, to be stored appropriately. A copy of this updated inventory will be required regardless of whether access was paid by customer or by the Housing Executive (electronically on HMS and/or on the applicant's homeless file). If the updated inventory shows that the access has impacted upon the number of storage containers, the Designated Officer inform the Finance Department. Staff should email homeless.accounting@nihe.gov.uk

All details relating to such requests, details of any personal property removed from storage by the applicant (including costs) or changes to the number of storage containers should be recorded appropriately (electronically on HMS and/or on the applicant's homeless file).

Note: where the personal property of the applicant which was stored included the personal property of any person who resided with the applicant and they subsequently separate. The Designated Officer should encourage the parties to reach a mutual arrangement with regard to the personal property in storage. If a mutual agreement is not possible then the applicant should be advised to seek their own legal advice around taking possession of their items that are stored.

9.10.2 Requests to Add Additional Personal Property or Return Personal Property to Storage

Where a homeless applicant approaches the Housing Executive seeking to add personal property to existing storage or to return to storage, personal property that they had previously requested to remove the Designated Officer should not disregard the potential financial impact upon the Housing Executive. This is particularly relevant if the personal property is/includes large items which would require the Furniture Storage Company to provide an additional container. However, staff should ensure that each request is considered on its individual merits, and may take into account:-

- Reason for the applicant's request
- Type of item(s)
- Length of time applicant may be waiting, to be rehoused
- Availability of storage company to facilitate request
- Any associated costs
- Previous requests
- Other relevant factors

Where access occurs whether arranged by the applicant or agreed by the Housing Executive and an personal property is added the furniture storage company will provide the applicant with an updated inventory, signed by the applicant and a company representative, and forward a copy of same to the Housing Executive, to be stored appropriately (electronically and/or on the applicant's homeless file).

All details relating to such requests and details of any additional personal property added/returned into storage as requested by the applicant (including

costs) should be recorded (electronically and/or on the applicant's homeless file).

Note: Costs are explained by the furniture storage company at the time of arrangement being made.

9.11 A-B: Requests to Move Personal Property from one Temporary Accommodation Address to Another

There may be instances where the applicant moves from one temporary accommodation address to another. The applicant may suggest they are be unable to move his or her personal property without assistance, and ask the Housing Executive to assist with moving his or her personal property. Operationally, this is referred to as and A –to- B. In such circumstances, the homeless applicant may, or may not, already have personal property in storage arranged on his or her behalf, by the Housing Executive.

The Housing Executive may have to consider whether to assist the applicant to move his or her personal property to the chosen address, or arrange storage of his or her personal property for the first time. In considering the appropriate action to take the Designated Officer should firstly establish if there is a danger of loss of or damage to any personal property of his or hers by reason of their inability to protect it or deal with it and no other suitable arrangements have been or are being made [see section 9.0.1](#) for further guidance. Staff may also take account of the following:-

- Reason for the applicant's request
- Type of item(s)
- Length of time applicant has been waiting or may be waiting, to be rehoused
- Availability of storage company to facilitate request
- Any associated costs
- Other relevant factors

All details relating to such requests as outlined in [9.11.1 - 9.11.3 below](#) (including costs) must be recorded (electronically and/or on the applicant's homeless file).

Note: If it furniture storage is required subsequent to the initial homeless presentation staff must ensure that they establish if the duty arises in relation to the protection of property – [see 9.01](#)

The following are some examples of circumstances which may arise:-

9.11.1 Personal Property Already in Storage and Additional Items Required to be Moved to New Temporary Accommodation Address

Where the applicant already has personal property in storage, and additional items are being moved from one address to another address [see 9.0.1 for further guidance](#).

9.11.2 No Personal Property in Storage Requires Items to be Moved to New Temporary Accommodation Address

Where the applicant does not have personal property in storage arranged for him or her by the Housing Executive, and only requires the Housing Executive to relocate his or her personal property from one address to another address, the Local Office will follow the procedures that are required as if the applicant was presenting as homeless and needing assistance for the first time [see 9.0.1 for further guidance](#).

The furniture storage company will provide the applicant with an inventory which clearly states that personal property was moved from one location to another only. This will be signed by the applicant and a company representative, and a copy of same forwarded to the Housing Executive, to be stored appropriately (electronically on HMS and/or on the homeless applicant's file)

Staff should mark the furniture voucher "A-B Only" and a comment should be recorded on HMS and the applicant's homeless file updated accordingly.

9.12 Management Transfers (FDA) – Items required to be Moved from One Address to Another Address (A to B)

Where the applicant is a Management Transfer (FDA) and requests the Housing Executive to relocate his or her personal property from one address to another address, Designated Officers should be considering each request on its individual merits, particularly when it has been established that there is a danger of loss or damage to the personal property, the applicant has an inability to protect or deal with the personal property and no other suitable arrangements can be made by the applicant, [see 9.0.1 for further guidance](#).

Designated Officers may decide to grant the request in exceptional circumstances.

Designated Officers should document the applicant's circumstances in each case, mark the furniture voucher "A-B Only" and comments should be recorded on HMS and/or on the applicant's homeless file.

9.13 Redelivery of Personal Property

On behalf of the applicant, the Housing Executive will arrange with the storage company, the date, time, address, for the redelivery of his or her personal property, and will record all such details appropriately (electronically on HMS and/or on the homeless file).

9.13.1 At the Time of Redelivery

The storage company will confirm to the Housing Executive that redelivery has taken place, this contact will be recorded appropriately (electronically on HMS and/or on the applicant's homeless file).

9.14 Financial Procedures for Homelessness Payments

Designated Officers should ensure that all Furniture Storage Vouchers are keyed on to HMS in accordance with the **HMS Homelessness Services Keying Guide** to ensure that invoices can be processed and payments made in a timely manner. Homelessness Accounting receive invoices from the Furniture Storage Company monthly, these are processed in accordance with the Furniture Storage Contract. Invoices are matched to the relevant valid HMS vouchers, staff are asked to ensure that all details on the HMS vouchers are correct for example voucher type, voucher number, company, valid to and from dates etc.

9.15 Monitoring

Staff should be mindful of the financial expenditure associated with the provision of furniture storage and prevent any unnecessary cost being placed on the Public Purse. When monitoring cases staff must ensure that they examine if the statutory duty continues to arise - [see 9.0.1 for further guidance](#).

A Designated Officer will undertake a 3 monthly review of the furniture storage arrangements for his or her caseload, as per **Chapter 4.9 Review Dates of the Housing Solutions Handbook**. This aim of the review is to establish if the statutory duty continues, staff should approach the applicant with a view to reviewing the volume of their personal property which is in storage. Together, these steps aim to ensure that personal property is not being retained in storage unnecessarily and minimise costs associated with furniture storage. The following question may be helpful to consider;

Table 1

Questions to assist in establishing if there is an ongoing duty
<ul style="list-style-type: none"> - Have your circumstances changed since your property was placed in storage? - Or are you able to make your own arrangements to store your property
Questions may be useful for rationalising the existing personal property
<ul style="list-style-type: none"> - Do you still need the items you have in storage? (I can send you the inventory of what you have in storage) - Do you now need your items to be delivered to you? <ul style="list-style-type: none"> - Have you thought about the property which you are on the waiting list for? and its capacity to accommodate your personal property which is stored? - The Housing Executive can make arrangements to dispose of them if you no longer require them at no charge. Is this something you want support to do?
Where a customer has more than one container in storage: Do you want to review what personal property you still need/want stored? (I can send you the inventory of what you have in storage)

Where necessary, comments should be added to HMS, an appropriate review date on CMS and the applicant's homeless file updated accordingly.

Staff should inform the Finance Department of any changes regarding the number of containers by emailing homeless.accounting@nihe.gov.uk.

9.16 Cessation of Responsibility

When in the Housing Executive's opinion there is no longer any reason to believe there is a danger of loss of, or damage to personal property by reason of the applicant's inability to protect or deal with it, then the Housing Executive must notify him or her of that fact and of the reason why it is of that opinion. Notification should be in writing to the person's usual or last known address.

Situations may arise where, having stored the personal property of a homeless applicant, in line with homeless legislation, the Housing Executive may then conclude that it does not owe the applicant such a duty:-

Examples of where the Housing Executive's duty to store personal property may cease may include:-

1. Housing Executive has discharged its duty to a full duty applicant for example he or she has accepted an offer of tenancy / refused 2 reasonable offers of permanent accommodation
2. Not eligible for homelessness assistance
3. Not homeless / not threatened with homelessness
4. Homeless but not in priority need
5. Intentionally homeless

Note: in signing the Terms and Conditions, the applicant has agreed to the collection, storage and redelivery of his or her personal property.

9.16.1 Negative Homeless Decision

Following a negative homeless decision, the Designated Officer will write to the applicant [see appendix 1](#), regarding furniture storage. The letter will: -

- refer to the final homeless decision confirm to the applicant that the Housing Executive has no statutory duty to store his or her personal property
- advise the applicant to contact the Housing Executive, within 4 weeks from the date of the letter (and specify the actual date by which he or she must make contact) to arrange the redelivery of his or her personal property
- advise the applicant that failure to contact the Housing Executive, will result in the Housing Executive disposing of his or her personal property for which it has arranged storage and protection ([see clause 10 of the Terms and Conditions](#)).

Copies of all relevant correspondence must be stored appropriately (electronically on HMS and/or kept in the applicant's homeless file).

When the applicant makes contact with the Housing Executive, arrangements should be made with the individual and the furniture storage company, to redeliver the personal property held in storage, at an agreed time and date, as soon as is practical thereafter.

9.16.2 Homeless Duty Discharged

In cases where the Housing Executive has discharged its duty to a Full Duty Applicant, either by the applicant's acceptance of a secure tenancy, or his or her refusal of 2 reasonable offers of permanent accommodation, the

Designated Officer will write to the applicant see appendix 1, regarding furniture storage. The letter will:-

- refer to the Housing Executive's discharge of its homelessness duty
- confirm to the applicant that the Housing Executive has no statutory duty to store his or her personal property
- advise the applicant to contact the Housing Executive, within 4 weeks from the date of the letter (and specify the actual date by which he or she must make contact) to arrange the redelivery of his or her personal property
- advise the applicant that failure to contact the Housing Executive, will result in the Housing Executive disposing of his or her personal property for which it has arranged storage and protection ([see clause 10 of the Terms and Conditions](#)).

Copies of all relevant correspondence must be stored appropriately (electronically and/or kept in the applicant's homeless file).

When the applicant makes contact with the Local Office, arrangements should be made with the individual and the furniture storage company to redeliver the personal property held in storage, at an agreed time and date, as soon as is practical thereafter.

9.16.3 Applicant Will Not Accept Redelivery of his or her Personal Property

9.16.3.1 The Housing Executive's duty to store personal property can cease. Applicants will fall into categories listed below. All applicants will be afforded 4 weeks to respond from the date of the letter advising them that our duty has ceased, to arrange to have their property returned to them.

1. Housing Executive has discharged its duty to a full duty applicant for example he or she has accepted offer of tenancy / refused 2 reasonable offers of permanent accommodation
2. Not eligible for homelessness assistance
3. Not homeless / not threatened with homelessness

Where the Housing Executive has discharged its duty to a Full Duty Applicant, applicants who are not eligible for homelessness assistance and applicants who are not homeless/ threatened with homelessness and if the applicant is refusing to accept redelivery of his or her personal property, **the Housing Executive will also write to him or her confirming that failure to accept**

redelivery of his or her personal property will result in the disposal of his or her personal property 6 months after the date of its letter regarding this issue. The letter should make clear the date that disposal instructions will be issued; this date will then be added to CMS.

9.16.3.2 In circumstances where an applicant who the Housing Executive believes to be homeless and is no longer owed a duty expresses that there remains a danger to their property such as, Applicants who are

4. Homeless but not in priority need

5. Intentionally homeless

and an applicant states that he or she is homeless and has no address to which his or her personal property can be redelivered,

the Housing Executive may consider exercising its power, to continue to store the applicant's personal property if it has any reason to believe there is a danger of loss of, or damage to the applicant's personal property by reason of his or her inability to protect it or deal with it. The Housing Executive may decide to exercise its discretion to arrange for the continuation of the storage for an initial discretionary period only. If after the initial discretionary period the Designated Officer contacts the applicant and there are extenuating circumstances that warrant a longer period of storage, an extended period may be considered in exceptional cases. This should be monitored in accordance with [9.15 of this chapter](#).

The letter should make clear the date that instructions for disposal will be issued to the furniture storage company. A renewal date should be added to CMS.

If the applicant is still refusing to accept redelivery of his or her personal property, after the discretionary period, the Housing Executive will write to him or her advising them of the reasons for the decision not to extend the discretionary period and confirm that failure to accept redelivery of his or her personal property will result in the disposal of his or her personal property 6 months after the date of its letter regarding this issue.

9.16.4 The Applicant's Whereabouts is Unknown

The whereabouts of a homeless applicant for whom the Housing Executive has arranged the protection and storage of his or her personal property may become unknown. Such an applicant may or may not have been awarded Full Duty Applicant status. In such circumstances the Housing Executive will

seek to trace the applicant. In doing so the following actions will be undertaken by staff:-

- Attempt to contact the applicant in writing, on SMS, by email, by phone, by known addresses etc*
- Seek 3rd party information from others
- Check Housing Executive's housing application records
- Any other relevant information source

***At least three attempts, on three separate days and where possible by three different communication methods are to be made copies of all correspondence and a record of all telephone enquiries undertaken should be stored appropriately (electronically on HMS and/or kept in the applicant's homeless file).**

If the applicant makes contact

It must firstly be established whether the Housing Executive still owes him or her, a full housing duty in relation to statutory homelessness provisions i.e. is he or she an FDA applicant or has a negative homeless decision been reached.

If the applicant has FDA status, staff should consider the steps in Table 1 in [section 9.15](#) in order to see if rationalising their existing personal property is appropriate. In most instances, his or her personal property is likely to remain in storage arranged by the Housing Executive pending the Housing Executive's discharge of its full housing duty.

The applicant does not make contact or cannot be contacted

Where the FDA applicant cannot be contacted his or her personal property will remain in storage as the duty has not been discharged. Staff must continue with their efforts in tracing the applicant.

There may be cases where the applicant does not contact or cannot be contacted and the Housing Executive has reached a negative homeless decision or has identified that the duty has been discharged as set out above in [section 9.16](#). The Designated Officer has written to the applicant advising them to contact the Housing Executive within 4 weeks from the date of the letter to arrange for the redelivery of his or her personal property. If the applicant does not respond to the letter within the 4 weeks, then the Designated Officer should make all reasonable attempts to contact the applicant.

In these circumstances at least three attempts, on three separate days and where possible by three different communication methods are to be made. If all reasonable efforts to trace the applicant have been unsuccessful, the Housing Executive will store his or her personal property for a further 6 months from the date it established that contact has been lost (efforts may continue within the 6 month time period until disposal is arranged but this does not alter the date of disposal from when contact has been lost).

Evidence to support all attempts to contact the applicant must be recorded on file or HMS. Staff should add a 6 month review date in relation to furniture storage on the address my immediate needs tab on CMS (i.e. 6 months from when loss of contact was established). At the end of the 6 months the disposal process will be commenced if the applicant has made no contact with the Housing Executive [see 9.17 The Disposal Process](#).

9.16.5 Further Advice and Guidance

If further clarification is sought, staff may wish to contact Homelessness Policy and Strategy.

9.17 The Disposal Process

The Disposal Process will be commenced by the Housing Executive in circumstances where:-

- It is satisfied that all reasonable efforts have been made to trace / contact the applicant regarding redelivery of his personal property, and the applicant's whereabouts remain unknown, and the applicant is not owed the full housing duty (i.e. not FDA) and the 6 month period has elapsed
- It has no duty to store the applicant's personal property and the applicant has refused to accept redelivery and the 6 month period has elapsed
- The Applicant has requested disposal ([see 9.17.1](#))

To initiate disposal the Designated Officer should;

- contact the furniture storage company to arrange for the disposal of the personal property and establish a date for disposal
- create a disposal voucher on HMS using the HMS Keying Guide and
- forward the disposal voucher to the Storage Company

9.17.1 Applicant requests disposal of personal property

Where at any time the applicant requests in writing or verbally for the disposal as opposed to redelivery of their property, Designated Officers should clearly document this request on file and/or on HMS. Where the applicant gives verbal instruction for disposal of their property the Designated Officer should confirm this by writing to the applicant affording them 14 calendar days cooling off period before the disposal arrangements are made.

The Disposal Process is summarised at [9.19](#) of this Chapter.

9.18 Furniture Removal and Storage – Terms and Conditions

1. You have requested that the Northern Ireland Housing Executive make arrangements on your behalf, to collect, place in storage and redeliver your personal property (or move your personal property from one location to another).
2. In line with the provisions of the Housing (NI) Order 1988 (Homelessness Legislation), on your behalf, the Housing Executive will arrange for your personal property to be placed in storage, **until it is satisfied there is no further need for your personal property to be stored, or until the Housing Executive has no duty for storing your personal property.**
3. At the time of collection the furniture Storage Company will complete with you a full and detailed inventory of ALL items which you are placing into storage. This inventory should be signed and dated by both yourself and the furniture storage company. For this purpose, the furniture storage company will present you with the relevant inventory documentation. **You are advised to ensure that any items you consider to be ‘Valuable’ are identified to the furniture storage company and we would recommend that you make your own insurance arrangements against loss or damage.**
4. You, or your representative will be in attendance when your personal property is being taken into storage by the furniture storage company (reasons for non-attendance must be presented to the Housing Executive when arrangements are being made, and if this is the case, the furniture storage company will complete an inventory in your absence and on your behalf).
5. If you fail to give notice to the Housing Executive 24 hours prior to furniture being collected or delivered, that you or a representative on your behalf are unable to be in attendance, the Housing Executive will be at liberty to charge you the fee incurred for the aborted call out and will fix this cost with you.
6. The Housing Executive may be at liberty to charge reasonable costs to an applicant to collect, place in storage and redeliver your personal property (or move your personal property from one location to another).
7. **If you agree to your personal property being stored, you should note, that the contract exists between yourself and the furniture storage company. Whilst the Housing Executive has made arrangements on your behalf, and may be making payments in relation to the storage of your personal property, the Housing Executive is not a party to this contract, and accepts no liability whatsoever, for any loss of or damage to your personal property whilst in transit, or in storage, howsoever incurred.**

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8. All of the furniture storage companies used by the Housing Executive for this purpose carry insurance against loss or damage.
9. In line with the provisions of the Housing (NI) Order 1988 (Homelessness Legislation), when the Housing Executive is satisfied there is no further need for your personal property to be stored, or it has no duty for storing your personal property, the Housing Executive will make arrangements for the removal from storage and redelivery of your personal property.
10. In the event that the Housing Executive ceases to be subject to a duty to store and protect your personal property, or if the Housing Executive decides not to continue arrangements for the storage and protection of your personal property **you will be given written notice requiring redelivery of it within 4 weeks from the date of the notice.**

The Housing Executive will then arrange for the disposal of your personal property and after the 4 week written notice has been given:-

- it is unable to trace your whereabouts,
- it has established that contact has been lost
- you or your agent refuse to accept redelivery of your personal property, -

The property will be disposed of within 6 months of the date of the response period to the 4 week letter.

11. In this instance, the Housing Executive has arranged for _____ Furniture Storage Company, to undertake the collection, storage and redelivery of your personal property.
12. The Housing Executive may vary the Terms and Conditions of this agreement at any time during the course of the agreements to meet its business needs. Any such change shall be notified to you in writing, giving four weeks' notice. Should the Housing Executive be unable to locate you to serve such notice the revised Terms and Conditions will be available to view and collect at the local District office.
13. Next of Kin/Agent/Nominated Person contact details

Name _____

Name _____

Relationship to applicant:

Relationship to applicant:

Address:

Address:

Phone: _____

Phone: _____

Declaration

I confirm that I have read the above Terms and Conditions and that I agree to my property being collected, stored and redelivered, in accordance with the Terms and Conditions. **I understand that the Housing Executive will dispose of my furniture and possessions in the circumstances outlined in clause 10 of the terms and conditions.**

Name _____

Homelessness Ref No _____

Signature _____

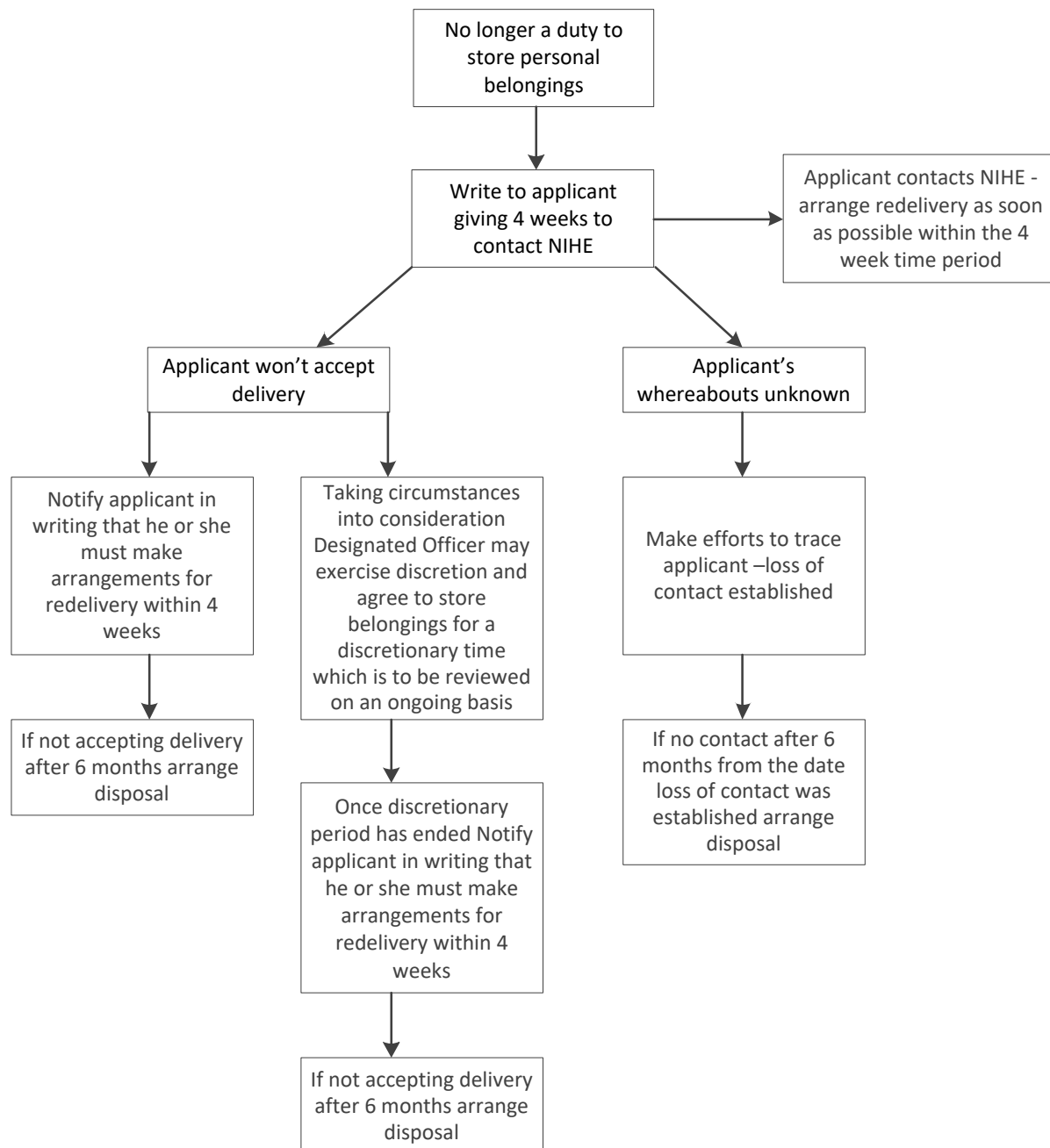
Date _____

Signature _____

Date _____

Witness by _____ (on behalf of Housing Executive)

9.19 Furniture Storage Flowchart - Cessation of responsibility / disposal of personal property



Appendix 1 Furniture Storage Duty to Protect Personal Property has Ceased

Dear <<< insert name >>>

Re: Furniture Storage Duty to Protect Personal Property has ceased

I am writing to advise you that the Housing Executive has concluded that its duty to protect your personal property has now ceased as;

(delete as appropriate)

The Housing Executive has discharged its duty to you as a full duty applicant as you have accepted an offer of tenancy

The Housing Executive has discharged its duty to you as a full duty applicant as you have refused 2 reasonable offers of permanent accommodation

You have been found to be Ineligible

You have been found to be Not Homeless

You have been found to be Homeless but not in Priority Need

You have been found to be Intentionally Homeless

As a result of this decision, I must advise you to contact this office within 4 weeks from the date of this letter <<<insert date>>> to make arrangements to have your personal property delivered from storage. Should you fail to contact me within the 4 week period; the Housing Executive will commence the process of disposing of your personal property for which it had arranged storage and protection.

Yours Sincerely,

<<< insert name>>>

Housing Advisor/Patch Manager

Appendix 2 Disposal of Personal Property from Storage

Dear <<< insert name >>>

Re: Disposal of Personal Property from Storage

Further to your contact on <<<insert date>>>, I would like to take this opportunity to confirm that during this conversation you informed me that you no longer require your personal property to be stored by the Housing Executive and you therefore made a request for us to arrange for the disposal of these items.

If you have changed your mind and no longer want to proceed with the disposal of your personal property, please contact me <<< insert contact details>>> within 14 calendar days from the date of this letter. If I do not receive any contact within the stated time period the disposal process will proceed.

Yours Sincerely,

>>> insert name >>>
Housing Advisor/Patch Manager

Homelessness Guidance Manual
CHAPTER 10 – TRANSPORT [TAXIS]
March 2023

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Chapter 10 – Transport (Taxis)

10.0 When Can Transport be used?

A Designated Officer will decide when it is appropriate to use a taxi service to transport **homeless households from a Housing Executive Office to temporary accommodation arranged by the Housing Executive.**

The Designated Officer should consider the personal circumstances of the Homeless presenter and whether they have access to their own transport or if public transport is available.

Please note that the provision of transport is not a Statutory Duty and as a result the circumstances of the household as outlined above should be given consideration before a taxi is provided.

10.1 Selecting a Taxi Company

Staff working in offices within a six mile radius of Belfast City Hall, are obliged to use the taxi company procured by the Northern Ireland Civil Service, this contract is subject to periodic reviews.

Staff working in offices that are not within the scope of the Northern Ireland Civil Service procured contract should procure taxi services in accordance with **NIHE Standing Orders and Board Scheme of Delegation.**

10.2 Procedure for Using a Taxi

Staff should arrange transport with one of the agreed companies. Arrangements will usually be by telephone.

The details of the journey will be confirmed with the company at the time of arrangement.

Staff will follow the below procedures:

- issue a taxi voucher in accordance with procedures set out in the HMS Homelessness Services Keying Guide
- Quote the voucher number to the taxi company when arranging transport (in Belfast a Password must be provided as per the Civil Service Contract)
- Staff will have made one of the following arrangements with the taxi company to email, post or provide the homeless applicant with the voucher to give to the taxi driver

See Chapter 12 – After Hours Service

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Chapter 11 – Review of Homelessness Decisions and County Court Appeals

11.0 General

This chapter provides guidance on the procedures to be followed when an applicant requests the Housing Executive to review its decision on his or her homelessness application. It also provides guidance for staff on the procedures to follow if an applicant appeals to the County Court on a point of law.

The relevant provisions are in the Housing (NI) Order 1988, as amended by the Housing (Amendment) Act (NI) 2010, and the Homelessness (Review) Regulations (Northern Ireland) 2010.

11.1 Right to Request a Review

An applicant has the right to request a review of any decision of the Housing Executive –

- as to his or her eligibility for homelessness assistance
- as to what duty (if any) is owed to the applicant when he or she is homeless or threatened with homelessness
- as to the suitability of accommodation offered to the applicant in discharge of the Housing Executive's duty to those who are homeless or threatened with homelessness

11.1.1 Right to Request a review of a homeless decision

It should be noted that any challenge in relation to a decision on eligibility or the duty owed will always rest with the Housing Executive.

11.1.2 Right to Request a review of the Suitability of Accommodation

If an applicant, who has been awarded the status of a Full Duty Applicant, wishes to challenge the suitability of temporary accommodation which has been made available to them by the Housing Executive or permanent accommodation offered by the Housing Executive or an offer of permanent accommodation offered by a Housing Association then that decision will also be challenged using the review procedure and dealt with in the usual way by the Housing Executive.

11.1.3 Notifying an applicant of the right to a review

When the Housing Executive gives notice of a decision it shall also inform the applicant of the right to request a review, the time limit within which the request for a review must be made and the Housing Executive's discretion in relation to the provision of temporary accommodation in these circumstances and also in the event of an appeal to the County Court. There can only be one statutory review.

11.1.4 When Must the Request for a Review Be Made?

Article 11A(3) of the legislation states that a request for a review must be made before the end of the period of 28 days, beginning with the day on which the applicant is so notified. The legislation also provides for a longer period as the Housing Executive may in writing allow.

The Housing Executive currently allows a period of 40 calendar days for a request for a review to be received; this allows 7 days for service of the decision letter. **This date is generally determined to be 40 calendar days from the date of the decision letter. The decision letter should advise the applicant of the date at which a review request should be received.**

Submission of a review after the 40 calendar days has expired

If an Applicant submits a request for a review after the 40 calendar days has expired, the Housing Executive has discretion to accept the review request outside the statutory period.

Generally, the applicant will be required to show good reason for his/her failure to request the review in time and for the delay in making the request for this discretion to be exercised in his or her favour. However, staff should also examine:

- Was a clear and reasoned decision presented to the Applicant to enable them to understand their position in relation to that decision and the requirements for submitting a review (staff should consider aspects such as any language barriers, for example where English is not the main language)
- Was the statutory decision notice appropriately posted/delivered to the Applicant?
- How far outside the 40 day period has the review request been made
- Was the statutory decision notice made available for collection by the Applicant or their representative, for a reasonable period of time **Note: the above list is not exhaustive**

The decision to accept a review outside the 40 calendar days,

This decision rests with that person, of appropriate seniority, who was not involved in the original decision and who would otherwise be carrying out the review. The Applicant must be notified in writing, of the Housing Executive's decision in relation to this

11.3 Procedure on a Review

11.3.1 Discretion to Accommodate Pending a Review

Where, pending inquiries in the case of an apparent priority need, the Housing Executive was under an interim duty to secure that accommodation was available and where as a result of those inquiries, no Main Duty arises, the Housing Executive is no longer required to provide accommodation. This will be the case even where an applicant submits a Review. However, it is at the Housing Executive's discretion to secure that accommodation is available for the applicant's occupation pending a decision on the Review.

In deciding to secure that accommodation is available, staff should individually consider a request for temporary accommodation which is made pending the outcome, by taking into consideration:

- The strength of the applicant's case on review
- Whether any new material, information or argument has been raised since the initial decision was made
- The personal circumstances of the applicant
- The consequences for the applicant if accommodation is not secured and any other relevant considerations

Consideration must also be given to determining if, at the outset, there was a complete absence of any explanation or reasoning in the statutory decision letter, in dealing with the various important aspects of the case.

As the provision of temporary accommodation pending review under Article 8(3) of the 1988 Order is down to the Housing Executive's discretionary power, there is no right of review against a decision not to provide temporary accommodation in these circumstances. The only way in which the applicant can challenge such a decision is by using the Housing Executive's formal complaints procedure and by judicial review.

11.3.2 The period within which a review decision is to be given to the applicant

The period within which notice of the decision on a review is to be given to the applicant by the Housing Executive is 8 weeks, or such longer period as the applicant and the Housing Executive may agree in writing. It is therefore important that, once a request for a review has been received by the Housing Executive, it is immediately forwarded to the relevant Reviewing Team.

11.3.3 Acknowledgement of a Review

Where a request for a review has been received by the Housing Executive, the Housing Executive shall notify the applicant –

- that they, or someone acting on their behalf may make representations in writing to the Housing Executive in connection with the review and
- of the procedure to be followed in connection with the review, if it has not done so already

A sample acknowledgement letter can be found at [Appendix 12 – Acknowledgement of a Request for a Review of your Homelessness Decision](#).

11.3.4 Who may carry out the Review?

The review will be carried out by a person who was not involved in the original decision and is senior to the officer who made the decision.

Ineligible decisions

Only the Team Leader or a more senior officer can make a decision that the applicant is ineligible for homelessness assistance, whether on grounds of unacceptable behaviour or because the applicant is a person from abroad or subject to immigration control. As a result, only a more senior officer to the Team Leader or to the senior officer who reached the ineligibility decision can review that decision. Only the Team Leader or a more senior officer can make a decision on the grounds of intimidation.

11.3.5 "Minded to" letter

If the Housing Executive considers that there is a deficiency or irregularity in the original decision, or in the manner in which it was made, but is "minded" nonetheless to make a decision which is against the interests of the applicant on one or more issues, the Housing Executive shall notify the applicant that –

- the Housing Executive is so minded and the reasons why and

- the applicant, or someone acting on their behalf, should be invited to make further representations to the Housing Executive orally or in writing or both orally and in writing.

The purpose of the “minded” letter is a statutory obligation and it is advisable to seek advice from Legal Services in these circumstances

A sample “minded” letter is at [Appendix 13 – Minded Letter](#).

11.3.6 What Will the Review Cover?

The review is more than a reconsideration of the original decision; it allows additional information to be considered and requires the Housing Executive to make full and proper enquiries. The Reviewing Officer is obliged to carry out his or her own investigations and cannot simply rely on matters raised by the applicant. The review will cover –

- all information taken into account by the Designated Officer in arriving at the original decision
- adherence by the Designated Officer to the Homelessness Legislation and the Homeless Guidance Manual
- any additional information provided by the applicant in his or her review request or at any oral hearing
- any enquiries made and any additional information sourced by the officer undertaking the review

11.3.7 Notification of the Decision on a Review

The Housing Executive shall notify the applicant of the decision on review. The reasons for the decision should be proper, intelligible and adequate to allow the applicant to understand the reasons for the Reviewing Officer’s decision. This is subject to the caveat below regarding the circumstances in which such notification will be delivered.

The period within which notice of the decision on a review shall be given to the applicant by the Housing Executive shall be 8 weeks, or such longer period as the applicant and the Housing Executive may agree in writing.

If the decision is to confirm the original decision on any issue against the interests of the applicant, the Housing Executive shall also notify the applicant of the reasons for the decision.

The Housing Executive shall inform the applicant of the right to appeal to the county court on a point of law and the period within which such an appeal must be made.

It is important to note that notice of the decision shall not be treated as given unless and until the applicant is advised of his/her rights on appeal, the applicable time limits in respect of same and where the decision is to confirm the original decision which was against the interests of the applicant, reasons for that decision are also given.

The notice shall be given in writing and shall, if not received by the applicant, be treated as given to the person only if it is made available for a reasonable period at the office of the Housing Executive to which the person applied, for collection by or on behalf of that person.

If the Review Period will take longer than 8 weeks

Where the review process requires further time then, in accordance with legislation¹, the Housing Executive and the Applicant may agree a longer period in writing. Staff should therefore write to the Applicant or the Applicant's representative to seek agreement to an extended period as early as possible.

11.4 Right of Appeal to a County Court on a Point of Law

If an applicant who has requested a review of a homelessness decision and–

- is dissatisfied with the decision on the review, or
- is not notified of the decision on the review within the time period prescribed i.e. 8 weeks

The applicant may appeal to the County Court on any point of law arising from the review decision or, as the case may be, the original decision.

An appeal must be brought within 28 days of the applicant's 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 the review.

The County Court may give leave for an appeal to be brought after the expiry of the said 28 days but only if it is satisfied that there is a good reason for the applicant being unable to bring the appeal on time or, where leave is sought after that time, there is good reason for the applicant's failure to bring the appeal on time and for any delay in applying for leave. The Housing Executive does not have power to extend this time limit as only the Court has this discretion.

¹ Article 5 (1) The Homelessness (Review) Regulations (Northern Ireland) 2010

On an appeal, the County Court may make an order confirming, quashing or varying the Housing Executive's decision as it thinks fit.

Where the Housing Executive receives notification of an intention to appeal to the County Court, contact should be made in the first instance with the Housing Executive's Legal Department.

11.4.1 Where the Housing Executive is provided with new information at the same time as the Applicant has appealed or is intending to appeal to County Court

An applicant may, upon receipt of notification from the Housing Executive to uphold an earlier decision, seek legal representation for the purposes of appealing to County Court. At this point new information may also be presented to the Housing Executive which, had it been available before an adverse decision was reached, led to a positive decision. In these circumstances the Housing Executive would consider withdrawing the review decision to avoid the cost of an appeal to County Court. The Reviewing Officer should notify The Housing Executive's Legal Services, who will in turn advise the applicant's solicitor that the review decision will be withdrawn on the basis of new information. The case will go back to the original decision making stage for a new decision; therefore the applicant will have the benefit of the statutory review and appeal on this new decision.

11.4.2 Discretion to Accommodate Pending an Appeal or its Outcome

Where the Housing Executive was under a duty to secure that accommodation was available pending enquiries (interim duty to accommodate) or to applicants found to be intentionally homeless or ineligible, but homeless and in priority need (duties to those found to be homeless) or where it provided accommodation under its discretionary powers during the Review period, it may secure that accommodation is so available where a person appeals to the County Court –

- during the period for appealing the Housing Executive's decision, and
- if an appeal is brought, until the appeal (and any further appeal) is finally determined

11.4.3 Appeals and Exercise of Duty to Accommodate Pending Outcome of Appeal

- If the applicant is dissatisfied with the Housing Executive's decision: not to exercise its power to secure accommodation is available either during the period for appealing the above decision or not to secure accommodation until the final determination by the court or
- to cease exercising its power before that time then the applicant may appeal to the County Court in respect of that decision.

On this appeal in relation to the provision of temporary accommodation the County Court –

- may order the Housing Executive to secure that accommodation is available for the applicant's occupation until the determination of the appeal (or such earlier time as the Court may specify)
- shall confirm or quash the decision appealed against

In considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review. Broadly speaking those principles relate to reasonableness, procedural propriety and , illegality of decisions made

If the County Court quashes the Housing Executive's decision it may order that the Housing Executive secures accommodation for such period as may be specified in the order. Such an order may only be made if the Court is satisfied that the failure of the Housing Executive to exercise its powers here would substantially prejudice the applicant's ability to pursue the main appeal. However, the court cannot order that accommodation is provided after the main appeal has been decided.

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Chapter 12 – After Hours Service

12.0 Background

Belfast Health and Social Care Trust operate the **Regional Emergency Social Work Service (RESWS)**

The service is responsible for emergency homelessness services on behalf of the Northern Ireland Housing Executive (NIHE)

The regional out of hours social work service provide an emergency response across Northern Ireland on an out of hours basis:

- 5pm to 9am weekdays
- 24 hours at weekends and bank holidays
- Out of Hours can be contacted on 02895049999

It is the responsibility of the Team Leader/Assistant Area Manager/Assistant Housing Solutions Manager to ensure that staff are aware of the out of hours contact numbers and the liaison officers for their respective area during normal working hours.

As part of their processes, The Trust now use Selective Travel to source and book any necessary accommodation placements, including out of hours placements on behalf of the NIHE.

Hotel/B&B accommodation will only be used when no suitable hostel accommodation can be arranged. Where non-standard accommodation is required, the out of hour's social worker will contact Selective Travel to source this. Any accommodation sourced by Selective Travel will be paid for up front by them. They will then bill the Belfast Trust for payment. Belfast Trust will then recoup from the Housing Executive.

12.01 Payments associates with Out of Hours placements

12.1.1 Changes to NIHE Vouchers

As any non-standard, out of hours placements will now be paid up front, NIHE staff should **no longer accept invoices from Hotels or Bed and Breakfasts [B&Bs]** for out of hours placements with effect from 1st January 2015.

Upon receipt of an out of hours report giving notification of an out of hours placement staff should complete the following steps:

- create the voucher,
- Belfast Health and Social Care Trust should be selected as the payee,
- The voucher should then be created and forwarded to the Trust (see HMS Homelessness Services Keying Guide)

The Trust will then invoice NIHE. All payments will be made to the Trust.

If any Hotel or B&B invoices are received for out of hours placements staff should contact Homeless Policy Unit for advice.

12.02 PARIS Number

All referrals from RESWS will now have a unique PARIS (a reference number generated by the Trusts records reporting system) number related specifically to that case. This PARIS number should be included in the notes section of the voucher which will allow the Trust to match the voucher to the placement.

12.03 Taxis

The Trust has reported that on occasion, Taxi companies are requesting voucher numbers before they will pick up out of hours. It has been agreed with the Trust that they will use the PARIS ID number after hours for taxi bookings.

Local Offices should issue instructions to their Taxi Companies stating that if they are contacted before 5pm they will be given a voucher number. If they are contacted after 5pm they will be given a PARIS number. They should include the PARIS number on their invoice to allow staff to match to the related out of hours referral.