



AN OBSTACLE COURSE

Homelessness assistance and the
right to housing in England

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An Obstacle Course: Homelessness assistance and the right to housing in England

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Glossary

A&E	Accident and Emergency departments in hospitals
AST	Assured Shorthold Tenancy – the most common form of private sector tenancy in England, it allows the landlord to evict a tenant without reason at the end of the tenancy period
B&B	Bed and breakfast accommodation
CESCR	UN Committee on Economic, Social and Cultural Rights
CPN	Community Protection Notice, which can be issued by local authorities and the police for persistent anti-social behaviour. Failure to comply with the notice is a criminal offence
DLUHC	Department for Levelling Up, Housing and Communities, previously known as the Ministry for Housing, Communities and Local Government
DRUG DEPENDENCE	Drug dependence is a chronic, relapsing health condition that implies a need for repeated doses of certain drugs and may require medical treatment
GP SURGERY	A medical practice providing primary healthcare
HHSRS	Housing Health and Safety Rating System is an evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety in housing or accommodation
ICESCR	The International Covenant on Economic, Social and Cultural Rights
INTENTIONALLY HOMELESS	Households who are deemed by the local authority to have made themselves homeless and are therefore not entitled to be provided with housing
LEAVE TO REMAIN	Permission granted to non-UK nationals to enter and live in the UK for a specific period of time
LHA	Local Housing Allowance, a form of housing benefit for private tenants introduced in 2008
LOCAL CONNECTION	Connection to a local area through family, work or residence. This is sometimes taken into consideration by local authorities to determine whether a person is entitled to housing in that district
MAIN HOUSING DUTY	The duty on local authorities to provide housing. Often the main housing duty starts with the offer of temporary accommodation until ended, either by an offer of settled accommodation or for another specified reason
NO RECOURSE TO PUBLIC FUNDS (NRPF)	A UK immigration restriction that is widely applied to grants of leave to enter or remain in the UK that are time limited. People with NRPF do not have access to social security benefits such as Universal Credit, Child Benefit, Disability Living Allowance, and mainstream forms of housing assistance

PSPO	Order issued by local authorities to protect public areas and community life from nuisance and harm as part of the Anti-Social Behaviour, Crime and Policing Act 2014
PREVENTION DUTY	The duty of local authorities to take reasonable steps to help prevent any eligible person who is at risk of homelessness, from becoming homeless
PRIORITY NEED	Households or individuals, based on their particular circumstances (such as having dependent children, or a serious health conditions) are deemed to be in 'Priority Need' and therefore entitled to be provided with housing
RELIEF DUTY	The duty of local authorities to take reasonable steps to help secure accommodation for any eligible person who is already homeless
ROUGH SLEEPING/ STREET HOMELESS	An extreme and often most visible form of homelessness that involves sleeping on the street, in parks, derelict buildings and other areas not meant to be used for residence
SECTION 21 NOTICE	A notice issued to initiate a process to end an assured shorthold tenancy
SETTLED ACCOMMODATION	Housing where the occupier has medium- to long-term (at least six months) security of tenure as an individual or part of a household
SINGLE HOMELESS	A homeless person or household with two or more adults but without dependent children
SOFA SURFING	Also known as 'hidden homelessness' – a situation where a person may live with family, friends, acquaintances and sometimes strangers, on a temporary basis, often sleeping on a sofa or on the floor
STATUTORILY HOMELESS	People who are homeless, or threatened with homelessness, and entitled to be helped by local authorities under Housing Act 1996, Part 7
SUPPORTED HOUSING	Supported housing is a form of accommodation where housing, support and sometimes care services are provided
TEMPORARY ACCOMMODATION	Forms of accommodation provided to households and individuals experiencing homelessness whom the local authorities have a duty to house and do not have appropriate housing available
THROUGH THE GATE SERVICES	Services to prepare people in prison for release and resettlement including with help to access the support they need in terms of housing, healthcare and social security
WRAP-AROUND SUPPORT	A comprehensive package of support that does not focus just on one immediate issue (for example housing) but includes support for all other needs. For example, support with accessing the correct benefits, immigration advice, attending health appointments, etc

1. Executive summary

‘It is brutal just surviving in that situation... I was out on the street, I slept in my car for a bit...I slept in parks and put myself in very vulnerable situations...’

Mandy

Thousands of people in England remain homeless because they are denied their right to housing. England’s housing and homelessness system is effectively a gruelling obstacle course with housing as a prize for those who make it to the end. Many fail to get past the first barrier because they are not considered eligible for homelessness support. Others fall through trap doors along the way. As a result, they have no choice but to sleep rough, or live in extremely precarious and inadequate housing, often at great risk to their mental and physical health and personal safety.

A staggering 283,440 households applied for homelessness assistance to local authorities in England between October 2020 and September 2021. The actual number of homeless households may be much larger.

Homelessness results from combinations of factors, such as poverty, inequality, lack of timely and adequate social support, lack of affordable housing, domestic violence, relationship breakdown, drug and alcohol dependence, lack of access to adequate physical and mental healthcare, and discrimination. Regardless of the immediate cause, the fact that people remain homeless for prolonged periods of time is rooted in social and fiscal policy decisions made by governments and their failure to address inequality of access to essential services such as homelessness support and healthcare.

International human rights law and standards recognise homelessness as an extreme violation of the rights to adequate housing and non-discrimination, and often also a violation of the rights to life, to security of person, to health, to protection of the home and family and to freedom from cruel and inhuman treatment. The UK is a state party to several international human rights instruments that recognise the right to adequate housing, most notably the International Covenant on Economic, Social and Cultural Rights. It, along with its constituent nations and regions, is therefore obliged to guarantee each right in the Covenant, including the right to adequate housing for all.

However, in England, housing continues to be treated as a benefit, charity or even a reward, instead of a human right. As a result, local authorities do not have a duty to provide housing to every person facing homelessness. They are only required to provide housing to people experiencing homelessness – who pay for it through their social security benefits – if they meet the criteria discussed below. Others are expected to fend for themselves, which often results in prolonged periods of homelessness.

This report examines law, policy and practice on homelessness in England from a human rights perspective. The report highlights some vital gaps between the UK’s international human rights commitments and domestic law and policy. It also highlights the close link between homelessness and access to physical and mental healthcare. Based on

interviews and group discussions with 82 people with experience of homelessness, the report draws out the specific experiences of women, prison leavers and people subject to immigration control when accessing homelessness support.

Legal barriers to accessing homelessness support and housing

It's a constant battle, a constant fight and you get to a point where you wonder whether it's worth it

Sarah (name changed)

Generally speaking, in order to access homelessness support, a household or individual is required to apply for assistance to their local authority. Local authorities are required to check for eligibility, that is, whether the person is excluded from homelessness assistance due to immigration restrictions. If the applicant is eligible, local authorities are then duty bound to provide homelessness assistance. This could be in the form of a prevention duty – to take reasonable steps to help prevent homelessness; or a relief duty – to take reasonable steps to help secure accommodation for those already experiencing homelessness. However, neither duty mean that the local authority has to find suitable housing for the applicant. In practice, these duties could amount to payment of deposit to help secure private rented accommodation or merely suggestions of lettings agents for the applicant to contact to look for alternative housing.

Where homelessness is not prevented or relieved, local authorities have a duty to provide accommodation for those who are eligible, in 'priority need' and 'unintentionally homeless' and sometimes, if they can show that they have a local connection to the district. The criteria effectively deny thousands of people the housing they need.

Immigration control and eligibility

Eligibility for homelessness assistance is determined based on whether the applicant is subject to immigration control. Local authorities do not have a duty to provide homelessness support to those subjected to immigration control, not habitually resident, or who have 'No recourse to public funds' (NRPF) status. Social services may have to provide accommodation where 'ineligible' homeless households include children. Because most hostels and other forms of temporary accommodation are linked with access to state social security benefits, these are inaccessible to people subject to immigration control and NRPF. Undocumented migrants, including those whose asylum claims have been rejected, are amongst the most vulnerable group experiencing homelessness. For such undocumented migrants, the only options that remain are informal renting where affordable, sofa-surfing or rough-sleeping, all of which place them at high risk of abuse and exploitation.

Priority need

Local authorities are required to assess anyone found 'eligible', to determine whether they are in 'priority need for accommodation'. The criteria for 'priority need' include pregnancy, being a victim of domestic abuse, having dependent children and vulnerability as a result of old age, mental illness or disability. In order to determine whether a person is vulnerable enough to be considered to be in 'priority need', the local authority should confirm that the applicant would suffer or be at risk of suffering harm which would make a noticeable difference to their ability to deal with the consequences of homelessness.

The determination of ‘priority need’ is a significant stumbling block for many people trying to access housing. This condition mainly affected people classified as ‘single homeless’ or those without dependent children. At least six women Amnesty International interviewed had their children taken into care by social services and were deemed ‘single homeless’ – and therefore not in priority need. Charlotte (not her real name) told Amnesty International how she had fallen through the ‘priority need’ gap: ‘My children were living with me for some time but then they were taken into foster care. Without my children I wasn’t offered a place to stay, and I couldn’t get a job to get them back.’

Intentionality

A further requirement to qualify for long term housing support is that the applicant is not ‘intentionally homeless’. A person may be found to be intentionally homeless on grounds of failure to pay rent or make mortgage payments when able to, refusal to accept suitable accommodation offered by the local authority, eviction because of anti-social behaviour, loss of home due to a prison sentence; and voluntary surrender of housing which it would have been reasonable to continue to occupy.

Interviewees told Amnesty International that they felt they had no choice but to live in sub-standard temporary accommodation because if they refused it, they would be declared ‘intentionally homeless’ and the local authority would no longer be responsible for finding them suitable housing. Charity workers also confirmed this practice and said that they often advised applicants to accept the housing offered and later raise concerns about its quality or seek a move elsewhere.

According to the *Homelessness Monitor* 2022, there were around 22,000 homeless households in 2020/21 who were deemed either not to be in priority need or to be intentionally homeless.

Housing entitlement criteria at odds with international human rights standards

The UK is a state party to the International Covenant on Economic, Social and Cultural Rights. Providing access to basic shelter and protection from homelessness for all, is part of the minimum core obligations (obligations that states are required to fulfil regardless of the resources at their disposal) of the right to housing as well as the right to health. The UN Committee on Economic, Social and Cultural Rights has also said that a state party to the ICESCR in which any significant number of individuals are deprived of basic shelter and housing is *prima facie*, failing to discharge its obligations under the Covenant. Moreover, as per General Comment 36 on the Right to Life in the International Covenant on Civil and Political Rights, the duty to protect life includes the duty to address ‘the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include... extensive substance abuse, widespread hunger and malnutrition and extreme poverty and **homelessness** [emphasis added].’

However, the criteria for housing eligibility and entitlement, and particularly the absence of a statutory duty on authorities to provide even basic shelter to anyone experiencing homelessness, effectively exclude thousands of people from accessing their rights. They are therefore in conflict with the UK’s international human rights obligations. The denial of access to housing support by local authorities to most people excluded from public funds not only impacts their right to housing but also their right to health,

food, water, sanitation and safety of person. The principle of progressive realisation, permitted under ICESCR, allows for some form of prioritisation in allocation of housing. However, the current system in England – where an applicant is disqualified from being provided with housing, based on their inability to fulfil the criteria such as ‘priority need’ – is inconsistent with international human rights standards. Similarly, the intentionality test as currently applied in England is over broad and effectively excludes thousands of the most vulnerable people from accessing housing.

Forms of homelessness

Law and policy in England recognises homelessness to mean a wide range of living conditions including rough sleeping, sleeping in night shelters and other short-term accommodation, and in unsuitable temporary accommodation.

Sleeping rough or street homelessness is the most visible form of homelessness. It includes sleeping on the pavement, under bridges, and spaces not meant for residential purposes like bus stops and coach stations. People sleeping rough are also often subjected to violence and abuse from members of the public and have been kicked, beaten, and had their belongings set on fire. The estimates for people sleeping rough in London alone from April 2020 to March 2021 were 11,081. Because of the high risk of violence and abuse, women tend to form a relatively small proportion of people sleeping rough, especially in more public spaces

Sofa surfing or ‘hidden homelessness’ as it is often referred to comprises an informal living arrangement where a person lives with friends, acquaintances, and sometimes strangers, on a temporary basis. The very nature of this form of homelessness means that it is very difficult to get estimates of the number of people sofa surfing. The *Homelessness Monitor 2022*, an annual assessment of homelessness produced by the national housing and homelessness charity Crisis, shows that the largest group experiencing homelessness in 2020, amounting to at least 100,000 people, were sofa surfing. Unlike tenants, people who are sofa surfing have no rights or security of tenure and are therefore at risk of being harassed and evicted at any time. People resorted to sofa surfing because they did not know where to turn for help or they were turned away by housing authorities. Sofa surfing comes at significant cost as living in the informal or underground system inevitably increases people’s vulnerability to exploitation and pushes them further away from the services and support they might need, including healthcare or social security.

In most cases, temporary accommodation is offered by local authorities to people who are entitled to longer-term housing but who cannot be placed in it because there is a shortage of adequate and affordable housing. Temporary accommodation can be in the form of a self-contained flat; bed and breakfast (B&B) accommodation as well as hostels and refuges. Residents pay for temporary accommodation through social security benefits. By end September 2021, there were 96,060 households in temporary accommodation of which 9,780 households were placed in B&B accommodation. Several of the people Amnesty International spoke with complained of poor and unhygienic living conditions in temporary accommodation.

Homelessness and health

Homelessness is increasingly and rightly being recognised as not only a housing issue, but also one that concerns health. Long-term or chronic homelessness is often accompanied by tri-morbidity: physical ill-health combined with mental ill-health and substance (drug or alcohol) dependence. The stresses and strains of homelessness – including precarious and unsuitable housing combined with increased exposure to violence, drug or alcohol dependence – and the lack of a nutritious diet and proper care, all contribute to multi-morbidity.

In 2020 the average age of death for people sleeping rough or in homelessness accommodation was 45.9 years for men and 41.6 years for women. In 2020, an estimated 688 deaths of people experiencing homelessness were registered in England and Wales. Around 38.5 per cent were related to drug poisoning, 12.1 per cent to alcohol-related causes and 10.8 per cent to suicide.

Access to primary healthcare is of particular concern among people who are sleeping rough or sofa surfing. Despite clear guidance from the National Health Service and the British Medical Association that a patient experiencing homelessness cannot be refused registration on the basis of lacking an address, all the healthcare professionals who spoke with Amnesty International noted that registering with a GP practice (primary healthcare service) remains a challenge for people experiencing homelessness.

Amnesty International found that mental health and alcohol and drug dependence were still seen as two separate diagnoses, each in its own silo. This echoed the finding in Groundswell's 2020 report on women experiencing homelessness. One of the reasons the women found it difficult to access mental health support was that they were told that 'they needed to sort out their housing issue and/or addiction before they could receive support.' For people experiencing homelessness, this approach, when combined with chaotic lives, isolation and social exclusion, discouraged many from accessing the support they needed.

Underlying causes of homelessness

One of the main causes of widespread and prolonged homelessness in England is the lack of affordable housing, caused by a lack of investment to build sufficient affordable housing stock, rising rents and a fall in real incomes. Measures such as the 'Right to Buy' introduced by the government in 1980 allowing council housing tenants to buy their homes at subsidised rates, have meant that social housing stock has been systematically eroded and local authorities have not been given the necessary resources to replenish it. According to official data, there were 1.15 million households on social housing waiting lists at the end of 2020/21 while just 6,566 new social homes were delivered in that financial year. As the publication *Inside Housing* pointed out, this means that just one social home was delivered for every 175 families on council housing waiting lists across the country.

This situation, coupled with policy measures introduced in 2010-11 such as capping and freezing Local Housing Allowance (LHA), the Bedroom Tax and freezing social security benefits have meant that accessing adequate housing on the private rental market is extremely difficult for most people living in poverty. The National Audit Office (NAO) has highlighted that, since 2010, private sector rents have increased three times as much as median earnings in England and eight times as much as median earnings in London.

Austerity measures have also deeply impacted local authorities. According to the National Audit Office, central government funding for local authorities fell by 49.1 per cent from 2010-11 to 2017-18. Local authorities have had to prioritise certain critical sectors over others and according to the Institute for Fiscal Studies, spending by councils on housing and planning services was cut by 50 per cent while expenditure on adult social care was reduced by 5 per cent between 2009/10 and 2017/18.

The way forward

The current government has committed to end rough sleeping by 2024. While this may appear an ambitious goal to some, rough sleeping is, unfortunately, only the tip of the homelessness iceberg. To seriously address homelessness and uphold the right to housing for all, the government needs to remove the legal barriers that people face when trying to access homelessness support. It also simultaneously and urgently needs to invest in building more genuinely affordable housing.

Lawmakers in England do not need to look far for inspiration to bring their laws and policies closer to the UK's international human rights commitments. Scotland abolished the 'priority need' condition with effect from 31 December 2012. Local authorities in Scotland were also no longer legally required to assess whether a homelessness applicant had become 'intentionally' homeless. In Wales, local authorities cannot apply the intentional homeless test to applicants who are pregnant, or have dependent children, or are young people.

The 'Housing First' approach, introduced in England since 2016, also holds considerable promise. It involves offering the person experiencing homelessness a settled home and wrap-around services – mental health, drug and alcohol dependence services and any other support they may need – simultaneously as opposed to the traditional 'staircase approach' where the person is expected to fulfil certain conditions for example address their drug and alcohol dependence before they are provided with housing. It is not based on conditionalities and housing is not offered as a prize or reward to those who can complete all the steps. Instead, it is grounded in human rights: housing is seen as a human right that is universal and inalienable, and depending on the specific needs, a person is helped to access and remain in housing. A report on Housing First by the All-Party Parliamentary Group (APPG) on Ending Homelessness noted that by September 2020 three pilot Housing First projects had served 450 people, with 88 per cent of users being able to sustain their housing.

'Everyone In', the UK government's programme for providing emergency accommodation to all who needed it in the early days of the pandemic, showed the potential of an approach to homelessness that was devoid of arduous conditions and eligibility criteria. Healthcare professionals and homelessness support workers told Amnesty International about the progress that they made in assisting people in transitioning to independent living since they had been provided (albeit for a short time) with a secure and adequate place to live.

Conclusion and recommendations

Homelessness is an experience not a process. Our response through the homelessness legislation is a process to identify who is entitled to state support and who is not. There is no legislation in place which gives us explicit rights to a home. What we have are rationing systems for inadequate supply.

JT, Chief Executive of St Basils and Chair of the West Midlands Combined Authority Homelessness Taskforce

For too long, homelessness in England has been explained as the failure of the individual to cope with the stresses and strains of life. It is high time that we see it for what it is: a failure of the state to guarantee equality of opportunity, equal access to essential services to all and to ensure that no one is left behind. Considering the findings in this research, the report has a full set of recommendations for the different government departments. Below is a list of some key recommendations:

- Amend the Housing Act 1996, Part 7, to abolish the criteria of ‘priority need’ and ‘intentionality’ for determining entitlement to housing; and ensure that everyone who is homeless and unable to provide for themselves is provided with housing while prioritising those most at risk of abuse, exploitation and other human rights violations.
- Take urgent steps and prepare a roadmap with concrete targets to fulfil unmet housing needs, including by building and enabling local authorities to provide adequate and affordable housing for every person who needs it.
- Scale up Housing First across England by making the necessary financial commitments to deliver and maintain support for at least 16,450 one-bedroom Housing First units in the country as outlined by the APPG on Ending Homelessness.
- Take steps, including through amendments to immigration legislation, to ensure that every person regardless of immigration status has access to benefits and other essential services to avoid homelessness and is able to access their right to an adequate standard of living.
- Ensure that all relevant agencies and bodies, including NHS England and through them Clinical Commissioning Groups, and Primary Care Networks, take urgent and immediate steps to prioritise the healthcare needs of people experiencing homelessness, regardless of immigration status. This must include supporting GP surgeries in guaranteeing access to primary healthcare for people experiencing homelessness.
- Take urgent steps to ensure that the Local Housing Allowance (LHA) is immediately adjusted in line with increasing rents in the private rented sector and meets at least the 30th percentile of current local rents. Also commit to progressively raise LHA to the median of market rents within a specific time period. The LHA must be reviewed on a regular basis to ensure that it allows people to access safe and habitable housing in line with international human rights law and standards.
- Explicitly recognise and incorporate the right to adequate housing as a human right in domestic law, policy and practice.
- Engage in a process of genuine consultation with people with experience of homelessness, service providers and civil society organisations to develop a human rights compliant national housing and homelessness strategy and ensure that there is sufficient funding and administrative support to realise the right to adequate housing for all.
- Ensure that the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which the UK is a state party, is incorporated into domestic law and the rights enshrined within it are enforceable through domestic courts.

2. Methodology

This report examines law, policy and practice concerning homelessness in England from a human rights perspective and highlights gaps between the UK's international human rights commitments and its approach to homelessness at the domestic level. It provides an overview of homelessness in England and locates it in the broader context of the country's housing crisis.

As part of devolution (decentralisation of power) in the UK, the constituent nations and regions – Scotland, England, Wales and Northern Ireland – have varying approaches, laws and policies on housing and homelessness. While homelessness is a growing cause for concern throughout the UK, this report focuses on England – the largest and most populous nation.

The report is based on qualitative research carried out by Amnesty International between July 2021 and February 2022. The research sought to understand the legal and policy structure that underpins homelessness response in England and the barriers that people threatened by or experiencing homelessness face when accessing housing. This involved group discussions and detailed interviews with people who had experience of homelessness (rough sleeping, sofa surfing and unsuitable temporary accommodation); grassroots groups and NGOs working in the homelessness sector; and academics, healthcare professionals, journalists, and other experts in the field. Amnesty International also spoke with representatives and officials of local authorities in Birmingham, Camden, Canterbury, Islington and Hackney, Manchester, Norwich and Newham. The report also draws on analysis of a range of documents and statistical data whose sources include government, academic and NGO studies.

Gypsy, Roma and Traveller (GRT) communities have historically faced inadequate and insecure housing. The failure of successive governments to provide sufficient permanent and temporary sites has resulted in regular evictions of community members, often resulting in homelessness and poor health and education outcomes. However, given the distinct barriers impeding the community's access to housing, this report does not cover homelessness in the GRT community. Amnesty International nevertheless acknowledges the continuing discrimination and effective homelessness of GRT communities as a serious human rights concern that needs to be addressed as a matter of urgency.

Amnesty International partnered with Groundswell, a UK-wide organisation that works with people with experience of homelessness, offering opportunities to contribute to society and create solutions to homelessness. Groundswell organised two workshops with peer volunteers (individuals with lived experience of homelessness who engage in various aspects of Groundswell's work including research, advocacy and involvement as a network) for input on research questions and the most appropriate ways to approach potential interviewees. Groundswell also disseminated Amnesty International's request to interview people with lived experience of homelessness through its networks.



Amnesty International researchers spoke to 82 people (52 women and 30 men) with experience of homelessness from around England including London, Manchester, Salford, Birmingham, Newcastle, Norwich, and Canterbury. They were predominantly White British (53 individuals). Ten of the people who spoke with Amnesty International were Black African, seven were Black British, five were White Eastern European, four were South Asian and three were Middle Eastern.

The researchers used interviews and discussion groups. They conducted detailed interviews, usually lasting an hour, with 44 people who had experienced homelessness. The age of the respondents ranged from 25 to 72, and five were younger than 40. The average age was 53 for men and 47 for women. Owing to public health restrictions arising from the Covid-19 pandemic, many interviews were conducted by phone or online. Out of the 44 individual interviews conducted, 24 were in person and 20 were carried out either by phone or online. With reference to group discussions, one was conducted in person and four via conference call. In recognition of their time and as advised by Groundswell, Amnesty International offered individual interviewees a £10 voucher for a supermarket of their choice. To avoid re-traumatising interviewees, researchers made it clear that the interviewee should only answer questions they were comfortable with and could terminate the interview at any time. In compliance with informed consent given by interviewees, the report protects the identity of some respondents. The date of the interview is given, but some names have been changed and location, nationality and other identifying details have been anonymised, according to individual wishes.

Above: Shipping containers converted to temporarily house families experiencing homelessness. Hanwell, London, August 2019.
© Chris J Ratcliffe/
Getty Images

In addition to the workshops with Groundswell's peer researchers, Amnesty International participated in a number of group events:

- a group discussion with the 'Experts by Experience' group associated with Pathway, a healthcare charity helping the National Health Service to create hospital teams to support patients experiencing homelessness;
- a group discussion with women experiencing homelessness organised by the Magpie Project, which supports women and their children facing inadequate housing;
- two group discussions organised by Revolving Doors, a charity that works with people who come into repeat contact with the criminal justice system due to factors including homelessness, housing insecurity, poverty and mental ill-health. One of these was with women exclusively as part of their dedicated women's forum.

Amnesty International also interviewed 57 people whose work relates to homelessness: those providing support service or running shelters, NGO workers, journalists, healthcare workers, academics, and lawyers.

Amnesty International shared early versions of key findings and recommendations based on those findings with a group of peer advocates and researchers associated with Groundswell.

2.1 Acknowledgements

Amnesty International would like to thank all the people with experience of homelessness who so generously shared their experiences and expertise in interviews and group discussions. This report would not have been possible without them.

We would also like to thank Groundswell for its support in outreach, for facilitating meetings and group discussions, and for advice and feedback on the report. We would also like to thank Adele Irving, Carla Reeson, Dr Indrajeet Ghosh, Koldo Casla and Revolving Doors for their expert advice, and for reviewing parts of and early drafts of this report. We are also grateful to a huge number of organisations who provided us with their expert inputs and guidance during the course of the research including The Magpie Project, the Museum of Homelessness, Streets Kitchen, Manchester Action on Street Health and Street Storage.

We would also like to thank the SOAS International Human Rights Clinic and the students associated with it, for their research on laws and policies that impact homelessness in England.

We are deeply grateful to Liz Davies QC for reviewing the legal analysis in the report.

3. An overview of homelessness in England

Homelessness is an extreme violation of the rights to adequate housing and non-discrimination and often also a violation of the rights to life, to security of person, to health, to protection of the home and family and to freedom from cruel and inhuman treatment.¹

The law in England provides a wide definition of homelessness, going beyond rough sleeping to include people living in inadequate housing.²

According to official statistics, from October 2020 to September 2021 a staggering 283,440 households in England applied to their local authorities for homelessness assistance. Of these, 269,770 were assessed as entitled to homelessness support – 124,820 were threatened with homelessness and 144,950 were experiencing homelessness.³ Of these, nearly 70 per cent identified as ‘White’, 10 per cent as ‘Black or Black British’ and 6 per cent as ‘Asian or British Asian’.⁴ Among those recorded as threatened with homelessness were single adult men (30 per cent), single women with children (25 per cent) and single women (22 per cent).⁵

People experiencing homelessness have been recognised as one of the four most disadvantaged groups in England.⁶ Many people in the other three groups: Gypsy, Roma and Traveller (GRT) communities; people with disabilities; and migrants, refugees and people seeking asylum – also experience homelessness.

Homelessness results from combinations of factors, such as poverty, inequality, lack of timely and adequate social support, lack of affordable housing, domestic violence, relationship breakdown, drug and alcohol use and dependence,⁷ lack of access to physical and mental healthcare,⁸ and discrimination based on characteristics including race, gender, disability, and sexual orientation or gender identity.

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- 1 UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (UN Special Rapporteur on adequate housing), Report, 30 December 2015, A/HRC/31/54, documents-dds-ny.un.org/doc/UNDOC/GEN/G15/294/52/PDF/G1529452.pdf?OpenElement, para. 4.
 - 2 United Kingdom, Housing Act 1996, 1996, legislation.gov.uk/ukpga/1996/52/contents, sections 175-177, Part VII.
 - 3 Department of Levelling Up, Housing and Communities, *Live Tables on Homelessness*, gov.uk/government/statistical-data-sets/live-tables-on-homelessness Note that official statistics on homelessness in England are recorded in terms of the number of households or applicants to whom local authorities owed a homelessness duty. The figure of people experiencing/ threatened by homelessness is the total of those listed as owed either a prevention or relief duty. Last checked on 8 May 2022.
 - 4 Department of Levelling Up, Housing and Communities, *Live Tables on Homelessness*, (previously cited) Table A8 - Ethnicity of main applicants assessed as owed a prevention or relief duty by local authority England, 2018 Q2 to 2021 Q4. ‘White’ includes White British, Irish, Gypsy/Traveller and other White, ‘Black’ includes British, African, Caribbean, and ‘Asian’ includes British - Pakistani, Indian, Bangladeshi, Chinese and other Asian.
 - 5 Department of Levelling Up, Housing and Communities, *Live Tables on Homelessness* (previously cited) Table A5P - Number of households owed a prevention duty by household composition.
 - 6 Equality and Human Rights Commission, *England’s most disadvantaged groups: Homeless people, March 2016*, equalityhumanrights.com/sites/default/files/is-england-fairer-2016-most-disadvantaged-groups-homeless-people.pdf.
 - 7 Department for Communities and Local Government, *Evidence review of the costs of homelessness*, August 2012, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7596/2200485.pdf.
 - 8 Vijay K. Mago and others, *Analyzing the impact of social factors on homelessness: a Fuzzy Cognitive Map approach*, 23 August 2013, ncbi.nlm.nih.gov/pmc/articles/PMC3766254/.

Of those recorded as experiencing or threatened with homelessness in official data from October 2020 to September 2021, 138,340 were assessed as households with ‘one or more support needs’⁹ (see Table 1).

Table 1. Support needs of households experiencing or threatened with homelessness, October 2020-September 2021

Need	Number of households
One or more support needs	138,340
History of mental illness	68,770
Physical ill-health or disability	42,620
Drug dependency	18,220
Alcohol dependency	12,620
At risk/victim of domestic abuse	30,890
At risk/victim of sexual abuse	6,060
Offending history	26,310
History of repeat homelessness	19,640
History of sleeping rough	15,260

Source: Department of Levelling Up, Housing and Communities, *Live Tables on Homelessness* (previously cited) Table A3 – Number of households owed a homelessness duty by support needs of household, England, 2018 Q2 to 2021 Q4.

In England, overall responsibility for laws and policies regarding housing and homelessness lies with the Department for Levelling Up, Housing and Communities (DLUHC, previously known as the Ministry for Housing, Communities and Local Government). While decisions on housing related benefits and budgets are taken centrally by the DLUHC and the Department for Work and Pensions, specific duties to address homelessness and housing and prepare and implement homelessness strategies lie with housing departments within local authorities. DLUHC also issues and regularly updates the *Homelessness Code of Guidance for Local Authorities* (hereinafter Homelessness Guidance) which provides guidance to local authorities on the exercise of their functions and application of the statutory duties in relation to homelessness.¹⁰

Under the current system, local authorities in England do not have a duty to provide housing to every person who cannot access it for themselves. Local authorities are required to provide housing to people experiencing homelessness – who pay for it through their social security benefits – if they meet three criteria:

- they are not subject to immigration restrictions;
- they are recognised as being in priority need for housing; and
- they have not ‘made themselves homeless’.

These conditionalities and their implementation (further explained in Chapter 6) deny thousands of people access to adequate housing and are in conflict with the UK’s international human rights obligations.

⁹ Areas of additional needs that mean the household requires support to acquire and sustain accommodation, giving an indication of the additional services local authorities need to provide to prevent an individual becoming homeless or to stop the cycle of repeat homelessness.

¹⁰ Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities*, last updated on 12 October 2021, ISBN: 978-1-4098-5201-8 assets.publishing.service.gov.uk/media/5ef9d8613a6f4023cf12fc67/current_Homelessness_Code_of_Guidance.pdf. The guidance is periodically updated so readers are advised to check the weblink for the most up to date information.

3.1 Forms of homelessness

Homelessness means much more than rough sleeping, even if this is its starkest manifestation. Experts and practitioners have defined homelessness in different ways.¹¹ For example, advocating a context-specific and human rights compliant definition of homelessness, the UN Special Rapporteur on adequate housing calls for homelessness to be understood in ‘three dimensions’:

- (a) The first dimension addresses the absence of home – both the absence of the material aspect of minimally adequate housing and of the social aspect of a secure place to establish a family or social relationships and participate in community life;
- (b) The second dimension considers homelessness as a form of systemic discrimination and social exclusion, recognising that being deprived of a home gives rise to a social identity through which ‘the homeless’ is constituted as a social group subject to discrimination and stigmatisation;
- (c) The third dimension recognises those who are homeless as rights holders who are resilient in the struggle for survival and dignity. With a unique understanding of the systems that deny them their rights, homeless people must be recognised as central agents of the social transformation necessary for the realisation of the right to adequate housing.¹²

Most importantly, a human rights compliant definition of homelessness discards explanations of homelessness as personal failures to be addressed through acts of charity. Instead, it recognises the patterns of inequality and injustice that deny people without a home their rights to be equal members of society.¹³

In English law and policy (discussed in more detail in Chapter 5), homelessness is understood widely and is not limited to rough sleeping. However, the law and policy framework in England is complex. It has stringent criteria that determine whether a person facing homelessness can receive housing support from the authorities. The legal framework also assigns specific powers and duties to local authorities and other bodies such as hospitals and prisons. Invariably the web of eligibility and entitlement criteria, powers and duties created to prevent and address homelessness includes some inherent legal and policy rigidities.

The complexity of the legal-policy system is accompanied by a glaring gap in resources. This, underpinned by the government’s refusal to treat housing as a human right, results in many people with multiple and complex needs not getting the support they need to claim their right to housing.

11 See the European Typology of Homelessness developed by FEANTSA, (the European Federation of National Organizations working with people experiencing homelessness) which includes ‘rooflessness’, ‘houselessness’ and ‘living in insecure housing’ as the different types of homelessness. Also see ‘Core Homelessness’ and ‘Wider Homelessness’ used by Crisis. ‘Core Homelessness’ constitutes rough sleeping, sleeping in tents, cars, public transport, living in squats, unsuitable non-residential accommodation, living in hostels, night/winter shelters, domestic violence refuges, unsuitable temporary accommodation (which includes bed and breakfast accommodation, hotels), and sofa surfing. ‘Wider homelessness’ includes staying with friends/relatives because unable to find own accommodation (longer term), under notice of eviction/under notice to quit or asked to leave by parents/relatives, living in intermediate accommodation and receiving support, in other temporary accommodation (e.g. conventional social housing, private sector leasing), living in intermediate accommodation without permanent housing after discharge from prison, hospital and other state institution.

12 UN Special Rapporteur on adequate housing, Report, 30 December 2015, A/HRC/31/54, (previously cited) para. 17.

13 UN Special Rapporteur on adequate housing, Report 30 December 2015, A/HRC/31/54 (previously cited), para. 18.

Homelessness and multiple unmet needs

Elizabeth (not her real name), 41 years old, had been homeless for four years and had been living in a tent for around four months at the time of her interview with Amnesty International. She said that she was a victim of domestic abuse and had an alcohol and heroin dependence. Her children had been taken into care by social services. She also said that she had a learning disability and suffered from mental ill-health. Before resorting to a tent, Elizabeth had lived in a shared house but decided to leave because the other residents were using drugs.

Elizabeth said that she had previously been allocated a place in supported housing – a form of temporary accommodation provided by the local authority for people with multiple complex unmet health and care needs, including mental ill-health and drug dependence. However, Elizabeth said that she was evicted from the accommodation (without an offer of alternative housing) because she got into an altercation with two other residents. She told Amnesty International that she was pushed into a corner and accidentally hurt one of the residents when trying to get out of that situation: ‘I sent a letter apologising to them, but it was of no use,’ she said. After being evicted, Elizabeth approached her local authority for help and was offered a place in a hostel ‘up north’, away from her family. She asked the local authority to get her into drug rehabilitation or supported housing or provide her with a place of her own in the area. At the time of the interview, Elizabeth said that she was waiting for the local authority to get back to her with an offer of accommodation but thought that the local authority was ‘probably just fobbing me off.’¹⁴

The situation of Elizabeth (see box) is not unique. Many people experiencing homelessness live with multiple and complex needs, including continuous access to mental and physical healthcare, support and treatment for drug and alcohol dependence,¹⁵ and support in accessing appropriate social security benefits. These are often unmet due to systemic rigidities and a silo approach (see Chapter 4.2). Like Elizabeth, most people who have experience of homelessness have also lived through it in its different forms, including rough sleeping to sofa surfing and emergency accommodation.

3.1.1 Rough sleeping

When I first became homeless many years ago, I was sleeping on the street when a policeman walked by and put flattened cardboard cartons on me as cover. I thanked him, thinking that it was an act of kindness – out of sight, out of mind, he said.¹⁶

Sleeping rough or street homelessness is the most visible form of homelessness and often mistakenly understood as the only form of homelessness. Rough sleeping includes sleeping on the pavement, under bridges, in parks, doorways, in tents, cars, and spaces not meant for residential purposes like bus stops, railway and coach stations,

¹⁴ Interview in person with Elizabeth (name changed), 26 October 2021.

¹⁵ Tim Elwell-Sutton and others, *Factors associated with access to care and healthcare utilization in the homeless population of England*, *Journal of Public Health*, Volume 39, Issue 1, March 2017, academic.oup.com/jpubhealth/article/39/1/26/3065715, pp. 26–33.

¹⁶ Person with experience of homelessness in a group discussion with Amnesty International on 17 August 2021.

and abandoned shops or factories. Because of the highly exposed nature of rough sleeping and the consequent risk of violence and abuse, women form a relatively small proportion of people sleeping rough, especially in more public spaces. As a result, women are often underrepresented in rough sleeping counts (see Chapter 7.1). As 51-year-old Victoria (not her real name) said: ‘As a woman, it is very scary and very difficult... I used to sleep in [name withheld] street but I don’t like to think about it. It makes me nervous to think about it.’¹⁷

In addition to the broader homelessness statistics, the government also maintains an estimate of the number of people sleeping rough: the most recent figure (2021) is 2,440.¹⁸ The rough sleeping count¹⁹ is only a snapshot and not accurate for determining the scale of the issue as it covers people found sleeping rough on one given night. It is only limited to people about to bed down (sitting on/in or standing next to their bedding) or actually bedded down.²⁰

In London, charities and the local government also compile a multi-agency database called the Combined Homelessness And Information Network (CHAIN). Data on CHAIN is recorded through outreach teams, accommodation projects, day centres and specialist projects throughout the year. According to CHAIN, the numbers for people sleeping rough in London from April 2020 to March 2021 were 11,081.²¹ According to DLUHC’s live tables, the number of people with ‘rough sleeping’ and ‘no fixed abode’ as their accommodation status who were assessed as threatened or already homeless amounted to 39,810.²²

There may be a number of reasons why people end up sleeping on the street. These reasons include ineligibility to access hostels and other accommodation, sometimes because of immigration restrictions such as ‘No recourse to public funds’ (NRPF – See Chapter 6.1), not meeting the criteria for ‘priority need’, being assessed as or the fear of being assessed as ‘intentionally homeless’, lack of adequate and suitable accommodation, lack of places for couples, and lack of hostels that accommodate pets.²³

Edward (not his real name), a 55-year-old army veteran, was sleeping rough in doorways on the high street in his town when Amnesty International interviewed him.

17 Interview in person with Victoria (name changed), 16 September 2021.

18 DLUHC, *Rough sleeping snapshot in England: autumn 2021*, updated on 18 March 2022, gov.uk/government/statistics/rough-sleeping-snapshot-in-england-autumn-2021/rough-sleeping-snapshot-in-england-autumn-2021. This is a 9 per cent decrease, down by 250 people from 2020 and down 49 per cent from the peak in 2017, but it is up by 670 people or 38 per cent since 2010. According to Homeless Link, ‘This recent decrease is likely to reflect, at least in part, the many government interventions undertaken due to the COVID-19 pandemic, including many individuals who might otherwise be rough sleeping still being in emergency (i.e. Everyone In) accommodation.’ See Homeless Link, ‘Rough Sleeping: Our Analysis’, homeless.org.uk.

19 The figures, which include the number of UK and non-UK nationals, women, men, and under-18s, are collected by local authorities on a typical night between 1 October and 30 November.

20 Homeless Link, ‘Rough Sleeping Counts and Estimates – all you need to know’, 20 September 2018, homeless.org.uk.

21 This was a 3 per cent increase from the previous year. Of these, 7,531 people were sleeping rough for the first time, a 7 per cent increase on the number of new rough sleepers in 2019/20. Crisis, ‘Rough sleeping rises in London despite pandemic effort – Crisis responds’, 30 June 2021, crisis.org.uk/about-us/media-centre/rough-sleeping-rises-in-london-despite-pandemic-effort-crisis-responds/.

22 Department of Levelling Up, Housing and Communities, *Live Tables on Homelessness* (previously cited). Last checked on 8 May 2022.

23 The role of pets especially dogs in helping people experiencing homelessness alleviate their isolation and loneliness has been well documented. See for example, *The Big Issue*, ‘“It’s their family”: How homeless people with dogs got through the pandemic’, 23 November 2021, bigissue.com/life/its-their-family-how-homeless-people-with-dogs-got-through-the-pandemic/. They are also a deterrent against violent behaviour towards people sleeping rough. As a result, for many people who are homeless, giving up their dog to stay in a hostel is unacceptable.



Above: Metal spikes, designed to prevent people sleeping rough, outside the Warner Music Group headquarters in Kensington, London
© Jansos/Alamy

He said that he had been diagnosed with chronic obstructive pulmonary disease and fibromyalgia. He had a sleeping bag and a blanket: 'I don't want to sleep in a tent, my sleeping bag and blanket are enough', he said. He said he was avoiding the homeless hostel 'like the plague'. He said that he had never lived there but had heard from others who had that it was 'run down and with a lot of drug users'.²⁴

People sleeping rough are also often subjected to violence and abuse from members of the public and have been kicked, beaten, and had their belongings set on fire.²⁵ An investigation by the *Guardian* in 2018 found that only nine out of 45 territorial police forces in England and Wales recorded crimes against rough sleepers and people who were homeless as a specific category.²⁶

Many local authorities and private enterprises put up physical deterrents (also known as 'hostile architecture') to rough sleeping: spikes, curved or segregated benches, and gated doorways. Methods used to discourage people from sleeping in particular places include 'wetting down' – spraying and hosing down doorways or alleyways with water or cleaning products – and having security guards or enforcement agencies tell people sleeping rough to move out of an area. People sleeping rough are also at risk of fines, penalties and criminalisation. Laws often implemented in the name of public health and safety only serve to vilify and penalise a group of people and, as the UN Special Rapporteur on Adequate Housing noted in her report on homelessness, they make 'homeless people into lawbreakers, rather than protecting their rights'.²⁷

²⁴ Interview in person with Edward (name changed), 26 October 2021.

²⁵ Channel 4 News, 'Attacks on homeless people triple in just five years', 11 December 2018, [channel4.com/news/attacks-on-homeless-people-triple-in-just-five-years](https://www.channel4.com/news/attacks-on-homeless-people-triple-in-just-five-years) and The *Guardian*, 'Beaten, harassed, set alight: rough sleepers tell of the horrific rise in violence', 15 December 2018, [theguardian.com/society/2018/dec/15/people-are-dragged-out-of-tents-attacks-on-homeless-soar-up-to-30-percent](https://www.theguardian.com/society/2018/dec/15/people-are-dragged-out-of-tents-attacks-on-homeless-soar-up-to-30-percent).

²⁶ The *Guardian*, 'Recognise attacks on rough sleepers as hate crimes, say experts', 19 December 2018, [theguardian.com/society/2018/dec/19/homeless-attacks-rough-sleepers-hate-crimes](https://www.theguardian.com/society/2018/dec/19/homeless-attacks-rough-sleepers-hate-crimes).

²⁷ UN Special Rapporteur on adequate housing, Report 30 December 2015, A/HRC/31/54 (previously cited), para. 23.

Criminalisation of rough sleeping

On 21 February 2022, the central government tabled an amendment to the Police, Crime, Sentencing and Courts Bill, which will repeal of the Vagrancy Act of 1824. However, for almost 200 years, rough sleeping and begging have been criminal offences in England under this Act.²⁸ As Crisis has pointed out, the Vagrancy Act has also been used to move people away from certain areas thus pushing them to less visible spaces and further way from support services and street outreach teams.²⁹ The repeal of the Vagrancy Act is an important step towards dismantling an unjust system weighted against people experiencing homelessness. However, there are concerns that the government may replace this with another set of punitive measures.³⁰

Moreover, Public Space Protection Orders (PSPOs) under the Anti-Social Behaviour, Crime and Policing Act 2014 continue to be used to target people sleeping rough. Despite Home Office guidance that PSPOs should not be used to target people experiencing homelessness,³¹ a *Guardian* investigation in 2019 found that at least 60 local authorities were using PSPOs to ban acts associated with homelessness, including putting up tents and begging.³² Violation of a PSPO incurs a £100 fine which, if left unpaid, can result in a summary conviction and a £1,000 penalty. Sometimes Community Protection Notices (CPN) under the 2014 Act are also used against people experiencing street homelessness. Failure to comply with a CPN is a criminal offence.

The recently enacted Policing, Crime, Sentencing and Courts Act also includes a provision that criminalises trespass thus impacting Gypsy, Roma and Traveller (GRT) communities and people experiencing homelessness. The GRT community already faces a severe shortage of authorised residential and transit sites, leading to multiple evictions. The new offence would lead to criminalisation – a fine of up to £2,500 or three months in jail and could also be used against other people experiencing homelessness.

Laws that in effect criminalise acts related to homelessness are *prima facie* discriminatory and in conflict with international human rights standards. The Human Rights Committee (the body that monitors implementation of the International Covenant on Civil and Political Rights, ratified by the UK) has raised concerns of discrimination and cruel, inhuman or degrading treatment arising from criminalisation of homelessness.³³

28 See United Kingdom, Vagrancy Act 1824, 1824, legislation.gov.uk/ukpga/Geo4/5/83/section/4, section 4. Section 4 of the Act, although limited reform in the Vagrancy Act 1935, meant that individuals could not be charged with rough sleeping if they have no access to alternative accommodation.

29 Crisis, *Scrap the Act: The case for repealing the Vagrancy Act (1824)*, 2018, crisis.org.uk/media/240635/scrap_the_vagrancy_act_2018.pdf.

30 Crisis, *Crisis responds to new government consultation on repealing the Vagrancy Act*, crisis.org.uk/about-us/media-centre/crisis-responds-to-new-government-consultation-on-repealing-the-vagrancy-act/ 8 April 2022.

31 Home Office, *Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals*, revised in January 2021, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956143/ASB_Statutory_Guidance.pdf, p. 65. Also see Liberty, 'Liberty Launches New Bust Cards to Support People Facing Penalties for Poverty', 9 March 2022, libertyhumanrights.org.uk/issue/liberty-launches-new-bust-cards-to-support-people-facing-penalties-for-poverty/.

32 The *Guardian*, 'Rising number of councils issuing fines for rough sleeping', 7 March 2019, theguardian.com/society/2019/mar/07/rising-number-of-councils-issuing-fines-for-rough-sleeping.

33 Human Rights Committee, Concluding observations: *Fourth periodic report of the United States of America*, 23 April 2014, CCPR/C/USA/CO/4, documents-dds-ny.un.org/doc/UNDOC/GEN/G14/426/73/PDF/G1442673.pdf?OpenElement, para. 19.

3.1.2 Short term/emergency accommodation

Short term or emergency accommodation can take many forms including cold weather or winter shelters, night shelters, day centres, emergency hostels, women's refuges for those fleeing domestic abuse and 'nightstop' schemes (for young people aged 16 to 25).³⁴ Such accommodation is usually provided by charities and churches and tends to be free or at nominal charge. Many also offer food, laundry and shower facilities. They often help users apply for social security benefits and register with a doctor – a General Practitioner (GP) – for primary healthcare, including by providing their address as the contact address for those of 'no fixed abode'.³⁵

This type of accommodation can be accessed directly by those needing a place to sleep (without a referral from an agency). Services that Amnesty International visited as part of the research in London, Salford and Canterbury said that most of the people knew about them through word of mouth. Others, like a night shelter in north London, said that people also came to them through referrals from hospitals and the police. A majority of the people who used their services, which included dormitory style sleeping arrangements, food, showers and laundry facilities, were migrants who could not access more mainstream services because of immigration restrictions.³⁶

Many shelters also play an important informal role in liaising with local authorities. Amnesty International researchers came across several cases where people threatened with, or experiencing homelessness, were largely able to access support if they were associated with a charity that had good connections with their local authority. Some service providers said they were able to help people receive a proper hearing at the local authority.³⁷

3.1.3 Sofa surfing

Sofa surfing refers to an informal living arrangement where a person lives with family, friends, acquaintances, and sometimes strangers, on a temporary basis. The very nature of this form of homelessness means that it is very difficult to get estimates of the number of people sofa surfing. The *Homelessness Monitor* for 2022 shows that people who were sofa surfing were the largest group of people facing homelessness in 2020, amounting to at least a 100,000 people.³⁸ People who experienced sofa surfing have said it is often isolating and can also be humiliating as they frequently have a sense of being a burden on others. Unlike tenants, they have no rights or security of tenure and live in precarity: at risk of being harassed and evicted at any time.

Almost all the people Amnesty International researchers spoke with had experienced sofa surfing at least once, if not multiple times. People resorted to sofa surfing because they did not know where to turn for help or they were turned away by housing authorities. As rough sleeping is often riskier for women, a significant number of them end up sofa surfing, sometimes in exchange for money, domestic work, childcare, sex work and other payment in kind.

34 Hannah Cromarty, *Rough sleepers: access to services and support* (England), 9 October 2019, House of Commons Library, researchbriefings.files.parliament.uk/documents/CBP-7698/CBP-7698.pdf p. 19.

35 Not having a fixed address – a term usually used to describe the living situation of people who are experiencing homelessness.

36 Interview in person with managers of a night shelter in North London, 3 August 2021.

37 Interview by video call with Latin American Women's Aid, 20 October 2021.

38 Crisis, *The Homelessness Monitor England 2022*, February 2022, crisis.org.uk/media/246994/the-homelessness-monitor-england-2022_report.pdf, p.96, Figure 5.1.

Feeling like a burden on others

After Beatrice (not her real name) was evicted from her home and then from temporary accommodation, she had nowhere to go. She told Amnesty International researchers that ‘no one was willing to deal with me. After one day and one night on the street, a girl from the church took me to her council flat. The conditions in her flat were horrible. It was bad and mouldy. I stayed with her for a month. I slept on her sofa and while she never pushed me out, it was very limiting. When she had visitors, I had to wait until they were done watching TV to go to sleep. It used to be very cold, and you always felt that you were a burden on someone.’³⁹

Many people experiencing homelessness have little choice but to slip in and out of sofa surfing. For those who are excluded from public funds due to immigration restrictions, sofa surfing is often the only way that they can obtain shelter even if it is risky and precarious. However, this comes at significant cost as living in the informal or underground system inevitably increases people’s vulnerability to exploitation and pushes them further away from the services and support, they might need, including healthcare or social security.

3.1.4 Unsuitable temporary accommodation

In most cases, temporary accommodation is offered by local authorities to people who are assessed as entitled to longer-term housing, (see Chapter 5.1) but who cannot be placed in it because there is a shortage of adequate and affordable housing. By end September 2021, there were 96,060 households in temporary accommodation.⁴⁰

Temporary accommodation can take many forms including: a self-contained flat that may be privately or socially rented; bed and breakfast (B&B) accommodation; as well as hostels and refuges with shared cooking and toilet facilities. It is most often available only to those who have access to social security benefits and rent for it is paid through Universal Credit and Housing Benefit.

People in temporary accommodation are not considered to be homeless unless it would not be reasonable for them to continue to occupy their accommodation. As the Homelessness Guidance points out, ‘There is no simple test of reasonableness. It is for the housing authority to make a judgement on the facts of each case, taking into account the circumstances of the applicant.’ Relevant considerations include poor physical conditions of the accommodation, affordability, overcrowding and risk of violence.⁴¹

With homelessness on the rise and scarcity of affordable housing stock, local authorities struggle to find suitable temporary accommodation for families. One outcome is the reliance on B&Bs which, with their shared facilities and inadequate space, are generally unsuitable for families. Local authorities are not permitted to use B&Bs to accommodate households with children or pregnant women, except where no other suitable accommodation is available.⁴² The Homelessness Guidance states that even

39 Interview by voice call with Beatrice (name changed), 12 August 2021.

40 Wendy Wilson and Casey Barton, *Households in Temporary Accommodation*, 13 February 2022, House of Commons Library, researchbriefings.files.parliament.uk/documents/SN02110/SN02110.pdf p.4.

41 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities*, (previously cited), paras 6.23-6.40.

42 UK Government, *Homelessness (Suitability of Accommodation) (England) Order 2003*, 2003, SI 2003/3326, legislation.gov.uk/uksi/2003/3326/contents/made.

in such cases it should not be for longer than six weeks.⁴³ As of end September 2021 there were 9,780 households in B&B accommodation in England of which 1,530 were families with children.⁴⁴

Research by Shelter has also pointed to the explosion of substandard temporary housing due to the expansion of ‘Permitted Development Rights’ that allowed developers to convert office blocks into temporary housing without having to obtain planning permission. This, according to Shelter, has led to poor quality of housing that is often uninhabitable and overcrowded. Entire families are made to live in one room with a small kitchenette and a tiny ensuite bathroom.⁴⁵

In December 2017 the Public Accounts Committee observed that temporary accommodation was ‘often of a poor standard and does not offer value for money’ and recommended ‘elimination of non-decent temporary accommodation’.⁴⁶ Recent reports have also highlighted the inadequacies of temporary accommodation, particularly when households end up living in them for several years.⁴⁷

In discussions with Amnesty International, NGOs, grassroots groups and people with experience of homelessness highlighted the lack of a centralised oversight mechanism or an independent regulator to monitor housing conditions, including the provision of support in temporary accommodation. Currently it is up to local authorities to monitor conditions in the accommodation that they commission. This is done through environmental health officers in local authorities who are meant to follow the Housing Health and Safety Rating System (HHSRS). This system is based on risk assessment: it aims to avoid or minimise potential hazards and does not set out minimum standards.⁴⁸

According to the Homelessness Guidance, ‘Housing authorities have a continuing obligation to keep the suitability of accommodation under review, and to respond to any relevant change in circumstances which may affect suitability, until such time as the accommodation duty is brought to an end.’⁴⁹ Authorities are also required to inspect properties for signs of damp or mould and check electrical installations and equipment (for example, looking for loose wiring, cracked or broken electrical sockets, light switches that do not work and appliances which do not appear to have been safety tested). However, recent research by Human Rights Watch shows that such inspections are not common or sufficient to address the problems faced by residents of temporary accommodation.⁵⁰

43 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 16.30.

44 Wendy Wilson and Casey Barton, *Households in Temporary Accommodation*, (previously cited) p. 5.

45 Shelter, *Briefing: Homelessness and Temporary Accommodation*, December 2020, assets.ctfassets.net/6sxvmndn0s/27dfhqbeM9aFo60hWmq8ig/293db81fbb5e7f8a2e1591cc18f3e5a7/02_12_2020_-_WH_Debate_briefing_-_Homelessness_and_TA.pdf.

46 House of Commons Committee of Public Accounts, *Homeless Households: Eleventh Report of Session 2017–19*, 20 December 2017, publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/462/462.pdf, p. 6.

47 For example, see Human Rights Watch, ‘I Want Us to Live Like Humans Again’: *Families in Temporary Accommodation in London, UK*, January 2022, hrw.org/sites/default/files/media_2022/01/uk_crd0122_web.pdf.

48 Department for Communities and Local Government, *Housing Health and Safety Rating System: Guidance for Landlords and Property Related Professionals*, May 2006, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/9425/150940.pdf.

49 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 17.8.

50 Human Rights Watch, ‘I Want Us to Live Like Humans Again’: *Families in Temporary Accommodation in London, UK* (previously cited).

‘Like hell on earth’

Eugene (not her real name) told Amnesty International of her experience with temporary accommodation. Despite following up her homelessness application with numerous calls to the local authority, no arrangements were made for her and her three children on the day they were evicted in mid-2021.⁵¹ ‘I was standing on the street with my little boy who was six years old and all my belongings,’ she said. After several phone calls and assistance from a local charity, she was told that she would be moved to a budget hotel. Eugene, however, had to wait by the roadside for another few hours as her two older children were in school, and she had no way of letting them know where she was going.

‘Finally, when they came [back from school] I went to the [Hotel]. I was there with my three children in one room with no microwave and nothing else – no equipment to cook with. It was like hell on earth. I had got my salary so we could order takeaway. The children were hungry back from school, and nothing was provided. I could not even warm milk for them,’ Eugene told Amnesty International.

During her stay at the budget hotel Eugene was alerted by the Covid App to self-isolate. However, isolating was not feasible while staying in one hotel room with her children and with no possibility of cooking and nor any food provided. She was also worried that if she had been infected, she would pass it on to her children. She informed the council about her situation and was eventually provided with a two-bedroom flat as a temporary measure, three weeks later. She told Amnesty International that the flat was very damp, the kitchen sink was leaking, and the kitchen wall was always wet. Eugene had complained to the owner of the property as well as the council who then carried out an inspection of her flat. On 25 October 2021 the council told her that they would move her and her family to a new place but on 11 February 2022 she told Amnesty International that she had not heard anything further.⁵²

Other forms of temporary accommodation used predominantly for people without dependents (‘single homeless’) also raise suitability or appropriateness concerns.

As the Homelessness Guidance notes, ‘The quality of accommodation provided within hostels varies considerably.’⁵³ AP, who had also lived in several different hostels, told Amnesty International about one hostel in the Northwest: ‘It was horrible, dirty, unsafe and the staff was deplorable,’ he said. ‘The best hostels are those that not only provided you with physical comfort but also provided a community area where people congregated and asked what you wanted to do. When people start acknowledging you and valuing your contribution, you start a cycle of self-determination.’ He said that when he got accepted to join a peer mentor scheme, his ‘life turned around’.⁵⁴

Hostels have their own rules and regulations, particularly over violence or threatening behaviour. However, they also give rise to a precarious living environment for residents.

51 Eugene had been living in Home Office accommodation. She received leave to remain in the UK in May 2021 and then applied for housing within the 28-day notice period issued by the Home Office to vacate their premises.

52 Interview by voice call with Eugene (name changed), 28 September 2021 and follow-up interview by voice call, 11 February 2022.

53 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 16.33.

54 Interview by video call with AP, 22 October 2021.

Streets Kitchen, a grassroots organisation, said that the people they support sometimes preferred to sleep rough because of the highly unhygienic conditions in hostels along with lack of support and bullying and violence by other residents.

JW was living in a hostel in London when Amnesty International researchers interviewed him. He said that he had been previously made homeless three times, the last time was because of a section 21 (no fault) eviction notice from his home (see Chapter 8.1).⁵⁵ He said that he suffered from mental ill-health issues. ‘In hostels we are under a licence agreement so unlike a tenancy, they can kick us out with two weeks’ notice. And that uncertainty always hangs on your head... We call it a carousel – I have been in several hostels’.⁵⁶

Supported housing is provided to assist people with complex support and care needs to live as independently as possible. This includes people with physical or learning disabilities, or mental ill-health. Supported accommodation also includes ‘dry houses’ meant for people recovering from drug and alcohol dependence and where the use of such substances is not permitted. A shortage of ‘dry houses’⁵⁷ due to funding cuts to local authorities has meant that people who have stopped using drugs were increasingly being placed in hostels where there is widespread use of drugs and alcohol, which could trigger them to relapse.

Philip (not his real name) told Amnesty International that he had been in and out of several hostels where drug and alcohol use was common. ‘That is setting up someone to fail. It’s feeling trapped, that’s the worst thing. It’s feeling like you don’t have a reason not to go back to drugs’, he said.⁵⁸ Philip had been in his accommodation for three months at the time of the interview. He said that his room did not lock properly, there are no locks on the doors inside, and that he had no privacy. ‘Prison was better’, he said, because at least his basic shelter and food needs would be taken care of there.⁵⁹

⁵⁵ Interview by voice call with JW, 12 August 2021.

⁵⁶ Interview by voice call with JW, 12 August 2021.

⁵⁷ *Inside Housing*, ‘Dry houses: what are they and why are they disappearing?’, 22 May 2019, insidehousing.co.uk/insight/insight/dry-houses-what-are-they-and-why-are-they-disappearing-61474.

⁵⁸ Interview in person with Philip (name changed), 17 September 2021.

⁵⁹ Interview in person with Philip (previously cited).

4. Homelessness and health

In 2020 the average age of death for people sleeping rough or in homelessness accommodation was 45.9 years for men and 41.6 years for women.⁶⁰

Homelessness is increasingly and rightly being recognised as not only a housing issue, but also one that concerns health. In interviews with Amnesty International, charities and NGOs, healthcare professionals and local authorities highlighted the need for a holistic approach towards homelessness which responds to both housing and health needs, among others.

Long-term or chronic homelessness is often accompanied by tri-morbidity: physical ill-health combined with mental ill-health and substance (drug or alcohol) dependence.⁶¹ This is also evident in official statistics on homelessness (see Chapter 3). A 2019 study in the *British Journal of General Practitioners*, found that 48.7 per cent of people registered as homeless in England had at least one chronic medical condition, and 21.3 per cent had at least two.⁶² Another study, which explored frailty and geriatric conditions among residents of a homelessness hostel in London, found that the levels of frailty among participants, whose average age was 56, were comparable to 89-year-olds in the general population.⁶³ All participants had more than one long-term health condition, with an average of seven long-term conditions identified per person, much higher than their equivalents in the general population.

The stresses and strains of homelessness – including precarious and unsuitable housing combined with increased exposure to violence, drug or alcohol dependence – and the lack of a nutritious diet and proper care, all contribute to multi-morbidity. In 2020, an estimated 688 deaths of people experiencing homelessness were registered in England and Wales. Only 2 per cent of the registered deaths could be attributed to Covid-19, while 38.5 per cent were related to drug poisoning, 12.1 per cent to alcohol-related causes and 10.8 per cent to suicide.⁶⁴ The Museum of Homelessness, an organisation run by people with direct experience of homelessness collected information on 1,286 deaths in 2021 of people experiencing homelessness across the UK with 719 of these in England. It is also significant that the largest proportion of these deaths were of people who were living in emergency accommodation or hostels.⁶⁵

60 The *Guardian*, 'At least 688 people died homeless in England and Wales in 2020', theguardian.com/society/2021/dec/01/at-least-688-people-died-homeless-in-england-and-wales-in-2020. Also see Bethan Thomas, 'Homelessness kills: An analysis of the mortality of homeless people in early twenty-first century England', University of Sheffield and Crisis, 2012, crisis.org.uk/media/236799/crisis_homelessness_kills_es2012.pdf.

61 Nigel Hewett and Aiden Halligan, 'Homelessness is a healthcare issue', *Journal of the Royal Society of Medicine*, 1 Aug 2010, ncbi.nlm.nih.gov/pmc/articles/PMC2913065/, pp. 306-307.

62 Analysis covered data on 928 people, Matthew Bowen and others, 'Multimorbidity and emergency department visits by a homeless population: a database study in specialist general practice', *British Journal of General Practice*, August 2019 p e516 - e525 bjgp.org/content/bjgp/69/685/e515.full.pdf.

63 Pathway, 'Frailty among the homeless population comparable to that of 89-year-olds in the general population', 2 October 2020, pathway.org.uk/frailty-among-the-homeless-population-comparable-to-that-of-89-year-olds-in-the-general-population/.

64 Office for National Statistics, *Deaths of Homeless People in England and Wales: 2020 Registrations*, 1 December 2021, ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsofhomelesspeopleinenglandandwales/2020registrations.

65 Museum of Homelessness, *Dying Homeless Project: Findings 2021*, March 2022 <https://museumofhomelessness.org/wp-content/uploads/2022/03/2021-Museum-of-Homelessness-report-of-findings-on-homeless-deaths-in-2020.pdf>.

The right to health

The UK has ratified a range of international and regional human rights treaties that require the government to respect, protect, and fulfil the right to health of all without discrimination. The right to health includes access to timely and appropriate healthcare for everyone without discrimination; that healthcare is affordable for all, including socially disadvantaged groups; and that healthcare information, goods, and services are of good quality. The UN Committee on Economic, Social and Cultural Rights has articulated that the right to health is a right that covers not only access to healthcare but also the underlying determinants of health, including access to housing. The Committee has also clarified that ‘To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water’ is part of the minimum core obligations of the right to health as enshrined in the ICESCR.⁶⁶ On mental health, the UN Special Rapporteur on the right to health has noted that access to housing is an important factor in advancing the right to health as it is key in promoting health outcomes.⁶⁷

According to General Comment 36 on the Right to Life under the International Covenant on Civil and Political Rights, ratified by the UK,

The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include... extensive substance abuse, widespread hunger and malnutrition and extreme poverty and **homelessness** [emphasis added].

The General Comment further explains that the appropriate measures referred to include, where necessary, to ensure access to essential goods and services such as food, water, shelter, healthcare, electricity and sanitation.⁶⁸

Interviews with people experiencing homelessness, NGOs and health-care professionals revealed the numerous factors that influence access to healthcare for people who are homeless. A study by the King’s Fund in 2020 on access to healthcare for people sleeping rough reported various barriers in accessing timely health and care services, including:

- difficulties navigating the health and care system, due to a range of factors including low literacy skills, language barriers, complex administrative processes and lack of transport;
- reluctance to engage due to expectations of rejection or stigmatisation, or distrust of institutions, often based on negative past experiences;
- ‘chaotic’ lifestyles, in which health and care needs are often not an immediate priority – service users can have difficulties keeping to appointments and can be difficult for services to contact;

66 Committee on Economic, Social and Cultural Rights (CESCR), General Comment 14 The Right to the Highest Attainable Standard of Health (Art. 12), 11 August 2000, E/C.12/2000/4, refworld.org/pdfid/4538838d0.pdf, paras 11 and 43.

67 Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report, 12 April 2019, A/HRC/41/34, documents-dds-ny.un.org/doc/UNDOC/GEN/G19/105/97/PDF/G1910597.pdf?OpenElement.

68 Human Rights Committee, General comment 36: Article 6 of the International Covenant on Civil and Political Rights, on the right to life, 30 October 2018, tbinetnet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf, para. 26.

- attitudinal issues within services and among some staff, including the stigmatisation of people who are homeless, a lack of confidence and a lack of understanding around working with this population group, including being sufficiently trauma-informed.⁶⁹

Research by Groundswell focusing on access to healthcare for women experiencing homelessness highlights that among the multiple and intersecting issues that women cited as the reason for their homelessness were domestic abuse, relationship breakdown, and physical and mental health issues.⁷⁰ Most participants said ‘they struggled with the motivation and confidence to deal with their health issues when they are homeless.’⁷¹ The research also highlights how women sometimes had to prioritise finding food or a safe place to sleep over other needs. In other cases, women said ‘they did not value themselves enough to get the support they needed’.⁷²

The lack of access to hostels and other forms of temporary accommodation can also impact the ability to access healthcare. This concern was raised in at least four interviews that Amnesty International had with healthcare professionals. Those belonging to specialist health outreach teams, in particular, noted that the people they served were sometimes evicted from hostels and considered ‘intentionally homeless’. Once people are termed intentionally homeless, they are often not readmitted and end up sleeping on the streets. In this context, one healthcare professional said, ‘...we have seen situations where the longer people live on the streets – and it can lead to decline, decline, decline and it can even lead to death.’⁷³ Healthcare professionals also highlighted that evictions from hostels also meant that people would move to other boroughs to try to access some form of shelter, which led to a break in continuity of care.

Recognising the multiple barriers that people experiencing homelessness face in terms of healthcare, in March 2022 the National Institute for Health and Care Excellence published guidelines on ways to improve access to and engagement with health and social care services for people experiencing homelessness. These provide advice on how commissioners, planners, providers and practitioners across disciplines and agencies can work together to support and improve outcomes for people experiencing homelessness.⁷⁴

4.1 Access to primary healthcare

Access to primary healthcare is of particular concern among people who are sleeping rough or sofa surfing. Several charities including Groundswell, Crisis and Shelter have consistently raised issues concerning access to GP surgeries.⁷⁵

NHS Guidelines are explicit that proof of residence is not essential for GP registration. A patient experiencing homelessness cannot be refused registration on the basis

69 Julia Cream and others, *Delivering Health and Care for People who Sleep Rough: Going Above and Beyond*, February 2020, kingsfund.org.uk/sites/default/files/2020-02/Delivering-health-care-people-sleep-rough.pdf, p. 17.

70 Groundswell, *Women, Homelessness and Health: A Peer Research Project*, February 2020, groundswell.org.uk/wp-content/uploads/2020/02/Womens-Health-Research-Report.pdf, p. 23.

71 Groundswell, *Women, Homelessness and Health: A Peer Research Project* <https://groundswell.org.uk/2020/women-homelessness-and-health/>, p. 60.

72 Groundswell, *Women, Homelessness and Health: A Peer Research Project* (previously cited), p. 60.

73 Interview by video call with healthcare professionals, 21 September 2021.

74 National Institute for Health and Care Excellence, *Integrated Health and Social Care for People Experiencing Homelessness*, NICE guideline [NG214], 16 March 2022, [nice.org.uk/guidance/ng214](https://www.nice.org.uk/guidance/ng214).

75 Groundswell, *#HealthNow Literature Review 2020: Trends in Patient Experience When Experiencing Homelessness*, 2020, groundswell.org.uk/wp-content/uploads/2020/12/HealthNow-literature-review-2020.pdf.

of where they reside because they are not in settled accommodation.⁷⁶ The British Medical Association states that there is no contractual duty to seek evidence of identity, immigration status or proof of address for patient registration in GP practices. Practices should not refuse registration on the grounds that a patient is unable to produce such evidence. Patients experiencing homelessness are entitled to register with a GP using a temporary address, which may be a friend's address or a day centre. The practice address may also be used to register them.⁷⁷

However, all the healthcare professionals who spoke with Amnesty International noted that registering with a GP practice remains an area of concern for many people without a fixed address or documentary proof of residence. Pearl (not her real name) told Amnesty International that when she initially was an undocumented migrant she had great difficulty registering with a GP because she did not have the right papers. Even when she filed for asylum in 2016, registering with a GP was not straightforward. 'I had to go to five GPs before I could register. They kept saying I needed the right documents. One GP [finally] took me in.'⁷⁸

A 'mystery shopper' exercise by Friends, Families and Travellers in July 2021 revealed that 74 out of 100 GP practices would not register a person of nomadic origin.⁷⁹ While the exercise was focused on the GRT community, it revealed that the most common reason for refusal was the lack of proof of address and identity, or the inability to register online –barriers that the wider community experiencing homelessness also faces.

Although it is possible to file a complaint against at GP surgery that refuses to register a patient,⁸⁰ one GP told Amnesty International:

I don't think people would necessarily have the confidence to do that [formally complain against refusal to register]. To make an appeal of any kind, you need to have the time, space, to be literate, and be well enough to do it. There is a pathway... but I can imagine it is bureaucratic. So, most people just give up and I can see why.

Amnesty International's research has found that people experiencing homelessness have better access to primary healthcare when they are associated with a charity. This is mainly because charities and accommodation providers play a key role in facilitating registration by sending letters to GPs and allowing people to use their address for contact. Many charities are also linked with particular GP surgeries, which makes access to primary healthcare easy for the people they support.

76 NHS England, 'People who are homeless: How to register with a doctor (GP)', December 2017, assets.nhs.uk/prod/documents/how-to-register-with-a-gp-homeless.pdf; 'If a patient cannot produce any supportive documentation but states that they reside within the practice boundary then practices should accept the registration'.

77 British Medical Association, *Patient Registration: Practices Should Know the Rules Regarding Temporary Residents, Homeless Patients, Overseas Visitors, the Duty to Give Treatment, and When They Can Decline to Register a Patient*, last reviewed 27 January 2022, bma.org.uk/advice-and-support/gp-practices/managing-your-practice-list/patient-registration.

78 Interview by voice call with Pearl (name changed), 20 October 2021.

79 Friends, Families and Travellers, 'Locked Out: 74% of GPs refused registration to nomadic patients during COVID-19 Pandemic', 8 July 2021, gypsy-traveller.org/news/locked-out-74-of-gps-refused-registration-to-nomadic-patients-during-covid-19-pandemic/.

80 See Citizens Advice, 'Get advice about health services', citizensadvice.org.uk/health/nhs-healthcare/nhs-patients-rights/#h-registering-with-a-gp.

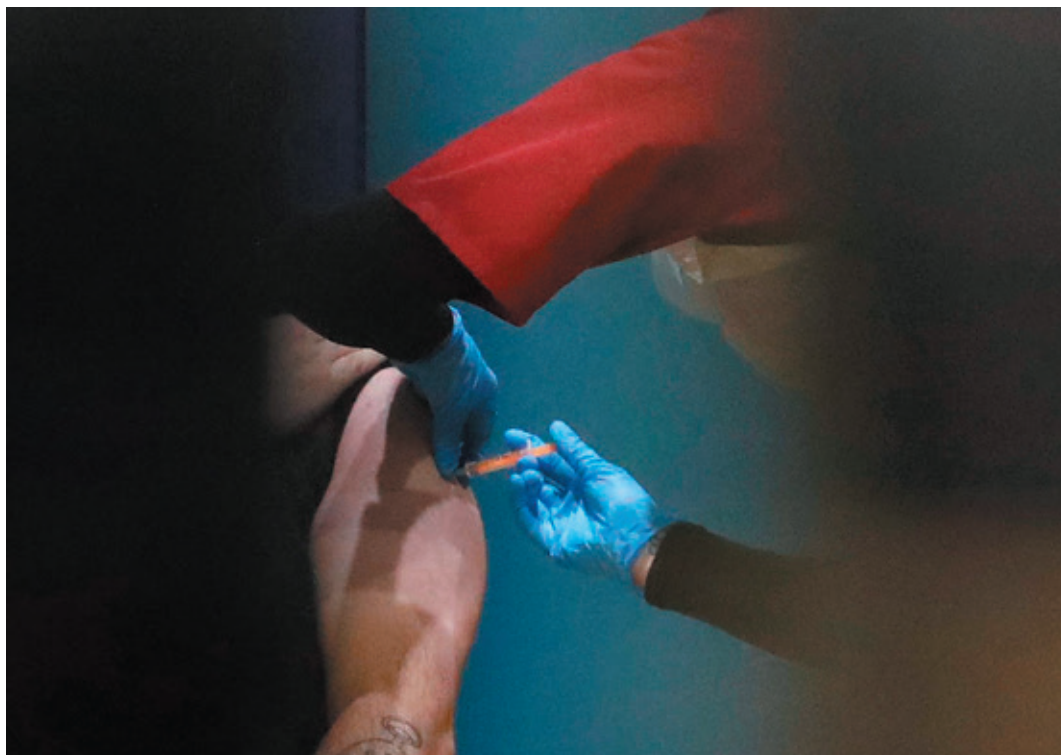
Victoria (not her real name) told Amnesty International researchers that she managed to have many of her essential needs met only after she was able to get in touch with a local charity:

I have been street homeless and sofa surfing but now have a flat of my own. I had an alcohol addiction. I had children, but they were taken away from me and I was sent to a detox place – it was a dry house and then I was given a flat but then I lost it. I needed to get a doctor then. I needed a housing support officer, needed my benefits sorted and electric sorted. I managed to get that all done through this charity. There are not enough places like these.⁸¹

GPs told Amnesty International researchers of other barriers in accessing primary health care:

- reluctance to access services based on a previous negative experience in accessing healthcare;
- difficulty in booking appointments especially where an increasing number of healthcare services have online booking systems and walk-in appointments have been reduced;
- being taken seriously when they did meet a healthcare professional.

Research by Groundswell in December 2020 also showed that while access to NHS primary healthcare and emergency care is free at the point of contact, accessing medication from a pharmacy, dental care and optometric care requires payment or proof of exemption. The report found that among those not receiving benefits, 86 per cent had problems accessing prescribed medication and 54 per cent had difficulties accessing dental care.⁸²



Left: Receiving a Covid-19 vaccination at the homeless accommodation YMCA in Romford, east London
© Frank Augstein/AP/Shutterstock

81 Interview in person with Victoria (name changed), 16 September 2021.

82 Groundswell, *Benefits for Health: Exploring the connection between welfare, health and homelessness*, December 2020, groundswell.org.uk/wp-content/uploads/2020/12/Benefits-for-Health-full-report.pdf, p.19.

Exclusion from healthcare

Among the most vulnerable of people experiencing homelessness are those excluded from public funds, particularly undocumented migrants. Exclusion from public funds does not mean exclusion from NHS treatment. However, misunderstanding by GP surgeries and others in practice does wrongly cause many people to be excluded from these and other healthcare that is also intended to be available free. Another cause of exclusion is the impact of previous data-sharing between healthcare providers and the Home Office, which discourages some people subject to immigration control from accessing services to which they are entitled.⁸³

Most of the people Amnesty International researchers spoke with had been registered with a GP surgery and had the necessary HC2 cards enabling them to access various services free of charge (including free prescriptions, free NHS dental care, free sight tests, and help with the cost of travelling to NHS treatment).⁸⁴ The main barrier they identified was the lack of information on what was available. Most interviewees said that no-one at the GP surgery or the hospital would inform them about what kind of paperwork was necessary and what wasn't – it was often only through word of mouth, from other people in similar circumstances or if they approached a voluntary organisation, that people learned about these and other facilities.

4.2 Access to drug and alcohol de-addiction services

In December 2020, the DLUHC published its initial findings from the Rough Sleeping Questionnaire that interviewed around 563 people. They show that 66 per cent of respondents had an ongoing or historical need for support and had received drug treatment. The survey also found that 63 per cent needed support and treatment for alcohol.⁸⁵

Access to drug and alcohol dependency services is usually through a GP to a specialist service. Sometimes homelessness services can refer people to specialist services. However, to be treated by specialist services, the person must be registered with a GP.⁸⁶

Dame Carol Black, in Part II of the Independent Review of Drugs, noted that dependence on drugs can be 'both a cause and consequence of homelessness and rough sleeping.'⁸⁷ The review also noted that housing has a 'crucial role to play in the success of drug treatment and that many of those entering treatment report a housing need.'⁸⁸

83 Vasiliki Papageorgiou and others, *Patient Datas sharing for Immigration Enforcement: A Qualitative Study of Healthcare Providers in England*, BMJ Open, 12 February 2020, bmjopen.bmj.com/content/bmjopen/10/2/e033202.full.pdf.

84 NRPF Network, 'NHS Treatment: Free treatment, prescriptions and who needs to pay for secondary care', nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/nhs-treatment/prescriptions-dental-care-and-sight-tests#guide-sections also Public Health England, 'NHS entitlements: migrant health guide', last updated on 28 June 2021, gov.uk/guidance/nhs-entitlements-migrant-health-guide.

85 Ministry for Housing, Communities and Local Government, *Understanding the Multiple Vulnerabilities, Support Needs and Experiences of People who Sleep Rough in England Initial findings from the Rough Sleeping Questionnaire*, December 2020, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944598/Initial_findings_from_the_rough_sleeping_questionnaire_access.pdf, p. 8.

86 Homeless Link, *Working with People Who Use Drugs: Guidance for Homelessness Accommodation Services*, May 2019, homeless.org.uk.

87 Department of Health and Social Care, *Independent report: Review of Drugs Part Two: Prevention, Treatment, and Recovery*, updated on 2 August 2021, gov.uk/government/publications/review-of-drugs-phase-two-report/review-of-drugs-part-two-prevention-treatment-and-recovery#executive-summary.

88 Department of Health and Social Care, *Independent report: Review of Drugs Part Two: Prevention, Treatment, and Recovery* (previously cited).

The review called on the Ministry for Housing, Communities and Local Government (now the DLUHC) to ensure that funding for housing support is distributed fairly and on the basis of need.⁸⁹

Dame Carol Black's Independent Review also calls for recognition that 'addiction is a chronic health condition, and like diabetes, hypertension or rheumatoid arthritis, requires long-term follow-up.' It further notes: 'Trauma (physical, sexual or psychological) and mental ill-health are the drivers and accompaniment of much addiction. They are co-morbidities rather than separate problems for a "dual diagnosis". Commissioners of substance misuse services and NHS mental health services must ensure that individuals do not fall between the cracks.'⁹⁰

AP told Amnesty International researchers that in his experience, mental health and alcohol and drug dependence were seen as two separate diagnoses, each in its own silo:

So, if you had a mental health problem, you went to mental health services, and if you had an addiction you went to the addiction team. And very often the services would pull against each other. So mental health [team] wouldn't help you until addiction [team] had helped you. It is an incredibly complicated system.⁹¹

Such a silo approach to mental health support and drug and alcohol dependency services was confirmed to Amnesty International by a healthcare professional working in such services. This echoed the finding in Groundswell's 2020 report on women experiencing homelessness. One of the reasons the women found it difficult to access mental health support was that they were told that 'they needed to sort out their housing issue and/or addiction before they could receive support.'⁹²

The silo approach towards drug dependency and mental health issues has been recognised as a problem faced by many who have these co-morbidities, whether or not they have experience of homelessness. Public Health England's guide for commissioners and service providers for mental health and alcohol/drug use conditions recognises that it is not uncommon for mental health services to exclude people because of co-occurring alcohol/drug use. This is largely attributed to the lack of capacity at the primary care stage.⁹³ For people experiencing homelessness, this approach, when combined with chaotic lives, isolation and social exclusion, discouraged many from accessing the support they needed.

Moreover, a substantial number of programmes supporting people experiencing homelessness still require people to maintain abstinence in order to access or receive support services, including permanent housing. Although abstinence-based strategies could benefit some people who use drugs, imposing an obligation to remain sober to access housing services can exacerbate the exclusion of those in need of support. This

89 Department of Health and Social Care, *Independent report: Review of Drugs Part Two: Prevention, Treatment, and Recovery* (previously cited).

90 Department of Health and Social Care, *Independent report: Review of Drugs Part Two: Prevention, Treatment, and Recovery* (previously cited).

91 Interview by video call with AP, 22 November 2021.

92 Groundswell, *Women, Homelessness and Health: A Peer Research Project* (previously cited), p. 60.

93 Public Health England, *Better Care for People with Co-occurring Mental Health and Alcohol/drug Use Conditions: A Guide for Commissioners and Service Providers*, June 2017, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/625809/Co-occurring_mental_health_and_alcohol_drug_use_conditions.pdf, p. 16.

harms their health and social well-being and casts a stigmatising shadow over them.

The Advisory Committee on the Misuse of Drugs (ACMD) recommends an integrated health, social care, and community care approach to the use of drugs and housing needs of people experiencing homelessness. The committee argues that this would provide an opportunity to improve the delivery of services, including by better incorporating evidence-based harm reduction initiatives into housing programmes.⁹⁴

4.3 Hospital discharge into homelessness

The link between health and homelessness is even more evident in the case of hospital discharge. Even where people experiencing homelessness can access hospital services, if they are discharged back into homelessness, as is sometimes the case, many of the gains made as a result of treatment can be severely curtailed.

Planned hospital discharge has been recognised as vital to ensuring a full recovery. People who are homeless at the time of discharge from hospital are more than twice as likely to be readmitted to hospital in an emergency compared with those with housing.⁹⁵ Some of this could be attributed to the lack of access to after-hospital care for people experiencing homelessness.⁹⁶

One homeless accommodation provider told Amnesty International, ‘We have been collecting evidence for years and presenting it to the local NHS trust, of people that have been released from hospitals straight into the streets.’⁹⁷ A 2018 *Guardian* investigation found that discharges from hospital of people with no fixed abode rose by 29.8 per cent from 6,748 in 2014 to 8,758 in 2018.⁹⁸

Under the Homelessness Reduction Act 2017, hospitals, urgent treatment centres and emergency departments are among the agencies that have a duty to refer a person (with their consent) to a local authority of their choice, if they are experiencing, or at risk of, homelessness (see Chapter 5.1.4). Similarly, Schedule 3 of the Care Act 2014 requires the local authority and the NHS to work together to ensure the safe discharge from hospital of people with care and support needs. Statutory guidance for the Care Act states:

94 Advisory Council on the Misuse of Drugs, *Drug-related Harms in Homeless Populations and How They Can Be Reduced* 19 June 2019, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810284/Drug-related_harms_in_homeless_populations.pdf, p. 33.

95 A study of nearly 3,000 people experiencing homelessness in England who were discharged from 78 hospitals between 2013 and 2016 showed that a most 2,000 were readmitted within a year, at almost double the rate of those with homes. Department of Health and Social Care, ‘Fund to help end cycle of homelessness and hospital readmissions’, 7 October 2021, gov.uk/government/news/fund-to-help-end-cycle-of-homelessness-and-hospital-readmissions#:~:text=A%20study%20of%20nearly%203%2C000,with%20homes%20to%20go%20to.

96 Department of Health and Social Care, ‘Fund to help end cycle of homelessness and hospital readmissions’, press release, 7 October 2021, gov.uk/government/news/fund-to-help-end-cycle-of-homelessness-and-hospital-readmissions.

97 Interview by video call, 15 October 2021.

98 The *Guardian*, ‘NHS data shows rise in homeless patients returning to streets’, 13 March 2019, theguardian.com/society/2019/mar/13/nhs-data-shows-rise-in-homeless-patients-returning-to-streets.

The NHS is required to issue a notice to the local authority where they consider that an NHS hospital patient in receipt of acute care may need care and support as part of supporting a transfer from an acute setting regardless of whether they intend to claim reimbursement. The relevant local authority who the NHS must notify is the one in which the patient is ordinarily resident or, if it is not possible to determine ordinary residence, the local authority area in which the hospital is situated.⁹⁹

A major challenge identified in a report by Pathways and the National Housing Advice Service was that local authority decision making processes were too slow. The resulting ‘delayed transfer of care’ – where the patient is ready to be discharged but cannot be discharged due to lack of a safe place to return – also leads to stigmatisation of people experiencing homelessness as ‘bed blockers’.¹⁰⁰ Requirements of ‘priority need’ and ‘local connection’ (see Chapters 6.2 and 6.4) also seriously impeded safe hospital discharge, as did the lack of suitable accommodation for people to move into after hospitalisation, and the lack of coordination between health, housing and social care services.¹⁰¹

Amnesty International’s interviews with representatives of two homeless accommodation providers pointed to some of the ongoing challenges with hospital discharge. One hostel manager told Amnesty International:

We get hospital and prison discharge. It hasn’t been a thing as much during the past year during the pandemic, but we think it is pandemic related. There’s been other support for people maybe. But it was happening a lot in our shelters. We’ve tried to train our staff in being able to push back and refuse ... We give them the skills to challenge the hospital on that if it is not appropriate for the person, if it feels like it is not a safe environment for them because sometimes, they are quite unwell and they should not be coming into a commune or night shelter environment, which is quite basic. Often people in these situations would have mobility issues or they have challenges washing themselves. We’ve had ambulances come to drop people off very unwell people at our shelter. Our shelter manager refused and turned them away. So, they took the person back to hospital.¹⁰²

99 Department of Health and Social Care, ‘Statutory guidance: Care and support statutory guidance’, updated on 27 January 2022, gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance, para. 5.

100 Pathway and National Homelessness Advice Service, *Homeless Hospital Discharge Work – Supporting Best Practice: NHAS/Pathway Health roadshow report*, July 2019, www.pathway.org.uk/wp-content/uploads/Homeless_Hospital_Discharge_Work_Report.pdf, p. 4.

101 Pathway and National Homelessness Advice Service, *Homeless Hospital Discharge Work – Supporting Best Practice: NHAS/Pathway Health roadshow report* (previously cited), p. 5.

102 Interview by video call, 25 August 2021.

5. Statutory duty to address homelessness

Although housing and homelessness is devolved to the nations and regions of the UK, the statutory framework remained largely similar until the 1990s. With increasing devolution, the legal structure is now distinct in each jurisdiction. England, Scotland, Wales and Northern Ireland have their own housing laws,¹⁰³ but laws for England continue to be legislated by the UK parliament. This chapter provides an overview of key legal provisions that govern homelessness in England.

The primary duty to address homelessness in England lies with local authorities. The Homelessness Act 2002 requires them to review homelessness in their districts and to prepare homelessness strategies.¹⁰⁴ The strategy should include plans for preventing homelessness and securing accommodation and support, including by exploring collaboration with private registered providers, charities and voluntary organisations. Based on these plans and available funding, local authorities commission private registered providers, charities, voluntary organisations, and social enterprises to provide services that will help prevent homelessness, supply accommodation and provide support and training.

The Housing Act 1996 – as amended by the Homelessness Act 2002, Localism Act 2011, Homelessness Reduction Act 2017 and Domestic Abuse Act 2021 – lays down the duties of local authorities towards all those who are homeless or threatened with homelessness. The Homelessness Reduction Act 2017 is particularly significant in this context as it expanded the duties local authorities owed to people, including by facilitating earlier interventions to prevent homelessness and expanding coverage of homelessness assistance to all eligible applicants.

5.1 Duties towards people facing homelessness

Homelessness is covered in Part 7 of the Housing Act 1996, building on the initial steps taken in the Housing (Homeless Persons) Act 1977.¹⁰⁵ The 1996 Act provides a wide definition of homelessness – a person or household is considered homeless if:¹⁰⁶

- they have no accommodation in the UK or elsewhere which they have a legal right to occupy
- if they have accommodation but cannot secure entry to it
- if the accommodation is a moveable structure and there is nowhere to place it
- it would not be reasonable for them to continue to occupy their accommodation
- accommodation is not available for the whole household
- they are at risk of violence in the accommodation, including being at risk of domestic abuse.

103 The Housing (Scotland) Act 2001, The Housing (Wales) Act 2014 and the Housing (Northern Ireland) Order 1981.

104 United Kingdom, Homelessness Act 2002, 2002, legislation.gov.uk/ukpga/2002/7/section/2. See also section 3.

105 The Act was extended to cover Northern Ireland in 1988 and the statutory framework remained as such till the late 1990s and the legislative and executive devolution of powers.

106 United Kingdom, Housing Act 1996 (previously cited), sections 175-177.

In determining whether it is reasonable for a person to continue to occupy particular accommodation, local authorities may consider ‘the general circumstances prevailing in relation to housing’ in their own district.¹⁰⁷ The Homelessness Guidance clarifies that comparison with other accommodation in the district could be made, for example, where the question was one of poor physical conditions or overcrowding.¹⁰⁸

Generally speaking, a household or individual is required to apply for support to their local authority when threatened with or experiencing homelessness.¹⁰⁹ Local authorities are required to check for eligibility, that is, whether the person is excluded from homelessness assistance due to immigration restrictions (see Chapter 6.1).¹¹⁰ Where a person is either threatened with homelessness, or is homeless, and that person is eligible for assistance, local authorities are required to make an assessment to identify:¹¹¹

- the reasons for the homelessness or the threat of it;
- the person’s particular housing needs;
- what support they may need.

Based on this assessment, the housing authority must work with the applicant to develop a personalised housing plan which will include actions (or ‘reasonable steps’) to be taken by the authority and the applicant to prevent or relieve homelessness.¹¹²

5.1.1 The prevention duty

Local authorities owe a prevention duty to all eligible applicants threatened with homelessness,¹¹³ that is, a person who is likely to become homeless within 56 days or who has been served with a valid notice requiring possession under Section 21 of the Housing Act 1988.¹¹⁴ The local authority is required to take ‘reasonable steps’ to help applicants to avert homelessness.¹¹⁵ The Homelessness Guidance clarifies that this support could take the form of providing applicants with options and assistance to help them stay where they are currently living or suggesting ways for them to access alternative housing.¹¹⁶

The prevention duty is broad: it applies to all those who are threatened with homelessness and are eligible for assistance. There is no additional requirement that the person must be in priority need, not be intentionally homeless or has a local connection to the local authority.

¹⁰⁷ United Kingdom, Housing Act 1996 (previously cited), section 177(2).

¹⁰⁸ United Kingdom, Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), paras 6.25–6.27. Other examples are given at paras 6.28–6.40 inclusive.

¹⁰⁹ However, other bodies such as hospitals, prisons and Job Centre Plus services are also required to refer a person (with their consent) to their local authority if the person is threatened with or experiencing homelessness. Homelessness (Review Procedure etc) Regulations 2018, SI 2018/223, Sched.

¹¹⁰ United Kingdom, Housing Act 1996 (previously cited), sections 184(1)(a) and 185.

¹¹¹ United Kingdom, Housing Act 1996 (previously cited), sections 184(1) and 189(A).

¹¹² United Kingdom, Housing Act 1996 (previously cited), sections 189A (4) – (6).

¹¹³ United Kingdom, Housing Act 1996 (previously cited), section 195 (2).

¹¹⁴ United Kingdom, Housing Act 1996 (previously cited), sections 175(4) and (5). A ‘s 21 notice’ refers to the procedure at section 21 Housing Act 1988 permitting landlords to obtain possession orders against assured shorthold tenants for no reason (or ‘no fault’), provided that two months’ notice has been given.

¹¹⁵ United Kingdom, Housing Act 1996 (previously cited), section 195(2).

¹¹⁶ Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 12.5.

The prevention duty ends in a number of circumstances, including:

- when the 56-day period has ended, even if the applicant is still threatened with homelessness;
- if the applicant has accepted an offer of accommodation deemed suitable, which is available for his or her occupation for at least six months; or
- if the applicant has refused an offer of accommodation deemed suitable by the local authority.¹¹⁷

5.1.2 The relief duty

Where an applicant is found to be homeless and is also eligible for assistance, the local authority is required to take ‘reasonable steps to secure that suitable accommodation becomes available for at least six months’.¹¹⁸ The Homelessness Guidance provides an illustration of types of reasonable steps, ranging from mediation and conciliation in cases of relationship breakdown to assistance with payment of arrears through the use of discretionary housing payments.¹¹⁹ Experts with whom Amnesty International spoke gave other examples of steps taken – ranging from payment of deposit to help secure private rented accommodation to merely suggestions of lettings agents for the applicant to contact to look for alternative housing.¹²⁰ Thus, the relief duty is not a duty to provide housing to the applicant, but a duty to help secure housing.

A 56-day period is provided for local authorities to fulfil this duty. However, where an applicant is believed to be eligible and in ‘priority need’, they should be provided with temporary accommodation pending confirmation of their ‘priority need’ and other inquiries, including on intentionality and ‘local connection’.¹²¹

The relief duty ends if one of many conditions is met, including:

- when the 56-day period has come to an end, even if the applicant is still homeless;
- if the applicant has accepted an offer of accommodation deemed suitable, which is available for his or her occupation for at least six months; or
- the applicant has refused an offer of accommodation deemed suitable by the local authority.¹²²

The prevention and relief duties can also be deemed to have come to an end if the housing authority considers that the applicant has ‘deliberately and unreasonably refused’ to take any step required of them in the personalised plan.¹²³ Applicants who were owed the relief duty (and so were homeless) and are not ‘intentionally homeless’ and are in ‘priority need’ must be given one final offer of accommodation.¹²⁴

Where, on ending of the relief duty, the applicant is not ‘intentionally homeless’ and in ‘priority need’, then the local authority is required to provide housing under the main housing duty (Section 193) until suitable settled accommodation is available.

117 United Kingdom, Housing Act 1996 (previously cited), section 195(8).

118 United Kingdom, Housing Act 1996 (previously cited) section 189B (2).

119 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 11.23.

120 Interview by voice call with Carla Reeson, University of Nottingham, 16 July 2021.

121 United Kingdom, Housing Act 1996 (previously cited), section 188. This duty continues until the end of the relief duty or can end earlier if the person is found not to be in priority need.

122 United Kingdom, Housing Act 1996 (previously cited), section 189B (7).

123 United Kingdom, Housing Act 1996 (previously cited), sections 189B(9)(b), 193B and 195(10).

124 United Kingdom, Housing Act 1996 (previously cited), section 193C.

Housing authorities are required to provide their decision on the discharge of duties in individual cases in writing, explaining the reasons for their decision where it is unfavourable to the applicant.¹²⁵ The applicant may then ask for a review of the decision within 21 days of receiving it.¹²⁶ If dissatisfied with the review, the applicant could also approach the County Court on a point of law.¹²⁷

5.1.3 The main duty

Where homelessness is not prevented or relieved, so that the applicant remains homeless at the end of the relevant duty, local authorities have a main housing duty, that is, a duty to provide accommodation for those who are eligible, in ‘priority need’ and ‘unintentionally homeless’.¹²⁸ The accommodation must be provided to the applicant, along with all the members of the applicant’s household. Traditionally, local authorities would fulfil this duty by offering social housing to the qualifying person. Since 2012, local authorities have been able to arrange for applicants to receive an offer of private rented housing, in the form of a 12-month assured shorthold tenancy. Increasingly, due to shortage of social housing, local authorities do arrange offers of private rented accommodation, rather than making offers of social housing.

5.1.4 The duty to refer

The Housing Act also requires specific public authorities to refer a person who they think is homeless, or threatened with homelessness, to local authorities.¹²⁹ These specific public authorities include prisons, hospitals, probation services, youth offender services and Jobcentre Plus.¹³⁰ Before making the referral, the authority must have the consent of the person concerned, including consent to share their contact details with the local authority. The person must also be allowed to specify the local authority in England that they would like to be referred to.¹³¹

5.1.5 The Equality Act and Public Sector Equality Duty

The Equality Act 2010 was enacted to provide protection from unlawful discrimination in the provision of goods, services and public functions, housing, transport and education. The Act applies to a set of protected characteristics which are age, disability, gender-reassignment, maternity and pregnancy, race, religion or belief, marriage and civil partnership, sex, and sexual orientation.

Section 149 places a duty on all public authorities, including local housing authorities, to have due regard when exercising their functions to eliminate discrimination, harassment and victimisation; and to advance equality of opportunity for people who share a relevant protected characteristic and those who do not share it. The Public

¹²⁵ United Kingdom, Housing Act 1996 (previously cited), section 184(3).

¹²⁶ United Kingdom, Housing Act 1996 (previously cited), section 202(3).

¹²⁷ United Kingdom, Housing Act, 1996 (previously cited), section 204(1).

¹²⁸ United Kingdom, Housing Act 1996 (previously cited), sections 193(1) and (2).

¹²⁹ United Kingdom, Housing Act 1996 (previously cited), section 213B.

¹³⁰ Jobcentre Plus is a government-funded employment agency and social security office that aims to help people of working age find employment in the UK. Homelessness (Review Procedure etc) Regulations 2018, SI 2018/223, Sched.

¹³¹ Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 4.1.

Sector Equality Duty has been invoked in several cases to challenge decisions by local authorities on vulnerability, suitability, intentionality and so on.¹³²

The Human Rights Act

The Human Rights Act 1998 incorporated key rights from the European Convention on Human Rights into domestic law. Although the Act does not explicitly recognise the right to adequate housing, the following articles are relevant to homelessness.

Article 3 states that no-one shall be subject to torture or to inhuman or degrading treatment or punishment. The threshold to be crossed for an Article 3 claim to succeed in court is very high. Simply having to sleep rough does not amount to cruel, inhuman or degrading treatment. The deprivation must be such that the person cannot maintain essential levels of health and hygiene.¹³³ In a case taken up by Shelter on behalf of three asylum seekers who were denied Home Office support and accommodation because they applied for asylum a day later than the day of their arrival, it was held that the Home Office's decision had left them no option but to sleep rough. It was indeed a breach of their right to be protected from cruel, inhuman and degrading treatment.¹³⁴

Article 8 states:

Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference... with the exercise of this right except... in accordance with the law and as is necessary in a democratic society in the interests of... public safety or the economic well-being of the country... or for the protection of the rights and freedoms of others.

While Article 8 does not amount to a right to be provided a home, local authorities should ensure that their policies and practice do not interfere with a person's right to respect for private and family life. For example, the standard of accommodation must not be so low that a person's right to respect for their private or family life is infringed.¹³⁵

¹³² Supreme Court *Hotak v London Borough of Southwark, Kanu v London Borough of Southwark*, [2015] UKSC 30, supremecourt.uk/cases/uksc-2013-0234.html England and Wales Court of Appeal (Civil Division), *London Borough of Hackney v Haque* [2017] EWCA Civ 4, 17 January 2017, bailii.org/ew/cases/EWCA/Civ/2017/4.html and England and Wales Court of Appeal (Civil Division), *Lomax v Gosport Borough Council* [2018] EWCA Civ 1846, 1 August 2018, bailii.org/ew/cases/EWCA/Civ/2018/1846.html Note that the public sector equality duty does not apply to the protected characteristic of marriage and civil partnership: Equality Act 2010, section 149(7).

¹³³ House of Lords, *Regina (on the application of Limbuela, Tesema and Adam) v Secretary of State for the Home Department* [2005] UKHL 66, 3 November 2005, escri-net.org/sites/default/files/Decision%20Limbuela%20%28en%20ingles%29.pdf.

¹³⁴ House of Lords, *Regina (on the application of Limbuela, Tesema and Adam) v Secretary of State for the Home Department* [2005] UKHL 66 (previously cited); also see Shelter, 'Human rights challenges to local authority homelessness decisions', last updated 22 March 2021, england.shelter.org.uk/professional_resources/legal/homelessness_applications/homelessness_reviews_and_appeals/human_rights_challenges_to_local_authority_homelessness_decisions#source-5.

¹³⁵ *R (Bernard) v Enfield London Borough Council* [2002] EWHC 2282 (Admin), bailii.org/ew/cases/EWHC/Admin/2002/2282.html, and *R (Anufrijeva) v Southwark London Borough Council* [2003] EWCA Civ 1406, bailii.org/ew/cases/EWCA/Civ/2003/1406.html.



Article 14 states:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Although article 14 applies widely across various rights, in the Homelessness Code of Guidance it is invoked in the context of the Gypsy and Traveller community. Authorities are advised to try to provide culturally appropriate temporary accommodation until suitable sites are made available.¹³⁶

Above: Living space amid rubbish next to a building outcrop. Photo by *Golden* from *Stories from Gilded Pavements* (London 2002-5) by Anthony Luvera

¹³⁶ Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), chapter 16.44.

6. Legal barriers to accessing homelessness support and housing

It's a constant battle, a constant fight and you get to a point where you wonder whether it's worth it

Sarah (name changed)¹³⁷

While the Homelessness Reduction Act 2017 expanded the scope of the statutory duty of local authorities to address homelessness, the major legal barriers that impede people's access to homelessness support and housing, remain intact. As a result, thousands of people are denied the support they need. It is difficult to get an estimate of those denied support due to their immigration status, but according to the *Homelessness Monitor* 2022, around 22,000 homeless households in 2020/21 were deemed either not to be in 'priority need' or to be 'intentionally homeless'¹³⁸ and were therefore not entitled to be provided with housing.

6.1 Immigration control and eligibility

Unfortunately, I am a foreigner and I just don't know how this country's system works. I just follow the advice that is given. I don't know what my rights are and how to get out of this situation. I just feel that I am going round and round in this for years¹³⁹.

Pierre (name changed) 62 years old

As noted earlier, in order to qualify for homelessness assistance from a local authority, applicants must be considered 'eligible'.¹⁴⁰ This means that the homelessness applicant must either not be subject to immigration control and be habitually resident¹⁴¹, or that any permission (leave) that they have to be in the UK must not have a condition of 'No recourse to public funds' (NRPF) attached. NRPF is a UK immigration restriction that is widely applied to grants of leave to enter or remain in the UK that are time limited.¹⁴² The effect of the NRPF condition is to bar access to specified social welfare benefits as set out in the immigration rules.¹⁴³ The Immigration and Asylum Act 1999 more widely excludes people subject to immigration control, including where the NRPF condition is attached to their leave, from specific public funds such as Universal Credit,

¹³⁷ Sarah (name changed), 3 May 2022.

¹³⁸ Crisis, *The Homelessness Monitor England 2022* (previously cited).

¹³⁹ Interview in person with Pierre (name changed), 27 October 21.

¹⁴⁰ United Kingdom, Housing Act 1996 (previously cited), sections 160ZA and 185, and Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006, SI 2006/1294, as amended.

¹⁴¹ UK citizens returning from abroad automatically have the right to reside in the UK but must be habitually resident in the Common Travel Area before they can claim unemployment and some other benefits. 'Habitual residence' is commonly interpreted as meaning that a person should have lived in the Common Travel Area for three months before they can claim unemployment and some other benefits.

¹⁴² There are limited exceptions. Leave granted to a refugee is, for example, not made subject to a condition of NRPF – although the Government has proposed legislation (the Nationality and Borders Bill) to enable such a condition to be attached to leave granted to many people in future granted asylum in the UK.

¹⁴³ The condition is applied under section 3(1)(c)(ii) of the Immigration Act 1971; immigration rules define 'public funds' at paragraph 6.2.

Child Benefit, Disability Living Allowance, as well as social housing and homelessness assistance from local authorities.¹⁴⁴

NRPF status applies to a wide range of people including students, European Economic Area nationals who do not have the right to reside in the UK, and people on work or family visas.¹⁴⁵ An analysis of Home Office data suggests that at the end of 2019, 1.37 million people in the UK had NRPF status.¹⁴⁶

Local authorities do not have a duty to provide homelessness support to people who are deemed ‘ineligible’ for assistance. Social services may have to provide accommodation where ‘ineligible’ homeless households include children¹⁴⁷ or where a person is deemed to be in need of care for reasons other than destitution and lack of accommodation.¹⁴⁸ Local authorities can also use other laws, for public health or other emergency reasons, to provide emergency housing to people ‘ineligible’ for homelessness support.¹⁴⁹

People excluded from public funds under immigration laws are made especially vulnerable to destitution and exploitation when also prohibited from working. Those excluded from both public funds and employment include people refused asylum who have exhausted their appeal rights, people who require but do not have leave to enter or remain and people whose leave has a condition attached that prohibits or restricts them from taking employment.¹⁵⁰ Because most hostels and other forms of temporary accommodation are linked with access to state social security benefits, many people excluded from public funds who face homelessness resort to sleeping rough or sofa surfing.

144 United Kingdom, Immigration and Asylum Act 1999, 1999, legislation.gov.uk/ukpga/1999/33/contents, section 115.

145 Others covered by NRPF include people on a maintenance undertaking (a written guarantee from a sponsor about the person’s maintenance while resident in the country).

146 The Migration Observatory of the University of Oxford, ‘People with valid leave to remain other than ILR or citizenship at the end of 2019 (for those issued visas from 2004 onwards) and with their asylum application pending’, migrationobservatory.ox.ac.uk/resources/charts/people-with-valid-leave-to-remain-other-than-ilr-or-citizenship-at-the-end-of-2019-for-those-issued-visas-from-2004-onwards-and-with-their-asylum-application-pending/.

147 United Kingdom, Children Act 1989, 1989, legislation.gov.uk/ukpga/1989/41/contents, section 17(6). The government’s Rough Sleeping Initiative allocates a small proportion of the funding provided by the Central Government to local authorities for addressing rough sleeping among migrants. This funding is mainly for those with NRPF.

148 United Kingdom, Care Act 2014, 2014, legislation.gov.uk/ukpga/2014/23/contents/enacted. As explained by Shelter, the person must have been assessed as in need of care and support that cannot be met without providing them with somewhere to live. A stand-alone need for accommodation is not a need for ‘care and support’ within the Act. See Shelter, ‘Help for adults from abroad who are ineligible for homelessness assistance’, england.shelter.org.uk/professional_resources/legal/housing_options/help_for_people_ineligible_for_housing_or_benefits/help_for_adults_from_abroad_who_are_ineligible_for_homelessness_assistance#title-1. There may also be a duty to secure accommodation for people discharged from detention under Mental Health Act 1983, section 117.

149 United Kingdom, National Health Service Act 2006, 2006, legislation.gov.uk/ukpga/2006/41/contents, section 2B. Local Government Act 1972, section 138. See Derek Bernardi, Exhaust All Options: Local Authorities’ Powers to Accommodate Beyond the Housing Act 1996, December 2021, homeless.org.uk. Also see *Ncube v. Brighton and Hove City Council*, R. (on the application of Ncube) v Brighton and Hove City Council [2021] EWHC 578 (Admin) (11 March 2021) [2021] EWHC 578 where a person was refused emergency accommodation by the council because he was subject to immigration control and therefore not ordinarily entitled to homelessness support. The court ruled that during the public health emergency local councils could lawfully provide accommodation to people who are ineligible for support, including under section 138 of the Local Government Act 1972 and section 2B of the NHS Act 2006.

150 Among the people in the UK who require but do not have leave are many who came to the UK with leave but for various reasons have been unable to extend that leave before its expiry or have had their leave cancelled. Failed asylum seekers may be given accommodation by the Home Office pending arrangements being made for their removal: Immigration and Asylum Act 1999, section 4.

Laura (not her real name), aged 56, told Amnesty International that she has been homeless off and on since 2011. In 2015, her asylum claim was rejected for the second time, and she had to leave the accommodation provided by the Home Office.

From then up to now I am homeless. I stay with friends. I am not working, and I depend on the community for survival. In 2016, I was living with a friend for some time, where I was sleeping in their sitting room. I also went to... charities for help. Some gave me food and other things. My friend and her husband took me to a lawyer – the lawyer did not charge any money and filed a claim on human rights grounds. It is still pending.¹⁵¹

Speaking about her current living situation, Laura said:

The place where I am staying right now, the friend has asked me to contribute towards gas and electricity. I do childcare with the people I stay with or with others – sometimes one day, sometimes two days a week. By the end of the week, I have no money – sometimes just £5 left. Otherwise, I have no other support.¹⁵²

6.2 Priority need

If you have children, things are easy – then they find you a place to live. But if your children are taken away from you, then you get nothing.¹⁵³

Victoria (name changed) 51 years old

Once an applicant is found to be ‘eligible’, and any prevention or relief duty owed to the applicant has come to an end with the applicant remaining homeless, housing authorities ascertain whether they are in ‘priority need’. Under the Housing Act, the following ‘have a priority need for accommodation’:

- a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
- a person who is homeless because they are a victim of domestic abuse;
- a person with whom dependent children reside or might reasonably be expected to reside;
- a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster;
- young people aged 16 or 17, or who are under 21 and were looked after, accommodated or fostered between the ages of 16 and 18;
- a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason with whom such a person resides or might reasonably be expected to reside;
- a person who is vulnerable as a result of having been looked after, accommodated or fostered, having been a member of the armed forces, having served a sentence of imprisonment or having left accommodation as a result of violence or threats of violence.¹⁵⁴

151 Interview by voice call with Laura (name changed), 29 September 2021.

152 Interview by voice call with Laura (name changed), 29 September 2021.

153 Interview in person with Victoria (name changed), 16 September 2021.

154 United Kingdom, Housing Act 1996 (previously cited), section 189(1) and UK Government, The Homelessness (Priority Need for Accommodation) (England) Order 2002, 2002, legislation.gov.uk/uksi/2002/2051/introduction/made.

The determination of priority need is a significant stumbling block for many when trying to access housing support. Amnesty International interviewed 12 people with experience of homelessness who were not provided with accommodation because they did not fit the criteria for ‘priority need’. This condition mainly affected people classified as ‘single homeless’ or those without dependent children. At least six women Amnesty International interviewed had their children taken into care by social services and were deemed ‘single homeless’ – and therefore not in priority need.

Charlotte (not her real name) had experienced homelessness for 15 years and was sleeping rough intermittently at the time of the interview. She told Amnesty International how she had fallen through the ‘priority need’ gap: ‘My children were living with me for some time but then they were taken into foster care. Without my children I wasn’t offered a place to stay, and I couldn’t get a job to get them back.’ She said that she was currently looking after a friend who had suffered a stroke. ‘I care for him three nights a week and the rest I spend with friends – it really depends on who is around... I am a strong person, I have also had to face domestic violence. But when I get down, it is hard and I can’t get out of the hole.’¹⁵⁵

William (not his real name) was also denied support for not being in ‘priority need’. He told Amnesty International that he had been sleeping rough for nearly five months. He had lived in the town for 17 years, had a wife and three children, and a job as a packer in a warehouse. When his relationship with his wife broke down, William could no longer go home or see his children. He also lost his job. ‘I went to the housing authority but they said that they could not do anything for me – I was not in priority need so I did not get anything. I was very upset and wanted to end my life. I just had my jacket and I was sleeping in a tent.’¹⁵⁶

If a local authority believes a person may have a ‘priority need’, the local authority has an additional duty to secure temporary accommodation for them during the period of the relief duty, pending confirmation that they are indeed in ‘priority need’ and inquiries on intentionality and local connection (see below).¹⁵⁷ Moreover, where a person in ‘priority need’ is found to be ‘intentionally homeless’, the local authority must secure temporary accommodation for a period of time that is reasonable for the person to be able to find settled housing for themselves. The advice and assistance provided by the authority must include likely availability of appropriate types of accommodation in the district.¹⁵⁸ However, in interviews and group discussions with Amnesty International, people likened assessment of ‘priority need’ by local authorities to waiting for lottery results.

The expansion of prevention and relief duties of local authorities under the Homelessness Reduction Act 2017 means that since 2018, eligible applicants – regardless of priority need – should be provided assistance to avoid homelessness or access alternative housing (see Chapter 5.1). However, this duty to ‘assist’ is not the same as the duty

155 Interview in person with Charlotte (name changed), 26 October 2021.

156 Interview in person with William (name changed), 16 September 2021. Amnesty International researchers met William at a day centre which had helped him to temporarily access emergency accommodation through the local authority. William had just received the keys and said that he had no further information about the place, whether it was shared accommodation and for how long he could stay there.

157 Housing Act 1996 (previously cited), section 188 (1). This duty continues until the end of the relief duty or earlier if the person is found not to be in priority need.

158 Housing Act 1996 (previously cited), section 190.

to provide or secure housing. It is merely a duty to take reasonable steps to help the applicant find housing.¹⁵⁹

According to Beatrice, who after facing homelessness for three years was allocated social housing, ‘So much depends on who you meet [at the local authority]. Sometimes the council is like a fortress – impregnable because of all the paperwork that you have to do.’¹⁶⁰ Several people told Amnesty International that they did not know why they were assessed as not being in priority need, or in some cases as ineligible for the main housing duty.

6.2.1 Vulnerability

One of the criteria that constitutes ‘priority need’ is ‘vulnerability’. Local authorities are required to determine on a case-by-case basis whether the applicant is vulnerable due to one or more of the following: old age, mental illness, learning or physical disability, having been in supported accommodation or foster care as a child, in the military, in custody or having left an accommodation because of violence or threat of violence.¹⁶¹

However, unlike the other criteria for ‘priority need’, these characterisations do not in themselves lead to qualifying for ‘priority need’.¹⁶² A person must also be ‘vulnerable’ and that vulnerability must be as a result of one or more of those characterisations. According to the Homelessness Guidance:

The housing authority should consider whether the applicant would suffer or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering, such that the harm or detriment would make a noticeable difference to their ability to deal with the consequences of homelessness.¹⁶³

Such criteria have meant that people sometimes are pushed into situations where they had no choice but to exaggerate their condition. Camilla (not her real name) told Amnesty International that after leaving prison she was not considered ‘vulnerable enough’ to qualify for accommodation. Camilla had previously experienced a drug dependence and ‘volatile and incriminating relationships’. To qualify as vulnerable and thus avoid homelessness, she went to a doctor and had to ‘lay it on thick just to get somewhere to live’. She explained that she did not want to lie but all the things she told the doctor would have happened anyway if she had nowhere to live.¹⁶⁴

The Homelessness Guidance also notes that in the case of mental illness and learning and physical disability, while the local authority may seek the advice of medical professionals and social services, the ultimate decision on vulnerability lies with the

159 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 11.23. Note that local authorities do have the power to provide housing, as part of the reasonable steps.

160 Interview by voice call with Beatrice (previously cited).

161 United Kingdom, Housing Act 1996 (previously cited), section 189(1)(c).

162 See *Hotak and Ors. v. London Borough of Southwark* [2015] UKSC30 where the court found that ‘vulnerability’ should be assessed in comparison with an ordinary person if they were to become homeless.

163 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), paras 8.16 and 8.17.

164 Group Discussion by video, 28 October 2021.

local authority.¹⁶⁵ Many local authorities use private companies to carry out medical assessments to determine whether an applicant meets the vulnerability threshold. The courts have noted that when local authorities are using such out-sourced medical assessments, they should take into account that the advice is provided without meeting the applicant or reading the whole of their medical records.¹⁶⁶

In the Covid-19 context, the Homelessness Guidance also notes that authorities should consider applicants who have been identified by their GP or a specialist as clinically extremely vulnerable as having priority need during the pandemic. It further explains that local authorities should consider whether people with a history of rough sleeping should be considered vulnerable in the context of Covid-19, taking into account their age and underlying health conditions.¹⁶⁷

Zara (not her real name) told Amnesty International that she had been homeless for more than 10 years. She had spent several years sleeping in the streets along with her twin sister, in tents given to them by a charity. At the time of the interview, Zara said that she was no longer sleeping rough and had been allocated housing. ‘I have had it for four years. I only got the flat because my partner is a registered schizophrenic – actually that [diagnosis] has been a lifeline for us and that is how we were able to get off the streets.’ On ‘vulnerability’, Zara said: ‘That is something that needs to change. Everyone who is homeless is vulnerable and everyone should be allocated housing. It’s an empty world out there and it’s very easy to judge other people and their situations. But everyone [living] on the street is vulnerable.’¹⁶⁸

6.3 Intentionality

A further requirement to qualify for long term housing support is that the applicant is not ‘intentionally homeless’. Under the Housing Act 1996, any person found to be homeless because of a deliberate act of commission or omission might be deemed to be intentionally homeless and therefore not owed the main housing duty.¹⁶⁹

A person may be found to be intentionally homeless on many different grounds, most commonly:

- failure to pay rent or make mortgage payments when able to;
- refusal to accept suitable accommodation offered by the local authority;
- eviction because of anti-social behaviour;
- loss of home due to a prison sentence;
- voluntary surrender of housing in the UK or abroad which it would have been reasonable to continue to occupy.

¹⁶⁵ Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), paras 8.26.

¹⁶⁶ *Guiste v Lambeth LBC* (2019) EWCA Civ 1758 discussed in housingrights.org.uk/news/caselaw/Guiste-priority-need and *SR v Lambeth London Borough Council*, County Court at Central London, 21 October 2021 H40CL201 – HHJ Roberts discussed in Giles Peaker, *Recitation is not Application*, 21 November 2021, nearlylegal.co.uk/2021/11/recitation-is-not-application/. Also see The Bureau of Investigative Journalism, *How a doctor who has never seen you can say you’re fit enough to sleep on the streets*, 18 December 2019, thebureauinvestigates.com/stories/2019-12-18/how-a-doctor-who-has-never-seen-you-can-say-youre-fit-enough-to-sleep-on-the-streets.

¹⁶⁷ Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), paras 8.45 and 8.46.

¹⁶⁸ Interview in person with Zara (name changed), 17 September 2021.

¹⁶⁹ United Kingdom, Housing Act 1996 (previously cited), section 191.

The Homelessness Guidance recommends that local authorities assess intentionality on a case-by-case basis rather than adopt general policies which pre-define circumstances that do or do not amount to intentional homelessness.¹⁷⁰ In practice, however, the wide-ranging grounds of the intentionality disqualifier mean that thousands of applicants are unfairly denied housing.

Canterbury resident AP told Amnesty International that 10 years ago, when he was homeless near Manchester, the local authority gave him accommodation around 400 miles away. He had little option but to move, despite the distance from his friends and support network, as well as the agencies that he had been relying on for his mental health needs. After five or six weeks in the new town, the isolation affected AP's mental health badly, forcing him to return to his support networks in the Manchester area. Because he returned he was found to be 'intentionally homeless' and therefore not entitled to any further help from the local authority. 'The whole process seemed very underhand to me. So if I were to ask for anything to change, I would say that the authorities can offer accommodation out of area but if the person refuses, they must provide in the area where they have their support networks.'¹⁷¹

Despite the Homelessness Guidance clearly stating that it would not be reasonable for local authorities to require a person to remain in their home until evicted by the bailiff,¹⁷² at least three organisations told Amnesty International that one peculiar basis on which local authorities assessed tenants as intentionally homeless was that they had vacated their home at the end of an eviction notice but before they were actually evicted by the bailiffs. Others reported that some of the people they were supporting were deemed intentionally homeless because they got into rent arrears. While decisions by the local authority can be appealed and also challenged in court, this is often a long and arduous process, often taking several years to resolve.

'Falling into rent arrears' is particularly controversial because it involves local authorities determining whether the applicant who lost accommodation due to rent arrears could have afforded to pay his or her rent, and thus deliberately failed to do so. This is a particularly complex determination as it is linked with affordability, cost of living and how households spend their money.¹⁷³ The Homelessness Guidance clarifies that local authorities need to consider whether the applicant can afford the housing costs without being deprived of basic essentials such as food, clothing, heating, transport and other essentials specific to their circumstances. Housing costs should not be regarded as affordable if the applicant would be left with a residual income that is insufficient to meet these essential needs. The wider context of the applicant's

170 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 9.6.

171 Interview by video call with AP, 22 November 2021.

172 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited) para 6.19.

173 *Samuels v. Birmingham* [2019] UKSC 28. In this case, The appellant, Ms Samuels, had been an assured short-hold tenant on a property where she lived with her four children. Ms. Samuels was entirely dependent on housing benefit, income support, child tax credit and child benefit for her day-to-day subsistence. As a result of the shortfall of £151 per month of housing benefit towards her rent, she fell into arrears. When she applied to Birmingham City Council as homeless under the 1996 Act, the council, however, deemed her to be intentionally homeless. The local authority believed Ms. Samuels residence was affordable and that she had sufficient flexibility in her income to make up for the Housing Benefit shortfall towards the rent. However, the Supreme Court found that when looking into Ms. Samuel's expenses that her expenses post-rent were within the subsistence benefits amount and could not be seen as unreasonable. Thus, the Supreme Court clarified that it was not up to the council officer whether to decide how the applicant should be spending on household expenses but whether the household expenses are objectively at a reasonable level. Additionally, the Supreme Court also clarified that subsistence benefit levels are a reasonable objective baseline to determine whether household expenses are reasonable <https://nearlylegal.co.uk/2019/06/reasonable-expenses-and-intentional-homelessness>.

particular circumstances should be considered when considering their household expenditure, especially when these are higher than might be expected.¹⁷⁴

LGBTIQ people have been particularly impacted by intentionality. Various instances have been reported where young people were classified as intentionally homeless even though they left home because of domestic abuse over their sexual orientation.¹⁷⁵

The intentionality determination has other impacts. Many interviewees told Amnesty International that they felt they had no choice but to live in sub-standard temporary accommodation because if they refused it, they would be declared ‘intentionally homeless’ and the local authority would no longer be responsible for finding them suitable housing. Charity workers also confirmed this practice and said that they often advised applicants to accept the housing offered and later raise concerns about its quality or seek a move elsewhere.

Cockroaches, mould and damp

Pearl (not her real name) told researchers that she had been provided with temporary accommodation in a one-bedroom flat by a local authority in London. ‘The accommodation is extremely unsuitable – I have been here seven months now. The housing conditions are affecting me mentally. There are cockroaches, the room is mouldy and damp – I have sent pictures to the council,’ she said. Pearl had previously been sofa surfing and was subsequently provided with accommodation by the Home Office when she applied for asylum. ‘I got my status in May 2020 but I stayed in Home Office accommodation till March 2021 as there was a lockdown and an eviction ban’.

After the local authority accepted her homelessness application, Pearl was offered accommodation in a northern city. She told Amnesty International that this came as a huge shock to her. ‘I was really worried – how could I go? I was in therapy – I knew no one there,’ she said. As an alternative, Pearl was then offered accommodation out of London in a building that was in the news for stabbings and drug dealing. Finally, after help from charity workers and her solicitors, the local authority offered her a place in a London borough. ‘They then put me up in a hotel for two nights. After that they offered me a one-bed. On the phone the lady from the council told me that if I refused it, I would be considered intentionally homeless... that I had made myself homeless.’¹⁷⁶

Some people reported a chilling effect, discouraging them from asking for the support they need. In some cases the humiliation and fear of being turned away because they ‘made themselves homeless’ served as a deterrent for people approaching the local authorities. Lia (not her real name), aged 45, had been street homeless intermittently for eight years after being evicted from her home for rent arrears. She ended up sleeping rough and sofa surfing ‘with lots of different people’.¹⁷⁷ Her caseworkers confirmed

174 Department of Levelling Up, Housing and Communities, *Homelessness Code of Guidance for Local Authorities* (previously cited), para. 17.46.

175 Hannah Price, ‘LGBT and homeless: “I was told to contact my abusive dad”’, 9 March 2020, bbc.co.uk/bbcthree/article/2d6a278d-f279-41dd-a4d2-0ceea2882ade.

176 Interview by voice call with Pearl (previously cited).

177 Interview in person with Lia (name changed), 17 September 2021.

that at the time of the eviction, Lia decided not to approach her local authority for support because she was convinced that they would find her ‘intentionally homeless’.

6.4 Local connection

Although the law does not require a local connection to the area where the applicant may seek housing assistance, in practice this is a relevant consideration jointly agreed by local authorities.¹⁷⁸ Under the 1996 Act, local authorities may make enquiries to ascertain whether the applicant has a local connection to the district where they have applied or to another place in England, Scotland or Wales.¹⁷⁹ Local connection could be on the basis of residence, employment, family associations, or special circumstances.¹⁸⁰ Residence in temporary accommodation provided by a housing authority in an area can also be considered when the local authority is assessing local connection. For those who are street homeless or sofa surfing, the main criterion is that the person does not have settled accommodation elsewhere. The period of time a person has to reside in an area to be ‘normally resident’ is not defined in legislation, but local authorities have agreed it as six months’ residence in the past 12 months, or three years in the previous five.¹⁸¹

Local authority representatives told Amnesty International that the ‘local connection’ criterion was important to prevent imbalances in particular geographic areas. Applicants and supporting charities, however, raised concerns that it was being used by local authorities for gate-keeping and reducing their burden. The potential for local authorities to exploit the ‘local connection’ criterion to unfairly exclude some vulnerable residents from access to housing has also been highlighted by the House of Commons Work and Pensions Committee.¹⁸²

Daniel (not his real name) told Amnesty International that he had been homeless for more than two years, initially in a northern city (City A) where he lived with his partner and their children. After this relationship ended and he became homeless, Daniel moved to City B to live with his son but soon had to leave the apartment due to his son’s drug dependence. Although he was street homeless, Daniel told Amnesty International that City B did not offer him housing support because he did not have a ‘local connection’. On his return to City A he was hospitalised after suffering a heart attack, but City A officials told him to return to City B because they did not owe him any duty.¹⁸³

6.5 Other barriers

In addition to immigration status and eligibility criteria, people with experience of homelessness and people working in support services highlighted several barriers in access to support. These ranged from highly bureaucratic processes, to requiring huge amounts of paperwork, to lack of appropriate training and unhelpful attitudes among local authority staff.

178 In a situation where the person has a local connection in another district, the local authority where they have applied may refer them to the local authority of that district at the relief duty or main housing duty stage, see section 198 of Housing Act 1996.

179 United Kingdom, Housing Act 1996 (previously cited), section 184(2).

180 United Kingdom, Housing Act 1996 (previously cited), section 199(1).

181 The Local Authority Associations, *Procedures for Referrals of Homeless Applicants to another Local Authority: Guidelines for local authorities on procedures for referral*, local.gov.uk/publications/procedures-referrals-homeless-applicants-another-local-authority, para. 4.3(i)e.

182 Hannah Cromarty, *Rough sleepers: access to services and support (England)*, 9 October 2019, House of Commons Library, researchbriefings.files.parliament.uk/documents/CBP-7698/CBP-7698.pdf, p. 39.

183 Interview in person with Daniel (name changed), 17 September 2021.

Two of the barriers that were raised by almost all interviewees during the research are discussed below.

6.5.1 Lack of information

To get the right kind of support in time if threatened with homelessness or experiencing it, people need to know where to go. The lack of information about homelessness and housing services, both public and charity-led, emerged as a major barrier to access to adequate housing in Amnesty International's interviews with people experiencing homelessness. When asked how they found out about homelessness services, the most frequent answer was, from other people who were in the same situation. Some people said they found out from churches or treatment centres for drug and alcohol dependence.

The lack of easily available information means that some people go for weeks and months without any support, potentially harming their health and life. Mandy, aged 50 told Amnesty International:

For a long time, I did not know where to look for help – I was very naïve. I was hiding from the world and there was a lack of information until it became a matter of life and death. All the initial information I got was from other homeless people. I heard about hostels and all from the streets. The community learns from each other.¹⁸⁴

Similarly, Diana (not her real name), told Amnesty International researchers that when she first fell into homelessness, she too did not know where to go to seek help:

It's very difficult to find out what services are available unless you know someone who knows someone. When I was street homeless, I didn't know where to go for help. I followed the trail of the *Big Issue*¹⁸⁵ sellers because they seemed to know more. They are the best source. I knew this only because I had been homeless for a while. Most information is available only word of mouth.¹⁸⁶

Amnesty International was repeatedly told by people who had experience of homelessness that there is an urgent need for information in each area about homelessness services and how to access them. They suggested that this information could be disseminated through the use of posters and flyers, in schools, hospitals, supermarkets and GP practices, in a manner that would be accessible to all, including people with disabilities and those for whom English may not be their first language. Amnesty International raised the issue of access to information with local authorities who said that this information was easily available on their website.

6.5.2 Digital exclusion

Many people with experience of homelessness as well as those working in the homelessness sector pointed out that with an increasing number of services going online, it was becoming more and more difficult for people to access the services and support they needed. People are required to apply through online portals,

¹⁸⁴ Interview by voice call with Mandy, 24 August 2021.

¹⁸⁵ The *Big Issue* is a magazine that is sold in the streets by people living in poverty including people experiencing homelessness.

¹⁸⁶ Interview in person with Diana (name changed), 16 September 2021.

including for Universal Credit which is key for accessing hostels and other temporary accommodation. Many people who experience homelessness are not familiar or comfortable with using online portals or do not have access to a smartphone. Many have not had the opportunity for extensive use of computers and smartphones, and often struggle to operate them.

A survey on access to smartphones and digital capabilities among people experiencing homelessness was conducted in 2017 by Pathway, an organisation working on health and homelessness. It found a fair amount of pre-existing engagement with internet use: 82 per cent reported having used the internet at some point, and 61 per cent of these said they went online every day. However, 33 per cent of people either did not use the internet at all or described their skills as ‘below average’ or ‘poor’, and these went online less frequently. Despite regular use, access problems existed across all groups, including lack of an appropriate device, insufficient data or being unable to get a data contract and lack of access to public wi-fi. Crucially, although 82 per cent of respondents reported having a phone, this was not always a smartphone. Others reported having no credit or that their devices had recently been lost, stolen, broken or sold. As a result, only 54 per cent had a working phone. Capability problems were more evident in older age groups and 50 per cent of survey respondents said they would benefit from some sort of training to access the internet.¹⁸⁷

With the Covid-19 related lockdowns, local authority housing services also stopped face-to-face appointments and many used phone-in or online applications. Several charities and some businesses distributed smartphones to people experiencing homelessness during the pandemic. But unfamiliarity with the technology combined with difficulties in access to data, insufficient places to charge phones, the high risk of phones being lost or stolen. The digital divide remained a significant barrier in accessing support and services. On the importance of having a smartphone to access essential services, James (not his real name, 45 years old) told Amnesty International that he had been diagnosed with paranoid schizophrenia almost two decades ago and had experienced homelessness off and on during this period. ‘Lockdown was very intense for me as a paranoid schizophrenic – I started having more and more intrusive thoughts. I was too unwell to walk to the GP so I called them to have a chat and that helped me a lot. Mobile phones are so important these days – in an ideal world, the NHS would prescribe them.’¹⁸⁸

Highlighting the digital divide in the case of people in prison, David told Amnesty International, ‘One thing really lacking in prison is digital technology. You’ve seen how important digital technology has been through lockdown, imagine how important it is for people in prison... Digital illiteracy and digital poverty are two things that are inextricably linked to poverty and other disadvantages. What I’m asking is [for people in prison to] access digital technology, read-only, pre-downloadable pads... it’s learning about the technology, understanding what the technology is about because that time behind the door, we spend a lot of time in prison behind a door, is wasted time without digital technology... so much is lost in that time that someone spends behind a door.’¹⁸⁹

187 Pathway, *Digital Health Inclusion for People Who Have Experienced Homelessness – Is This a Realistic Aspiration?*, March 2017, pathway.org.uk/wp-content/uploads/2013/05/Digital-Inclusion-Report-Final-for-web.pdf, p. 32.

188 Interview by voice call with James (name changed), 21 July 2021.

189 Interview by video call with David, 15 November 2021.

7. Focus on specific groups

People facing homelessness are not a homogeneous group. Their experience, including engaging with their local authority, may vary depending on a number of factors including age, gender identity, sexual orientation, race, disability, location, and nationality and immigration status. The sections below draw out some patterns based on the interviews conducted for the research and is in no way meant to diminish the particular challenges faced by other groups experiencing homelessness.

7.1 Women

According to a December 2021 report by Shelter, in the last 10 years the number of women in England who are experiencing homelessness has increased by 88 per cent.¹⁹⁰ Yet, homelessness among women has received less attention from policy makers, the media, and in some cases service providers.¹⁹¹ This has been largely attributed to women's invisibility in what is understood as the sharpest and most conspicuous form of homelessness – rough sleeping. Women made up 13 per cent (320) of the number of people recorded in the rough sleeping count for 2021.¹⁹² In addition, women who have faced domestic violence and abuse and are living in refuges or temporary accommodation may not always be officially counted as homeless even though their living condition fits within the definition of homelessness.¹⁹³ Many more women experiencing homelessness remain uncounsed as they often have no option but to resort to sofa surfing, staying with relatives, friends or strangers.

Caroline, who works with Tricky Period, a grassroots group that helps provide period products to those experiencing homelessness, pointed out there are more women on the streets than those counted in the official figures, as many tend to hide away. Women tend to lose out either way: if they can be seen, they are more exposed to danger but if they are hidden, they are still not safe and more difficult to find for support workers and others who can help them. Margaret (not her real name) told Amnesty International researchers about her experience of sleeping rough, 'I have slept in the woods in a tent, in car parks, I was hiding, hiding from society... It's very frightening. The men especially when they come out of pubs ... that was very frightening. It was mainly men who used to frighten me.'¹⁹⁴

190 Shelter, *Fobbed Off: The Barriers Preventing Women Accessing Housing and Homelessness Support*, and *The Women-centred Approach Needed to Overcome Them*, December 2021, england.shelter.org.uk/professional_resources/policy_and_research/policy_library/fobbed_off_the_barriers_preventing_women_accessing_housing_and_homelessness_support, p. 13.

191 See Shelter, *Fobbed Off: The Barriers Preventing Women Accessing Housing and Homelessness Support*, and *The Women-centred Approach Needed to Overcome Them* (previously cited) and Fulfilling Lives in Islington and Camden, Joanne Bretherton and Nicholas Pleace, Centre for Housing Policy, University of York, *Women's Homelessness in Camden: Improving Data, Strategy, and Outcomes*, 9 December 2021, shp.org.uk/Handlers/Download.ashx?IDMF=5fee2c27-c387-4a68-b574-8d00a6ce7e76.

192 DLUHC, *Rough sleeping snapshot in England: autumn 2021* (previously cited).

193 Fulfilling Lives in Islington and Camden, Joanne Bretherton and Nicholas Pleace, Centre for Housing Policy, University of York, *Women's Homelessness in Camden: Improving Data, Strategy, and Outcomes* (previously cited), p. 9.

194 Interview in person with Margaret (name changed), 26 October 2021.

Amnesty International researchers spoke to women who had experienced almost all the different forms of homelessness – rough sleeping, sofa surfing and living in unsuitable temporary accommodation. Mandy, aged 50, said that she became homeless when she was unable to keep up with her rent payments. After she lost her house, Mandy's children were taken in by her family:

It is brutal just surviving in that situation... I was out on the street, I slept in my car for a bit...I slept in parks and put myself in very vulnerable situations... This is when I was sofa surfing with a man who had been sectioned [hospitalised under the Mental Health Act]. One day I woke up in the middle of the night with him just screaming at me. I was expected to pay for staying in. The drug dealer [where she was sofa surfing] was an angry person and there was always an underlying threat... Being a woman, you are more vulnerable than men... Fear is a massive thing when you are lost. You are fearful of offices, fearful of people... at times I felt like I was screaming that I needed help, but no one was listening.¹⁹⁵

7.1.1 Domestic abuse

Shelter's December 2021 report on women and homelessness highlights that domestic abuse is among the top triggers of homelessness in England. In addition, domestic abuse is also near-universal among women experiencing homelessness.¹⁹⁶ Many of the women Amnesty International interviewed for this report had experienced domestic abuse and violence in addition to the abuse and violence they had faced while they were homeless. The interviews suggested that the lack of a stable place to stay, coupled with multiple unmet needs, could lead women into abusive or violent relationships and trap them there.

Megan (not her real name) had been a victim of domestic abuse. At times she would stay with friends for several months. She said she had no other place to go to and had to put up with the alcohol and drug use that took place there. Her partner died in 2019 but Megan continued to face threats and violence from his family and friends. As Megan was part of a domestic abuse network, she was eventually able to get access to emergency accommodation. She now lives in a flat of her own.¹⁹⁷

Women's Aid, an organisation working to end domestic abuse, found that lockdown restrictions during the pandemic made it more difficult for women facing domestic abuse to get the support they needed. Restrictions also meant that services were stretched, and cross-agency support was not always available.¹⁹⁸

Following the Domestic Abuse Act 2021, people who are homeless as a result of domestic abuse are to be recognised as being in priority need.¹⁹⁹

¹⁹⁵ Interview by voice call with Mandy, 24 August 2021.

¹⁹⁶ See Shelter, *Fobbed Off: The Barriers Preventing Women Accessing Housing and Homelessness Support*, and *The Women-centred Approach Needed to Overcome Them* (previously cited).

¹⁹⁷ Interview in person with Megan (name changed), 17 September 2021.

¹⁹⁸ Women's Aid, *A Perfect Storm: Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and The Services Supporting Them*, 2020, [womensaid.org.uk/wp-content/uploads/2020/08/A-Perfect-Storm-August-2020-1.pdf](https://www.womensaid.org.uk/wp-content/uploads/2020/08/A-Perfect-Storm-August-2020-1.pdf).

¹⁹⁹ UK Government, Housing Act 1996 (previously cited), section 189(1)(e).

7.1.2 Not recognised as in priority need

Homelessness policy in England categorises parents separated from their children as ‘single households’. For many parents, having their children taken into foster care or assigned to the custody of the other parent means that they are no longer considered to be in priority need and therefore cannot access settled housing. This invariably means that they cannot access the support they need to lift themselves out of homelessness and live with their children again. Several of the women interviewed found themselves in this predicament.

Kate (not her real name) became homeless because of rent arrears in 2019. She told Amnesty International that because her children were living with their father, the local authority decided that she was not in priority need and therefore could not be rehoused. After this, she got into a relationship with a man who beat her and sexually assaulted her. She said she tried to get away from him and left him after several months of violence and abuse. She currently lives in shared housing and hopes to be allocated an independent apartment eventually.²⁰⁰

Amnesty International also heard from Ghala (not her real name) in a group discussion where she spoke about being allocated a house after fleeing domestic violence along with her children. Ghala said that when she lost custody of her children to her ex-partner, she also lost her home. Within two weeks of the children going to their father’s place, she said, her benefits were stopped and she was evicted. The only option the local authority offered her was to stay with family or friends or bid for a council flat, which could take two to three years.²⁰¹

A research study by the UK Collaborative Centre for Housing Evidence found that taking their children away and then failing to recognise them as in priority need, or even reducing their benefits, made rebuilding a family home almost impossible for many women. This in turn reinforced family separation.²⁰²

The consequences of this can be long lasting and the distress felt by the women was evident in several interviews. Margaret (not her real name) told Amnesty International researchers: ‘I lived in many refuges meant for victims of domestic abuse, but I would soon leave them. I could never settle... because of my addiction... also because my children had been taken into care and I couldn’t be around others with children.’²⁰³

7.2 Prison leavers

People leaving prisons are among those at high risk of homelessness or ending up in unsafe or unsuitable housing. According to the Prison Reform Trust, Ministry of Justice data shows that only 48 per cent of people released from prison in 2020-21 had settled accommodation or a secure place of residence on release, and around 12 per cent experienced homelessness or sleeping rough.²⁰⁴ According to a report by Her Majesty’s Inspectorate of Probation, between 2019 and 2020, 65 per cent of people

200 Interview in person with Kate (name changed) 17 September 2021.

201 Ghala (name changed) in group discussion, 19 October 2021.

202 Dr Emma Bimpson and Dr Kesia Reeve, with Dr Sadie Parr, *Homeless mothers: Key research findings*, UK Collaborative Centre for Housing Evidence, Sheffield Hallam University, 11 February 2020, <https://housingevidence.ac.uk/wp-content/uploads/2020/02/200211-homeless-mothers-findings-report.pdf> p.24.

203 Interview in person with Margaret (name changed), 26 October 2021.

204 Prison Reform Trust, *Bromley Briefings, Prison Factfile*, Winter 2022, <https://prisonreformtrust.org.uk/wp-content/uploads/2022/02/Winter-2022-Factfile.pdf>.

released from prison without settled accommodation had reoffended, compared to 44 per cent with settled accommodation.²⁰⁵

Although there is no unified national approach in England to addressing the housing needs of people leaving prison, the DLUHC and the Ministry of Justice have published best practice guidance for prison release protocols.²⁰⁶ The guidance requires prison authorities to assess the person's housing situation and if they have a home to return to, all efforts are to be made to keep that available on release. Resettlement officers are tasked with providing people in prison advice on state benefits, training, education, work experience and other general support, including on housing, before release. They, alongside probation officers and 'Through the Gate' services, are key in supporting prison leavers to access suitable housing. Through the Gate services help people in prison retain their housing as far as possible by ensuring that rent is paid, including by using Universal Credit; completing a resettlement plan; advising the individual on housing options upon release; facilitating the local authority's support plans; and liaising with relevant officers. A report by the Inspectorate of Probation found that 'this work was completed in only about one-third of relevant cases'.²⁰⁷

According to Homeless Link, '[o]ften these [housing] plans are not adequately investigated by resettlement and probation staff and fall through or fail. In this situation there is an acute risk of homelessness and also re-offending.'²⁰⁸ Organisations providing Through the Gate services told Amnesty International that the services are important in preventing prison leavers from experiencing homelessness but have insufficient resources to support all prison leavers at risk of homelessness. There was also an overall lack of consultation with people in prison to understand their needs and the type of accommodation and location that would be most suitable.

Philip (not his real name), who was living in hostel accommodation when interviewed by Amnesty International, talked of his experience in prison. He said that he was on Personal Independence Payment (PIP) before going to prison but that stopped soon after he was taken into custody. When people getting Disability Living Allowance, Attendance Allowance or PIP are imprisoned, the benefit is suspended. It can be re-initiated upon release if the claimant informs the Disability Benefits Centre. However, Philip told Amnesty International that he received no support to understand how the system worked and what he was entitled to while in prison.²⁰⁹

For those people in prison who will be homeless on release, prison authorities, with the person's consent, are required by law to refer them to a local authority of the person's choice (keeping in mind that the local authority might require them to prove their local connection).²¹⁰ A referral to the local authority must be made within 56 days of the release date – the Probation Services also have such referral duty. Such a referral does not automatically lead to the prison leaver being provided housing, but it initiates the

205 Her Majesty's Inspectorate of Probation, *Accommodation and support for adult offenders in the community and on release from prison in England: An inspection by HM Inspectorate of Probation*, July 2020, justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2020/07/FINAL-Accommodation-Thematic-inspection-report-v1.0.pdf, p. 8.

206 Ministry of Housing, Communities and Local Government Ministry of Justice, *Prison Release Protocol Guidance Research Report*, July 2019, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814964/Prison_Release_Protocol_research_report_FINAL.pdf.

207 Her Majesty's Inspectorate of Probation, *Accommodation and Support for Adult Offenders in the Community and on Release from Prison in England: An Inspection by HM Inspectorate of Probation*, July 2020, (previously cited), p. 30.

208 Homeless Link, *Working with Prison Leavers: Resource for Homelessness Services*, March 2018, homeless.org.uk.

209 Interview in person with Philip (previously cited).

210 United Kingdom, Housing Act 1996 (previously cited), section 213B.

process for the prison leaver to be assessed by the local authority and assisted to access housing through the preparation of a personal housing plan, which also outlines joint responsibilities of the local authority and the applicant.²¹¹

Amnesty International spoke with several people who had been homeless after leaving prison. Many of them spoke about facing barriers in access to housing, including inadequate support, lack of information, and refusal by private landlords to rent to someone with a criminal history.

One of the main issues identified in the group discussions was the lack of overall support while still in prison. Group discussions with people who had been in prison pointed to the need for discussions with the individual around arrangements for suitable accommodation to begin well in advance of the release. The level and kind of support people in prison received to prepare for release depended on who they knew in prison – including support workers – how familiar they were with the system and how well they could navigate it. Craig, who now works as a peer advocate with a housing charity, told Amnesty International that he was able to get the support and advice he needed on housing and other issues prior to release because he had a charity worker meet him before his release and help him sort out accommodation and other matters. However, Craig said that this was not the case for a majority of people in prison. Many of them had no idea where they would go once released.²¹²

One of the barriers to accessing housing on leaving prison is the lack of social security benefits. While people in prison should ideally apply for Universal Credit before release, many are not able to do so as the application process for Universal Credit is online and people in prison often do not know how to navigate these systems. For those who have nowhere to go, rough sleeping or sofa surfing therefore becomes almost inevitable because access to hostels, supported accommodation and other temporary housing is usually contingent on access to social security benefits.

One of the women in a group meeting with Amnesty International spoke of her experience of being homeless while on probation. She said she had no support from the local authority and felt as if she had hit a brick wall and had to stay in a place which was completely unsuitable for her. She said that it did not matter to the authorities that she had been seriously assaulted or that she was having to exchange sexual favours for rent.²¹³

Discussions in the group highlighted the vicious circle that often traps prison leavers. Because of the huge backlog in social housing, people are pushed to rent in the private sector. But a criminal record makes it difficult to obtain not only accommodation but also a secure job that they need to meet rent demands.

Natalie (not her real name) spoke in a group discussion about losing her home. She said that before going to prison she had never fallen behind with her rent but because her prison term was longer than 13 weeks, her housing benefit stopped. She kept receiving letters that her housing benefit was not being paid and said that she brought this to the attention of the authorities in prison, but nothing was done about it. On

211 Ministry of Housing, Communities and Local Government and Ministry of Justice, *Prison Release Protocol Guidance: Research Report*, 5 July 2019, [gov.uk/government/publications/prison-release-protocol-guidance-research-report](https://www.gov.uk/government/publications/prison-release-protocol-guidance-research-report).

212 Interview by video call with Craig, 12 November 2021.

213 Group discussion, 19 October 2021.

leaving prison, Natalie was provided with temporary accommodation. She lived there for two years and then tried to move to longer-term housing. However, she said, by this time a lot of people knew about her past – she had been portrayed as a ‘notorious criminal’ on the front page of a newspaper – and hence private landlords did not want to rent to her. Her probation officer often vouched for her but that did not help.²¹⁴

‘The only place I knew and could sort myself out with a roof over my head, was prison’

In an interview with Amnesty International David spoke in detail about his experience with homelessness and prisons. He said that in total he had been to prison nine times and had a history of violent offending. In July 2015, on release from prison, he approached his local authority for homelessness support. While they accepted that he was owed housing, he could not be placed in regular temporary accommodation and needed to go to a supported hostel because he was deemed a violence risk. David said that he would ‘rather have stayed on the streets’ than go to that particular hostel as it was notorious for being chaotic ‘with police being called in twice or three times a day.’

David ended up returning to prison. ‘It all led to me deciding that the only place I knew and could sort myself out with a roof over my head, was prison. The time was right, I had hit rock bottom, I had nothing left... I was going from nothing to having a roof over my head, food all the time, and comfort.’ David said that he also felt valued in prison for the work he had done including with St Giles, the Samaritans, and generally on prison education. In his last term in prison, David was able to ‘turn his life around’ and he said that was only because he had years of experience, knew how to navigate the system, and had a tremendous support network:

But that doesn’t mean that a person who goes to prison for the first time knows what to do or that the prison will provide you the information you need. For me the number one let down in the criminal justice system is the initial screening and needs analysis. How can you devise a sentence plan for someone if you don’t know what their needs are?... that needs analysis has to be the best report in prison. Without that, the rest is all guess work.²¹⁵

Like other prison leavers who Amnesty International researchers met, David also spoke about facing stigma while finding a place to live on the private rental market.

7.3 People excluded from public funds under immigration laws

Migrant and non-UK nationals living in the UK contend with the same causes of homelessness as the general population: poverty, breakdown in family relations, lack of social networks and wages that in many cases fail to keep up with rising costs. However, many migrants also face a crucial additional barrier in accessing local authority housing services owing to their being excluded from public funds under

214 Group Discussion, 19 October 2021.

215 Interview by video call with David, 11 November 2021.

immigration laws.²¹⁶ As a result, they either rely on night shelters, sofa surfing or other rent-free services or accept ‘reconnection’ offered by the local authority – which essentially means return to their country of origin.²¹⁷ For many ‘reconnection’ is not a real option, as they may face persecution and violence on return or may have left their country of origin years or decades earlier and no longer have any connection to it.

One large subgroup amongst those excluded from public funds are people seeking asylum. Accommodation for people seeking asylum is provided by the Home Office to those who have no other way of supporting themselves – no choice of type or location is offered. Initial accommodation is short-term, usually a hostel or hotel where the stay is intended to be less than 35 days. Once a person is determined as eligible for asylum support, they are sent to ‘dispersal’ accommodation which is longer-term but still temporary accommodation where the person can stay while their claim is processed. As of December 2020, there were 41,302 people seeking asylum living in dispersal accommodation, spread throughout the country but largely concentrated in the north-west and north-east.²¹⁸

The Home Office dispersal accommodation is usually shared-housing provided through private contractors, often in areas of low housing demand. All the people Amnesty International researchers spoke with who had lived in Home Office accommodation said that living conditions were highly inadequate. Many said that the housing they had been allocated was in serious disrepair, and complaints about damp, mould and leaks were common. While such conditions should ordinarily lead them to be considered homeless under the Housing Act 1996,²¹⁹ they are not eligible for any housing support or assistance from local authorities (see Chapters 3.1.4 and 6.1).



Left: Photo by Yolanda Bath from *Assembly* (Brighton 2013-14) by Anthony Luvera

216 There are also people treated as subject to immigration control despite being born in the UK without British citizenship and who have lived in the UK all their lives. Such people will have rights to British citizenship, but these may be inaccessible to them by reason of prohibitively high fees or good character requirements. Some people in this position are without any status in the UK and are treated as excluded from public funds and employment.

217 Ceri Hutton and Sue Lukes, *Models of Accommodation and Support for Migrants with No Recourse to Public Funds (NRPF): A Resource for Practitioners and Groups Who Want to Get Involved*, Housing Justice, NACCOM and Praxis, April 2015, homeless.org.uk.

218 Melanie Gower, ‘Asylum Support’: *Accommodation and Financial Support for Asylum Seekers*, 22 April 2021, House of Commons Library, researchbriefings.files.parliament.uk/documents/SN01909/SN01909.pdf, pp. 12-13.

219 UK Government, The Housing Act, 1996 (previously cited), sections 160ZA and 185(2).

Dilapidated housing

Leela (not her real name) was living in shared accommodation, provided by the Home Office, with her husband and two children (four years old and 16 months old). She told Amnesty International:

I have no idea how long I will have to live here. It is very difficult with one room between four of us... The place where we live right now is not suitable, it is not healthy. It often leaks. The last time it rained heavily the water came through the roof and we were temporarily moved to a hotel... There is also damp inside the room and one wall is soaking wet – I can see the wires hanging out and I worry about electrocution. The paint on the walls is also peeling off with the damp. Sometimes my children peel the paint and put it in their mouths – I need to watch them very carefully.²²⁰

When asked about whether she had raised these issues with the housing provider and authorities, Leela said:

I have tried complaining... my solicitor contacted [a charity supporting people seeking asylum] and they will take it up. The Home Office has already refused to give us a flat once. I don't think they know where we are and how we are living. They told us that according to them the property was suitable. This is in spite of the fact that the housing manager of the building also sent a text confirming that the property is not suitable for a family. [The charity] and the health visitor also said that it is not suitable for the family, but they can't help us. No one listens to us. I have also tried to go to the doctor and get a letter confirming that I have a bad back and two operations – I had to pay £85 for it. I am not sure it will work.²²¹

For many people seeking asylum, the entire process – starting from finding out where to seek help, the paperwork, the long pending cases -- was arduous, made worse by precarious housing situations and the inability to earn a living.

'My life has not been easy' said Angela (not her real name) in her interview. Angela, in her mid-fifties, said that she was waiting to hear back on her application for housing under Section 4 of the Immigration and Asylum Act (available to those who have exhausted appeal rights in their asylum claims). Angela said that she had previously been detained in Yarl's Wood Immigration Removal Centre, tagged and released on bail, and had subsequently slept at the homes of friends, in an attic and for a time at the coach station.²²²

Many people seeking asylum interviewed by Amnesty International also lived significant periods without any documentation: these categories are not watertight and often overlap. Undocumented migrants, including those whose asylum claims have been rejected, are among the most vulnerable groups experiencing homelessness. Since 2016, they are disqualified from renting property and all private landlords are required to check the immigration status of new tenants, as well as those sub-letting

220 Interview by voice call with Leela (name changed), 11 November 2021.

221 Interview by voice call with Leela (previously cited).

222 Interview by voice call with Angela (name changed), 24 September 2021.

their property.²²³ For such undocumented migrants, the only options that remain are informal renting where affordable, sofa-surfing or rough-sleeping, all of which place them at high risk of abuse and exploitation. While local authorities have powers to provide housing support in some exceptional cases, these instances are rare as resources are limited.

All the undocumented migrants interviewed by Amnesty spoke about living with high levels of fear and feeling helpless. Some said that they had escaped threatening or violent circumstances only to find themselves in completely different but nonetheless difficult situations.

Living in fear

Constance (not her real name) told Amnesty International researchers that she is a victim of trafficking and has faced violence, forced labour and rape during the 25+ years that she was with her captors. Although she is currently in Home Office accommodation, Constance spoke about sleeping rough after being thrown out by her captors and before she sought asylum.

I was in the streets. I did not know anyone and did not know how the system worked. I moved from one place to another. Sometimes I slept in a park or near a Sainsburys and I begged for food, begged for money. I was sleeping outside for days, weeks, months, for over a year.²²⁴

She then found a church where she said that people tried to help her with money so that she could buy food or sanitary towels. 'I met a lot of people in church. Someone gave me a duvet. But when they would begin to ask me about myself, I would run away. I was scared. I couldn't trust anyone. I thought that one day I would just die or then be able to go to my country.'²²⁵ Ultimately, it was with the help of the church and a woman she met there that Constance filed an asylum claim. After that she was able to access housing. Looking back at that time Constance said, 'Had I got information about all this earlier, I would have called for help earlier.'²²⁶

The lack of information on help that is available for people seeking asylum as well as on what people excluded from public funds are entitled to, was a common complaint. Asylum help lines exist, run by charities and promoted by the government, which are supposed to provide information on application processes, support and housing among other issues. But interviews conducted for this report reflected no knowledge about these. Most respondents said that they were helped by individuals and charities, and it was evident that until that time, they had lived in fear and anxiety, had lost much time, had to sofa surf and/or sleep rough and faced other human rights risks before they could access support.

The Home Office Guide to Living in Asylum states that as part of their induction, residents should be given information on the housing providers and what to expect

223 Home Office, *Landlord's guide to right to rent checks*, updated 22 April 2022, gov.uk/government/publications/landlords-guide-to-right-to-rent-checks/landlords-guide-to-right-to-rent-checks-6-april-2022-accessible-version.

224 Interview by voice call with Constance (name changed), 24 September 2021.

225 Interview by voice call with Constance (name changed), 24 September 2021.

226 Interview by voice call with Constance (name changed), 24 September 2021.

from them, and about health, education and local support services. However, the people that Amnesty International spoke with had little or no information on essential services or what they were entitled to.

Muna (not her real name) had recently received refugee leave and was waiting for her biometric card and looking into processes for making a homelessness application. She told Amnesty International: ‘No – no-one gives you information before. They will tell you at that time. Nothing from the Home Office. Most people go to Citizens Advice or Refugee Action. I am lucky because I know all this but most people don’t know what will happen next.’²²⁷

A group discussion with women asylum seekers facing homelessness also highlighted that often they are told to go to the housing authority on the day of the eviction and must wait all day before they are offered a place. There is no choice of place or opportunity to see the accommodation. Women said that they were expected to accept whatever was offered and they feared being categorised as ‘intentionally homeless’ if they refused an offer.²²⁸

Rebecca (not her real name) told Amnesty International that she had come to the UK undocumented. Excluded from public funds under immigration law, she had been living with friends for almost two years. When she had her child the midwife referred her to social services and Rebecca was able to access housing under Section 17 of the Children Act. She said she had been provided housing in an unfamiliar town where she knew no one and had no support. Nor did she have full information on what she was entitled to. She said that she struggled to understand how things worked and all the processes that she needed to go through:

All this really impacts my mental health. They keep pushing you to get things done quickly. Sometimes you miss an appointment or drop the call. Sometimes they want some document. They say we will deport you back to your country if you don’t respond. They have power over you. There is lots of pressure and insensitive words.²²⁹

227 Interview by voice call with Muna (name changed), 13 December 2021.

228 Group discussion facilitated by The Magpie Project group discussion, 13 October 2021.

229 Interview by voice call with Rebecca (name changed), 21 October 21.

8. Underlying causes of homelessness

Homelessness is reported to have steadily risen for nearly a decade.²³⁰ Crisis' *Homelessness Monitor* further predicts a sharp increase by 2024: a third higher than in 2019.²³¹ There are numerous reasons why people may experience homelessness, prolonged homelessness is often a result of policy choices by the government, including in the fields of housing, health and social security.

8.1 Lack of affordable housing

One of the main causes of widespread and prolonged homelessness in England is the crisis in affordability of housing which has resulted from a combination of lack of sufficient housing at social rents, stagnation of incomes in real terms and rising rents in the private rented sector.

Homelessness is possibly the most visible and stark manifestations of the broader housing crisis in England. Affordability of housing is one of the seven elements of the right to adequate housing and the lack of it has been a key factor leading to the ongoing housing crisis.

Affordable housing

In international human rights standards, 'affordability' is a context-specific term. Costs associated with housing should not threaten or compromise the attainment of other essential services and human rights. States therefore have an obligation to ensure that measures are put in place, including through housing subsidies and regulation of rents, to ensure that there is sufficient affordable housing for people in different income groups.²³²

In the UK there is no statutory definition of affordable housing. In common parlance the term is used to describe housing that is affordable to a particular household or group by analysis of housing costs, income levels and other factors. However, in 2010 the government introduced the term 'affordable rent', also described as intermediate rent, where local authorities could charge social housing tenants up to 80 per cent of market rent.²³³ This differs from social rent, which is based on incomes in the local area and usually fixed at around 50 per cent of the market rent.

230 2012 to 2019. There was a dip by 5 per cent in 2020, primarily attributable to 'Everyone In', an initiative that temporarily accommodated people who were sleeping rough, or at risk of it, in hotels and other facilities during the early part of the Covid-19 pandemic. Crisis, *The Homelessness Monitor England 2022* (previously cited), p. 22.

231 Crisis, *The Homelessness Monitor England 2022* (previously cited), p.22.

232 CESCR, General Comment 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23, refworld.org/docid/47a7079a1.html, para 8 (c).

233 Registered Providers of Social Housing such as local authorities or Housing Associations can charge 'Affordable Rents' based on an agreement that they have entered into with the Regulator of Social Housing. Some agreements have conditions such as 'Affordable Rents' can only be charged on newly built housing while others allow conversion of older stock. Conversion of properties to 'Affordable Rent' can only happen when an existing tenant leaves the tenancy and a new tenancy is created.

The Housing Act 1980 introduced the ‘Right to Buy’, allowing council housing tenants to buy their homes at subsidised rates. Receipts from sales of council housing units however, were offset by a reduction in central government grants. By the 1990s, 75 per cent of the proceeds from sale of council housing were passed on to the central government and therefore could not be used to replenish housing stock.²³⁴ At their lowest point in housing construction, local authorities had built fewer than 1,000 housing units in 1995.²³⁵

According to data released by the DLUHC on 17 December 2021, there were 1.15 million households on social housing waiting lists at the end 2020/21 while just 6,566 new social homes were delivered in that financial year. As one commentator pointed out, this means that just one social home was delivered for every 175 families on council housing waiting lists across the country.²³⁶

Due to the lack of sufficient social housing stock, many households who are eligible for local authority housing are now pushed towards the private rental market, where rents fluctuate according to demand. This is particularly concerning; in its review of homelessness the National Audit Office (NAO) highlights that, since 2010, private sector rents have increased three times as much as median earnings in England and eight times as much as median earnings in London.²³⁷

In 2018 Crisis documented a backlog of housing need for 4 million households in England. This included 240,000 households in different statutory forms of homelessness,²³⁸ 200,000 older households living in unsuitable housing and 410,000 households living in unaffordable housing.²³⁹ Housing need covers a variety of aspects of housing including overcrowding²⁴⁰ and unsuitable housing.²⁴¹ The 2018 Crisis report emphasised that to meet housing need, keeping in mind household growth projections, 340,000 homes would need to be built each year in England until 2031 of which at least 90,000 would need to be for social rent.²⁴²

234 Richard Disney and Guannan Luo, *The right to buy public housing in Britain: a welfare analysis*, IFS Working Paper W15/05, Institute for Fiscal Studies, December 2014, ifs.org.uk/uploads/publications/wps/WP201505.pdf.

235 Wendy Wilson and others, *Tackling the Under-Supply of Housing in England*, House of Commons Library, commonslibrary.parliament.uk/research-briefings/cbp-7671/, p. 38.

236 *Inside Housing*, ‘Just one social home delivered for every 175 households on waiting lists’, 17 December 2020, insidehousing.co.uk/news/news/just-one-social-home-delivered-for-every-175-households-on-waiting-lists-69035.

237 National Audit Office (NAO), *Report by the Comptroller and Auditor General: Homelessness*, September 2017, HC 308, Session 2017-2019, 13 September 2017, nao.org.uk/wp-content/uploads/2017/09/Homelessness.pdf, p. 23.

238 Includes those in rough sleeping; sleeping in cars, tents, public transport; squatting; hostel residents; those in bed and breakfast and nightly paid hotels, night and winter shelters; sofa surfers; people staying with friends and relatives on a longer-term basis, people under eviction or notice to quit who cannot afford private sector rents; people in other forms of temporary accommodation; and those discharged from prisons, hospitals and other state institutions without permanent housing.

239 Crisis, *Housing Supply Requirements across Great Britain: for Low-Income Households and Homeless People*, November 2018, crisis.org.uk/media/239700/crisis_housing_supply_requirements_across_great_britain_2018.pdf. Of the 4 million households in housing need, 3.15 million are made up of ‘concealed’ family or concealed single (including nondependent children) households wanting to move, households living in overcrowded housing, households in serious affordability problems based on combination of ratio measures and subjective payment difficulties, those in serious self-reported physical condition problems and households in accommodation unsuitable for families.

240 There are two determinants of overcrowding as per law in England. The room standard looks at the number and sex of people who have to sleep in the same room – the home is considered overcrowded by law if there are two people who are not a couple of different sexes (over the age of ten) sleeping in the same room. Living rooms, dining rooms and studies count as rooms you can sleep in. The space standard calculates a person to space ratio. A different set of points is allocated as per age of the person so everyone over the age of 10 is allocated one point, under 10 is .5 and no points are allocated for children from 0-1 years old. This is measured against any room meant for living which is 50 square feet or more.

241 Wendy Wilson and others, *Tackling the Under-Supply of Housing in England* (previously cited).

242 Crisis, *Housing Supply Requirements across Great Britain: for Low-Income Households and Homeless People* (previously cited).

Increasing reliance on the private sector also means reduced security of tenure. Private sector tenancies are most commonly in the form of an Assured Shorthold Tenancy (AST). With an AST, the landlord can evict a person for no particular reason at the end of the tenancy under Section 21 of the Housing Act 1988.²⁴³ Evictions under Section 21 notices have been one of the major drivers of homelessness. In 2010/11, the end of an AST was given as a reason for homelessness in 15 per cent of cases, rising to a peak of 31 per cent in 2015/16. From October 2020 to September 2021, 12,450 applicants were recognised as threatened with homelessness because they had been served a Section 21 notice.²⁴⁴ The prevalence of no-fault evictions has given rise to situations where tenants are reluctant to complain about house repairs or other conditions for fear of being evicted.²⁴⁵

The report of the UN Special Rapporteur on Adequate Housing during her visit to the UK in August-September 2013 highlighted the critical situation, in terms of availability, affordability and access to adequate housing, all key components of the right to adequate housing. She warned that the gap between supply and a much higher demand must not be underestimated.²⁴⁶

Similarly, the Committee on Economic, Social and Cultural Rights in its periodic review of the UK government's implementation of the International Covenant on Economic, Social and Cultural Rights in 2016 observed:

The Committee is concerned about the persistent critical situation in terms of the availability, affordability and accessibility of adequate housing in the State party, in part as a result of cuts in State benefits. The Committee also notes with concern that the lack of social housing has forced households to move into the private rental sector, which is not adequate in terms of affordability, habitability, accessibility and security of tenure.²⁴⁷

8.2 Austerity measures

Austerity measures usually involve reductions in public spending and structural changes in welfare systems to save costs. These can cause a backsliding (retrogression) in the enjoyment of economic, social and cultural rights.

The steady growth of homelessness in England is also attributed to certain legal and policy decisions taken as part of austerity measures by the government following the financial crisis of 2008. In 2010, the government introduced the first set of measures that set in motion a welfare reform agenda aimed at deficit reduction.

243 UK Government, Housing Act 1988, 1988, legislation.gov.uk/ukpga/1988/50/contents, section 21.

244 Department of Levelling Up, Housing and Communities, Live Tables on Homelessness (previously cited).

245 In a YouGov poll by Shelter and British Gas, 2% of the 4,500 tenants surveyed said that they had been evicted or served a notice because they complained about repairs to their landlord or that they complained to the local council about a repair problem or problem with living conditions to the home which was not the tenants' responsibility. The study also found that one in 12 renters are too scared of losing their home to complain about a problem or ask their landlord to improve conditions. They agreed with the statement: 'I have not asked for repairs to be carried out and/or conditions improved because of fear of eviction.' See Laurina Robertson, 'More than 200,000 PRS tenants "unfairly" evicted', 12 March 2014, insidehousing.co.uk/news/news/more-than-200000-prs-tenants-unfairly-evicted-39117.

246 UN Special Rapporteur on adequate housing, Report, 30 December 2013, [A/HRC/25/54/Add.2, documents-dds-ny.un.org/doc/UNDOC/GEN/G13/191/93/PDF/G1319193.pdf?OpenElement](http://A/HRC/25/54/Add.2_documents-dds-ny.un.org/doc/UNDOC/GEN/G13/191/93/PDF/G1319193.pdf?OpenElement).

247 CESCR, Concluding observations: *Sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*, 14 July 2016, E/C.12/GBR/CO/6, docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW3XRinAE8KCBFqOHnZ%2FvuCC%2BTxEKA118bzE0UttfQhJkxxOSGuoMUxHGypYLjNfKwxnMR6GmqogLJF8BzscMe9zpGfTXBkZ4pEaigi44xqiL, para. 49.

8.2.1 Welfare reform, benefit caps and cuts to the Local Housing Allowance

As part of welfare reform and with the aim of reducing public expenditure, starting in 2011 the Department for Work and Pensions introduced several measures, including capping and freezing Local Housing Allowance (LHA).

With the introduction of austerity measures in 2010, the government announced cuts to housing benefit expenditure. Starting in 2011, LHA rates changed from the median in the 'Broad Rental Market Area' to being set at the 30th percentile or the bottom third of market rents. In July 2015, the government announced further cuts. Working age benefits²⁴⁸ including Housing Benefit and LHA allowances, were to be frozen for four years, beginning in 2016.²⁴⁹

Along with changes to LHA, the 2010 Budget also announced removal of the 'Spare Room Subsidy' in the social housing sector. Essentially the removal of the Spare Room Subsidy reduces Housing Benefit if a claimant is deemed to have a spare bedroom. This was widely but unofficially known as the bedroom tax. It cut housing benefit by 14 per cent for one spare bedroom and 25 per cent for two or more spare bedrooms. The bedroom tax was particularly significant for people with disabilities who needed carers, older people, and families with children with disabilities. A study by Newcastle University based on 38 households affected by the bedroom tax showed that they often had to cut back on food and electricity to the detriment of their health.²⁵⁰

A council worker told Amnesty International, 'The bedroom tax also affects our ability to discharge our [homelessness] duty, which means that we cannot allocate accommodation as quickly as we would have liked, which means that people cannot come out of temporary accommodation [otherwise] we [would be putting] people in benefits situations in unaffordable accommodation. For every bed they're using more than they need, 14 per cent is lost in their housing benefits ... It's like having your hands tied behind your back. We used to allocate people like that, but we can't anymore, it would be unfair to put them in [a situation] where down the line they will be evicted because they've got rent arrears.'²⁵¹

One of the major cuts under welfare reform was the benefit cap. As part of the October 2010 Spending Review, the government announced that total household benefits would be capped at £500 a week for a family (£26,000 a year) and £350 a week (£18,200 a year) for a single person with no children. Households receiving benefits above that limit would be assessed and reductions would be made in their housing benefit entitlement.²⁵² An estimated 79,000 households, mostly larger families living in areas with higher rents, experienced a reduction in their housing benefit as a result of the cap.²⁵³ The government announced further cuts in the 2015 Budget and the limit on benefits was reduced to £23,000 in London (£15,410 for single people)

248 Benefits that can be claimed when the claimant is below state pension age.

249 HM Treasury, 'Summer Budget 2015', HC 246, 8 July 2015, gov.uk/government/publications/summer-budget-2015/summer-budget-2015, paras 1-137.

250 S. Moffatt and others, *A Qualitative Study of the Impact of the UK 'Bedroom Tax'*, 15 March 2015, eprints.ncl.ac.uk/file_store/production/211572/0569F24C-E6DA-418B-9A00-FA6463E7EFF4.pdf.

251 Interview by video call, 7 March 2022.

252 Steven Kennedy and others, *The Benefit Cap*, 21 November 2016, House of Commons Library, researchbriefings.files.parliament.uk/documents/SN06294/SN06294.pdf.

253 Steven Kennedy and others, *The Benefit Cap* (previously cited), p. 3.

and £20,000 (£13,400 for single people) outside London.²⁵⁴ These cap levels were introduced from 7 November 2016 and remain in force today.²⁵⁵ For perspective, the average monthly rent in London in December 2021 was £1,641 (£19,692 a year).²⁵⁶

Summing up the predicament faced by many people threatened with or experiencing homelessness, Paul Atherton, who became homeless in 2009 and was sleeping rough at Heathrow in the early days of the Covid-19 pandemic said:

The cap on housing benefit means it is impossible to find anywhere to rent in London. The funds won't cover the cheapest accommodation and private landlords won't accept you if you're on benefits, even though it is now criminal to discriminate. In the past I would often lie and say I was self-employed to avoid the stigma... The only option left to me is social housing, but there isn't any. Twice, local authorities have told me that they don't have to assist me, even though I know I have a right to help. When they shrug and say they don't care what the law says, what do you do?²⁵⁷

The capping of benefits, the reducing and then freezing of LHA and the removal of the 'Spare Bedroom Subsidy' had a direct impact on access to affordable housing and therefore homelessness. A report by the National Audit Office stated:

Homelessness in all its forms has significantly increased in recent years, and at present costs the public sector in excess of £1 billion a year. It appears likely that the decrease in affordability of properties in the private rented sector, of which welfare reforms such as the capping of Local Housing Allowance are an element, have driven this increase in homelessness. Despite this, the government has not evaluated the impact of its welfare reforms on homelessness, or the impact of the mitigations that it has put in place.²⁵⁸

The welfare reforms came under criticism from the UN Committee on Economic, Social and Cultural Rights. In its concluding observations on the UK's sixth periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights, the Committee expressed concern about the disproportionate adverse impacts of the welfare reforms on disadvantaged groups, including the benefit cuts and the four-year freeze on LHA and other benefits. The committee emphasised that under international human rights standards, austerity measures

- must be temporary, necessary, proportionate and non-discriminatory;
- must not disproportionately affect the rights of disadvantaged and marginalised individuals and groups;
- must respect the core content of rights.

254 Steven Kennedy and others, *The Benefit Cap* (previously cited).

255 Department for Work and Pensions, 'Benefit cap: number of households capped to August 2021', updated 19 January 2022, gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-august-2021/benefit-cap-number-of-households-capped-to-august-2021#NumberCapped.

256 *The Guardian*, 'Soaring UK demand for rented homes pushes cost to near £1,000', 9 February 2022, theguardian.com/business/2022/feb/09/soaring-uk-demand-for-rented-homes-pushes-cost-to-near-1000.

257 The Bureau of Investigative Journalism, 'I've gone from homelessness at Heathrow to a hotel. Where next?', 26 June 2020, <https://www.thebureauinvestigates.com/stories/2020-06-26/opinion-paul-atherton-from-homeless-at-heathrow-to-a-hotel-and-back-out-again>.

258 NAO, *Report by the Comptroller and Auditor General: Homelessness* (previously cited), p. 12.

The Committee recommended a review of the reforms and a comprehensive assessment of the cumulative impact of these measures on the enjoyment of economic, social and cultural rights.²⁵⁹

8.2.2 Cuts to Legal Aid and their impact on homelessness

On 1 April 2013, the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012 came into force. Previously, legal aid was available with respect to almost all aspects of civil law, with narrowly prescribed exceptions. With the introduction of LASPO, civil legal aid is now available only for a narrow number of prescribed topics and types of legal work, subject to an override for exceptional funding in other cases.²⁶⁰

With regard to housing and homelessness, legal aid is available where the home is at immediate risk, for homelessness assistance, in housing disrepair cases that pose a serious risk to life or health and in anti-social behaviour cases in the County Court. One area removed from scope of legal aid was early advice, meaning that clients must wait until a problem has reached a sufficiently serious stage before legal aid is available. This has meant that many cases that could be resolved before they reached a ‘serious harm’ level or eviction, have now been left unresolved at the initial stage.

The removal of welfare benefit advice from LASPO also has serious implications for evictions and homelessness resulting from rent arrears. As the Westminster Commission on Legal Aid (an All-Party Parliamentary Group) noted in its inquiry into the sustainability of the legal aid sector:

What was intended as a cost-saving measure may have rebounded as without the early resolution of problems, more cases have ended up in court and with arguably more expensive outcomes for the state. In addition, the removal of welfare benefits advice from scope has stopped the resolution of problems caused by delays to benefit payments, which in turn increases the likelihood of tenants ending up in rent arrears, facing court proceedings and becoming homeless. There is little advantage to this for either citizen or state.²⁶¹

Access to justice is critical for human rights protection and central to the rights to an effective remedy, to a fair trial and to equality before the law. Without timely and accessible legal advice, people cannot effectively claim and enforce their rights, including the right to adequate housing.

8.2.3 Impact of austerity measures on local authorities

According to the National Audit Office, central government funding for local authorities fell by 49.1 per cent from 2010/11 to 2017/18. When earnings from council tax are added, this amounts to a 28.6 per cent fall in spending power in real terms.²⁶²

259 CESCR, Concluding Observations: *Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland* (previously cited).

260 United Kingdom, Legal Aid, Sentencing and Punishment of Offenders Act 2012, 2012, legislation.gov.uk/ukpga/2012/10/section/10/enacted, section 10(3). For a detailed report on the cuts to legal aid, see Amnesty International, *United Kingdom: Cuts that hurt: The impact of legal aid cuts in England on access to justice* (Index Number: EUR 45/4936/2016), 11 October 2016, [amnesty.org/en/documents/eur45/4936/2016/en/](https://www.amnesty.org/en/documents/eur45/4936/2016/en/).

261 The Westminster Commission on Legal Aid, *Inquiry into the Sustainability and Recovery of the Legal Aid Sector*, October 2021, lapg.co.uk/wp-content/uploads/The-Westminster-Commission-on-Legal-Aid_WEB.pdf, p. 117.

262 NAO, *Financial Sustainability of Local Authorities 2018*, 8 March 2018, nao.org.uk/wp-content/uploads/2018/03/Financial-sustainability-of-local-authorities-2018.pdf, p. 7.

Local authorities for deprived areas have been hit harder by the decrease in central government grants as they are less able to bridge the gap through revenue from council tax and business rates. In response to the decline in funding from central government, local authorities have had to prioritise certain critical sectors over others. According to the Institute for Fiscal Studies, spending by councils on housing and planning services was cut by 50 per cent while expenditure on adult social care was reduced by 5 per cent between 2009/10 and 2017/18.²⁶³

Research by WPI Economics, St. Mungo's and Homeless Link highlighted that in 2008/2009, local authorities spent £2.8 billion on homelessness-related activities. By 2017/18, spending had fallen by 27 per cent to just over £2 billion. The research also found that in many local authorities, support for single people was hit the hardest with authorities in the north-west cutting support by 73 per cent.²⁶⁴

Central government has intermittently announced increased funding to local authorities to address homelessness. In 2019, it announced £263 million for local authorities to carry out their duties under the Homelessness Reduction Act.²⁶⁵ In December 2021 the DLUHC announced a £316 million Homelessness Prevention Grant. On 11 February 2022 the department announced a further £174 million as part of the £433 million Rough Sleeping Accommodation Programme, which aims to create over 2,900 move-on homes between 2021 and 2024, and invited local authorities to bid for these funds.²⁶⁶ In October 2020, the Local Government Association, a membership organisation of local authorities, raised concerns about not only the reduced funding from central government but also the increase in ring-fenced grants. 'This is placing extra stress on an over-stretched homelessness system, as officers are often required to scope and complete an extensive application within limited timeframes – sometimes as short as one month.'²⁶⁷

Research by Imogen Blood Associates and the University of York indicated that short-term contracts often meant that the people using homelessness services and the service providers both faced insecurity and lack of continuity.²⁶⁸ The study concluded that this had created '[b]elegued commissioning teams pressing the repeat button on existing contracts because – although they know something different is needed to effectively reduce homelessness – they have insufficient and unpredictable funding to implement strategic changes'.²⁶⁹

263 Neil Amin-Smith and David Phillips, *English Council Funding: What's Happened and What's Next?*, IFS Briefing Note BN250 Institute for Fiscal Studies (IFS), ifs.org.uk/uploads/BN250-English-council-funding-whats-happened-and-whats-next.pdf, p. 6.

264 WPI Economics, St Mungo's, Homeless Link, *Local Authority Spending on Homelessness: Understanding Recent Trends and Their Impact*, wpieconomics.com/site/wp-content/uploads/2019/04/Local-authority-spending-on-homelessness-FULL-FINAL.pdf, p. 13.

265 Ministry of Housing, Communities and Local Government, 'Prime Minister pledges new action to eliminate homelessness and rough sleeping', 23 December 2019, gov.uk/government/news/prime-minister-pledges-new-action-to-eliminate-homelessness-and-rough-sleeping.

266 Department for Levelling Up, Housing and Communities, '£174 million to provide homes for 2,900 rough sleepers', 11 February 2022, gov.uk/government/news/174-million-to-provide-homes-for-2900-rough-sleepers.

267 Local Government Association, "'Fragmented' short-term government grants poor value for money, councils warn', 9 October 2020, local.gov.uk/about/news/fragmented-short-term-government-grants-poor-value-money-councils-warn.

268 University of York, Imogen Blood and Associates, Riverside, *A Traumatized System: Research into the Commissioning of Homelessness Services in the Last 10 Years*, March 2020, riverside.org.uk/wp-content/uploads/2020/03/A_Traumatized_System_FULL-REPORT_v8_webFINAL.pdf.

269 University of York, Imogen Blood and Associates, Riverside, *A Traumatized System: Research into the Commissioning of Homelessness Services in the Last 10 Years* (previously cited), p. 44.

Amnesty International spoke with officials and councillors from different local authorities in England. All of them highlighted the serious funding shortfall from central government and the current system of funding, which was often short-term – typically from one financial year to another – and thus detracted from their ability to make long-term plans. As one councillor said, ‘the timelines are tight and we are always working envelope to envelope on the bits that the government is contributing... it is financial year to financial year rather than a whole four-to-five-year allocation.’²⁷⁰ Local authorities also pointed out that central government funding largely targeted crisis rather than prevention. This severely curtailed the authorities’ ability to tackle some of the root causes of homelessness.

8.3 Changes in response to the Covid-19 pandemic

Covid-19 was declared a pandemic on 11 March 2020.²⁷¹ The need for people to self-isolate, both to stop the spread of the virus and to protect themselves, highlighted the importance of access to adequate housing for the protection of life and health. It also brought into sharp focus the vulnerability of people living in inadequate and unsuitable housing, including those who were homeless.

According to the UN Special Rapporteur on Adequate Housing:

Housing has become the frontline defense against the coronavirus... Home has rarely been more of a life – or-death situation. Homelessness, including during a crisis, and irrespective of nationality or legal status, is a *prima facie* violation of human rights. The core protections provided by the right to housing, as well as the right to health and the right to food, are so fundamental to human dignity and the preservation of life that they can never be suspended, even in a state of emergency. In this context, States must address the housing needs of homeless people on an urgent and priority basis to ensure their equal protection against the virus and the protection of the broader population.²⁷²

For homelessness in England, the Covid-19 pandemic ushered in some short-lived yet significant changes in policy and practice that could provide useful lessons in the future. In March 2020, the government introduced some of its earliest measures to contain the spread of Covid-19. Strict lockdowns had an impact on the economy resulting in furloughs and job losses, and urgent steps needed to be taken to avert an increase in evictions and homelessness. The Coronavirus Act 2020 sought to protect social and private tenants by extending notice periods that landlords were required to give in order to evict tenants from residential properties.²⁷³ Notice periods for evictions were extended up to six months with exemptions for certain serious cases, including

270 Interview by video call, 24 February 2022.

271 World Health Organization, *WHO Director-General’s opening remarks at the media briefing on COVID-19 - 11 March 2020*, 11 March 2020, [who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020](https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020).

272 UN Special Rapporteur on the right to Adequate Housing, *COVID-19 Guidance Note: Protecting those living in homelessness*, updated on 28 April 2020, ohchr.org/Documents/Issues/Housing/SR_housing_COVID-19_guidance_homeless.pdf.

273 From 26 March 2020 to 28 August 2020, a notice period of three months was required in all cases. From 29 August 2020 to 31 May 2021, a notice period of six months was required in most cases, with exemptions for certain serious cases, including anti-social behaviour, extreme rent arrears, no right to rent and fraud. From 1 June 2021 until 30 September 2021, a notice period of four months was required in most cases, with exemptions similar to those in the preceding period and from 1 August 2021 until 30 September 2021, notice periods in cases of ‘non-serious’ rent arrears also reduced a second time to two months’ notice (as of 1 June, the definition of ‘non-serious’ arrears included any case where less than four months’ rent were due).

anti-social behaviour, extreme rent arrears, no right to rent and fraud.²⁷⁴ From 27 March 2020, all possession proceedings were suspended for an initial period of 90 days. The suspension was extended until 30 September 2020 and after that, Courts were told to give priority to cases of serious rents arrears and other egregious cases.²⁷⁵

Changes to benefits included ensuring that Local Housing Allowance (LHA) rates reached the 30th percentile of current market rents and a £20 per week 'uplift' to the Universal Credit standard allowance. As with the moratorium on evictions, these changes were later reversed: LHA rates were frozen from April 2021 into 2022/23.²⁷⁶ The £20 per week uplift in Universal Credit was also reversed, despite an outcry from MPs and civil society organisations.²⁷⁷

8.3.1 Everyone In

Many local authorities and voluntary organisations began scaling up efforts to provide emergency accommodation to those sleeping rough in March 2020. By 17 March, the government had provided £3.2 million to assist this effort.²⁷⁸ On 26 March 2020 then Minister for Local Government and Homelessness, Luke Hall MP, wrote to all local authorities stating:

It is our joint responsibility to safeguard as many homeless people as we can from COVID-19. Our strategy must be to bring in those on the streets to protect their health and stop wider transmission, particularly in hot spot areas, and those in assessment centres and shelters that are unable to comply with social distancing advice.²⁷⁹

This letter encouraged local authorities to 'focus on people who are, or are at risk of, sleeping rough, and those who are in accommodation where it is difficult to self-isolate, such as shelters and assessment centres'²⁸⁰ and 'utilise alternative powers and funding to assist those with no recourse to public funds who require shelter and other forms of support due to the COVID-19 pandemic.'²⁸¹

Under Everyone In, as the programme was called, the government claimed that over 90 per cent of those that local authorities knew were sleeping rough had been offered safe accommodation by the end of April 2020.²⁸² This was based on an estimate that

274 Department for Levelling Up, Housing and Communities, *Guidance for Landlords and Tenants*, Updated on 28 February 2022, gov.uk/government/publications/covid-19-and-renting-guidance-for-landlords-tenants-and-local-authorities/coronavirus-covid-19-guidance-for-landlords-and-tenants.

275 Wendy Wilson, *Coronavirus: Support for landlords and tenants*, 20 December 2021, House of Commons Library, researchbriefings.files.parliament.uk/documents/CBP-8867/CBP-8867.pdf, p. 17. The 'trigger' for a serious rent arrears case was at least 12 months' rent outstanding or 9 months' rent outstanding where that amounted to more than 25% of a private landlord's total annual income from any source.

276 Wendy Wilson, *Coronavirus: Support for landlords and tenants*, House of Commons Library (previously cited), p. 6.

277 The Centre for Social Justice, *Universal Credit Update: Pandemic, Uplift, and Universal Support*, June 2021, centreforsocialjustice.org.uk/wp-content/uploads/2021/06/CSJ-Universal_Credit_Briefing_v4.pdf.

278 Ministry for Housing, Communities and Local Government, *Protecting the Homeless and the Private Rented Sector: MHCLG's Response to Covid-19*, publications.parliament.uk/pa/cm5801/cmselect/cmcomloc/1329/132905.htm#_idTextAnchor024.

279 Ministry for Housing, Communities and Local Government, Luke Hall, MP, *Letter to local authorities*, 26 March 2020, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928780/Letter_from_Minister_Hall_to_Local_Authorities.pdf.

280 Ministry for Housing, Communities and Local Government, Luke Hall, MP, *Letter to local authorities* (previously cited).

281 Ministry for Housing, Communities and Local Government, Luke Hall, MP, *Letter to local authorities* (previously cited).

282 Ministry for Housing, Communities and Local Government, Dame Louise Casey Writes to Local Authority Homelessness Managers and Rough Sleeping Coordinators, 22 April 2020, gov.uk/government/publications/dame-louise-casey-writes-to-local-authority-homelessness-managers-and-rough-sleeping-coordinators.

around 6,000 people were sleeping rough in England and that 5,400 had been offered accommodation.²⁸³ However, according to official data from January 2021, around 37,430 people had been placed in accommodation through Everyone In, with 26,167 subsequently being placed in settled housing and 11,263 remaining in emergency accommodation.²⁸⁴

The 37,430 final figure points to serious flaws in the government's data gathering methodology, which had counted only 4,266 people sleeping rough in 2019.²⁸⁵ A variety of factors could explain the data gap. One possibility is that many of those placed in accommodation during Everyone In had been sofa surfing, which became increasingly risky in the pandemic. Another explanation could be that many communal night shelters had to close during the pandemic and therefore people who had been sleeping in them had nowhere else to go.

Despite Everyone In, homelessness NGOs as well as some people experiencing homelessness told Amnesty International that not everyone sleeping rough was offered accommodation. The National Audit Office also found that rough sleeping continued through 2020 and those sleeping rough were likely either to have refused an offer to be taken into hotels; or accepted an offer, but subsequently left or were evicted from the hotels they had been placed in; or to be new rough sleepers who had not been offered accommodation.²⁸⁶

Everyone In was diluted in just over two months since its initiation. By 28 May, Luke Hall MP sent another letter to local authorities to consider, 'where appropriate, encouraging people to return to friends and families, and explore long term housing'. Where this was not possible, local authorities were asked to explore short-term measures to ensure that people did not return to the streets.²⁸⁷ The letter also said that with regard to the 'no recourse to public funds' (NRPF) condition, local authorities must consider what support they could lawfully give to people in this situation, taking into consideration the individual's particular circumstances.²⁸⁸ With that, emergency housing support to those with NRPF status was officially withdrawn. As noted by the National Audit Office, DLUHC did not explicitly end Everyone In but advised local authorities to conduct individual assessments before providing emergency accommodation, which led to inconsistency of approach between local authorities, especially towards people with no recourse to public funds.²⁸⁹

283 Comptroller and Auditor General, *Investigation into the Housing of Rough Sleepers in Covid-19*, NAO, Session 2019–2021, HC 1075, 14 January 2021, nao.org.uk/wp-content/uploads/2021/01/Investigation-into-the-housing-of-rough-sleepers-during-the-COVID-19-pandemic.pdf, p. 6.

284 Department of Levelling Up, Housing and Communities, *Annex A: Support for people sleeping rough in England, 2021 [NOT OFFICIAL STATISTICS]*, Updated 25 February 2022, gov.uk/government/publications/coronavirus-covid-19-emergency-accommodation-survey-data-january-2021.

285 Ministry of Housing, Communities and Local Government, *Rough sleeping snapshot in England: autumn 2019*, 27 February 2020, www.gov.uk/government/statistics/rough-sleeping-snapshot-in-england-autumn-2019.

286 Comptroller and Auditor General, *Investigation into the Housing of Rough Sleepers in Covid-19* (previously cited), p. 25.

287 Ministry for Housing, Communities and Local Government, Luke Hall, MP, *Letter to local authorities Chief Executives*, 28 May 2020, assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928977/Letter_from_Luke_Hall_MP_Minister_for_Rough_Sleeping_and_Housing_to_LA_Chief_Execs.pdf.

288 Ministry for Housing, Communities and Local Government, Luke Hall, MP, *Letter to local authorities* (previously cited).

289 Comptroller and Auditor General, *Investigation into the Housing of Rough Sleepers in Covid-19* (previously cited).

9. International human rights obligations

‘[T]he Right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.’

UN Committee on Economic, Social and Cultural Rights, General Comment 4:

The right to adequate housing, 13 December 1991, para 7

The right to adequate housing is a human right enshrined in several international human rights treaties ratified by the UK government including:

- the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 (e)(iii))
- the International Covenant on Civil and Political Rights (Article 17)
- the Convention on the Elimination of All Forms of Discrimination against Women (Articles 14 (2) and 15 (2))
- the Convention on the Rights of the Child (Articles 16 (1) and 27 (3))
- the Convention on the Rights of Persons with Disabilities (Articles 9 and 28).

9.1 The International Covenant on Economic, Social and Cultural Rights

The right to adequate housing has been most explicitly articulated in the International Covenant on Economic, Social and Cultural Rights (ICESCR). The UK ratified the ICESCR on 20 March 1976 and thus became a state party to the Covenant.

Under Article 2(1) of the ICESCR, state parties must make use of their maximum available resources to guarantee the rights. Where these cannot be realised immediately, they must be met progressively over time. States must also refrain from measures and budgetary decisions that diminish the enjoyment of the guaranteed rights.

Article 11(1) ICESCR requires states to ‘recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.’²⁹⁰ The right to adequate housing has been further expanded on by the UN Committee on Economic, Social and Cultural Rights (CESCR), a body of independent experts mandated to interpret the ICESCR and monitor its implementation by state parties. The Committee’s authoritative interpretation of the content of the right to adequate housing and the obligations of states is published in General Comment 4 (on the right to adequate housing) and General Comment 7 (on forced evictions).

The right to adequate housing as articulated by CESCR in General Comment 4²⁹¹ includes:

²⁹⁰ International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 11(1).

²⁹¹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 4: The Right to Adequate Housing (Art. 11 (1)), 13 December 1991, E/1992/23, refworld.org/docid/47a7079a1.html, para. 8.

- a. legal security of tenure in a form that guarantees legal protection against forced eviction, harassment and other threats;
- b. availability of services, materials, facilities and infrastructure including facilities essential for health, security, comfort and nutrition as well as safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities;
- c. affordability: costs associated with housing should be at such a level that the attainment and satisfaction of other needs are not threatened or compromised.
- d. habitability: housing provides the inhabitants with adequate space and protects them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.
- e. accessibility: disadvantaged groups are accorded full and sustainable access to adequate housing resources. Both housing law and policy should take fully into account the special housing needs of these groups.
- f. location: housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;
- g. cultural adequacy: housing takes into account the cultural specificities and expression of cultural identity and diversity of housing.

According to the UN Special Rapporteur on adequate housing, 'Homelessness lies at the extreme end of the spectrum of violations of the right to adequate housing.'²⁹² CESCR has also said that a state party to the ICESCR in which any significant number of individuals are deprived of basic shelter and housing is *prima facie*, failing to discharge its obligations under the Covenant.²⁹³

As with other human rights, the right to adequate housing is closely linked to and dependent on a range of human rights including the rights to water, sanitation, food, education and social security. The failure by states to fulfil one right has an impact on all other rights.

The right to adequate housing includes the immediate obligation to determine the degree to which this right is not in place, and to target housing policies and laws towards attaining this right for everyone in the shortest possible time. It also includes the obligation to ensure through legislation and other means a commitment to progressively realise the right to housing for all. Fulfilling the right to housing includes ensuring that housing-related costs are commensurate with income levels and tenants are protected from unreasonable tenancy terms and rent increases.

As observed in the UN Special Rapporteur's Guidelines for the Implementation of the Right to Adequate Housing, 'States often misunderstand the right to housing as merely a commitment to housing programmes, a matter of socioeconomic policy insulated from human rights values and imperatives and without meaningful accountability or access to justice.'²⁹⁴ On homelessness, the Guidelines advise that states should:

²⁹² UN Special Rapporteur on adequate housing, Report, 30 December 2015, A/HRC/31/54 (previously cited), para. 12.

²⁹³ CESCR, General Comment 3: The nature of States parties' obligations (Art. 2), 14 December 1990, contained in document E/1991/23, refworld.org/pdfid/4538838e10.pdf, para. 10.

²⁹⁴ UN Special Rapporteur on adequate housing, Report: *Guidelines for the Implementation of the Right to Adequate Housing*, 26 December 2019, A/HRC/43/43, documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement, para. 14.

(a) provide access to safe, secure and dignified emergency accommodation, with necessary supports and without discrimination on any grounds, including migration status, nationality, gender, family status, sexual orientation, gender identity, age, ethnic origin, disability, dependence on alcohol or drugs, criminal record, outstanding fines or health.

(b) provide individuals and families access to adequate permanent housing so as not to be compelled to rely on emergency accommodation for extended periods. 'Housing first' approaches that centre on quickly moving people experiencing homelessness into permanent housing should provide all necessary supports for as long as required for sustaining housing and living in the community;

(c) prohibit and address discrimination on the ground of homelessness or other housing status and repeal all laws and measures that criminalise or penalise homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces. The forced eviction of homeless persons from public spaces and the destruction of their personal belongings must be prohibited. Homeless persons should be equally protected from interference with privacy and the home, wherever they are living.

Although the UK is a state party to several international human rights instruments that recognise the right to adequate housing, under the UK's legal system, treaties such as the ICESCR have no legal force in domestic law unless they have been incorporated in domestic legislation.

This position, however, is at odds with international human rights standards. The UK's obligations under ICESCR remain, even without incorporation of the covenant's provisions into domestic law. The Vienna Convention on the Law of Treaties states: 'A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.'²⁹⁵ The UK remains responsible if any organ of the state, based in any of its divisions (central, provincial or local government), acts in a manner which is inconsistent with its international obligations.

CESCR has emphasised that although the precise method by which covenant rights are given effect in national law is a matter for each state party to decide, the means used should be appropriate; they should produce results which are consistent with the full discharge of its obligations by the state party.²⁹⁶ CESCR has urged the UK government to fully incorporate covenant rights into its domestic legal order and ensure that victims of violations of economic, social and cultural rights have access to effective legal remedies.²⁹⁷

As a state party to the ICESCR, the UK is obliged to ensure minimum essential levels of each right, including the right to adequate housing for all, without discrimination. The recognition of the right to adequate housing therefore includes an obligation to

²⁹⁵ Vienna Convention on the Law of Treaties, 23 May 1969, legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf, Article 27.

²⁹⁶ CESCR, Draft General Comment 9: The domestic application of the Covenant, 3 December 1998, E/C.12/1998/24, refworld.org/docid/47a7079d6.html, para. 5.

²⁹⁷ CESCR, Concluding Observations: *Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland* (previously cited).

recognise all aspects of the right to housing as articulated in General Comment 4 and General Comment 7 of the Committee on Economic, Social and Cultural Rights in law, policy and practice and to ensure that no measures that undermine or erode the right are introduced. States are also required to introduce judicial and administrative enforcement mechanisms that have the power to provide redress to victims of violation of all aspects of the right.

Adopting a human rights compliant approach towards housing would commit the UK government to putting in place deliberate and concrete measures to progressively realise the right to housing for all. This includes ensuring the availability of necessary resources to make up for the shortfall in affordable housing. Incorporating the right to adequate housing in domestic law will also ensure it is enforceable in domestic courts. Recognising housing as a human right in domestic law and policy will also enhance accountability of the different arms of the state to ensure that all decisions – social, fiscal, legal and political – are consistent with the UK’s international human rights obligations.

9.1.1 The Optional Protocol to the ICESCR

The Optional Protocol to the ICESCR, which came into force in May 2013, gave the Committee a mandate to consider complaints of violations and provide an international remedy for victims who are denied remedies at the national level. Under the protocol, states can opt into the inquiry procedure. Once they have done so, the Committee can carry out inquiries into situations relating to that country if it receives reliable information alleging grave or systematic violations. The UK has not ratified the Optional Protocol to the ICESCR.

9.2 The European Social Charter

The UK has also ratified the European Social Charter (1961). Although the 1961 Charter does not contain an explicit reference to the right to housing, Article 16 provides that for ‘ensuring the necessary conditions for the full development of the family [...] Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as [...] provision of family housing’.

The Revised European Social Charter 1996 explicitly addresses housing and homelessness. However, the UK has not ratified it. Article 31 reads as follows:

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to promote access to housing of an adequate standard; to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources.

9.3 Housing entitlement criteria at odds with human rights standards

I’m still a human being, the only thing I don’t have is a home²⁹⁸
Sergio (name changed)

298 Sergio (name changed) in a group interview, 3 May 2022.

As the UN Special Rapporteur on adequate housing has said, ‘Both civil society and governments are increasingly recognising the [global] housing crisis as a human rights crisis requiring a human rights response.’²⁹⁹ This applies equally in the UK, including England. Despite the UK’s human rights obligations, the architecture of national law and policy has led to thousands being denied meaningful protection from homelessness if they are not considered ‘eligible’, in ‘priority need’ and ‘unintentionally homeless’, and therefore being denied their right to adequate housing. This can largely be attributed to an inherently flawed approach to homelessness law and policy which views housing as a benefit, charity or even a reward instead of a human right that is available to all.

The stringent criteria for housing entitlement and particularly the absence of a statutory duty on authorities to provide housing to anyone experiencing homelessness is in conflict with the UK’s international human rights obligations. Access to basic shelter and protection from homelessness for all is part of the minimum core obligations (obligations that states are required to fulfil regardless of the resources at their disposal) of the right to housing as well as the right to health.³⁰⁰ Moreover, according to the International Convention on the Elimination of All Forms of Racial Discrimination, states parties should guarantee the equal enjoyment of the right to adequate housing by citizens and non-citizens, alike and ensure that housing agencies refrain from engaging in discriminatory practices.³⁰¹

Eliminating homelessness: a human rights priority

States cannot rely on the argument that taking steps towards elimination of homelessness may only be considered at a later stage of development, claiming that all economic, social and cultural rights are subject to progressive realization. The **Committee on Economic, Social and Cultural Rights** has clarified in its General Comment No. 4 (1991) that States must regardless of their state of development, take certain steps to realize the right to adequate housing immediately and that in this respect priority must be given to those social groups living in unfavourable conditions (para. 10 and 11). Obviously, living in street situation or having no access to adequate housing at all, means living in one of the most unfavorable conditions. Preventing and eliminating homelessness is a ‘minimum core obligation [of States] to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights’ under the **International Covenant on Economic Social and Cultural Rights**.
UN Special Rapporteur on the right to adequate housing³⁰²

Thousands of people in England experiencing homelessness are deemed ineligible for homelessness assistance from local authorities owing to immigration restrictions. Such an approach is in conflict with the UK’s international obligations which require that

299 UN Special Rapporteur on adequate housing, Report, 26 December 2019, A/HRC/43/43 (previously cited), para. 6.

300 CESCR, General Comment 4: The Right to Adequate Housing (Art. 11 (1)), (previously cited) and CESCR, General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), 11 August 2000, E/C.12/2000/4, refworld.org/pdfid/4538838d0.pdf.

301 UN Committee on the Elimination of Racial Discrimination (CERD), General Recommendation XXX: Discrimination Against Non Citizens, 1 October 2002, refworld.org/docid/45139e084.html, para. 32.

302 UN Special Rapporteur on Adequate Housing, Homelessness and Human Rights, ohchr.org/en/issues/housing/pages/homelessnessandhumanrights.aspx.

no distinction should be made on grounds of nationality or immigration status with respect to the minimum core obligations of the right to adequate housing. The denial of access to housing support to most people excluded from public funds impacts not only their right to housing but also their right to health, food, water, sanitation and safety of person.

As highlighted in the Guidelines on the implementation of the right to adequate housing,

Any differential treatment in qualifying for different types of housing based on immigration status must be reasonable and proportional, and not compromise the protection of the right to housing for all people within the State's territory or jurisdiction. There should be no discrimination on the basis of immigration status in access to emergency shelters and States should ensure that housing providers are neither permitted nor required to convey information to authorities that would discourage undocumented migrants from seeking shelter for themselves and their families. Housing providers, civil society organizations and individuals should not be penalized for assisting migrants to secure shelter or housing. Access to longer-term housing must be provided, where needed, as soon as possible.³⁰³

The House of Commons Housing, Communities and Local Government Committee notes:

No recourse to public funds has been an obstacle to reducing rough sleeping for a long time: the pandemic has just shone a spotlight on its impact. If the Government is serious about meeting its manifesto commitment to end rough sleeping by 2024, it must reform the no recourse to public funds policy. It is not sufficient for Ministers to say it is a long-standing immigration policy when it is in their power to change it, especially when it will prevent the Government from meeting its goal to end rough sleeping. Where two Government policies internally conflict, Ministers must work together to find a way forward.³⁰⁴

For those who pass the first barrier of eligibility, they still need to fulfil the criteria required to be considered in priority need. While this appears reasonable at first glance, in practice it effectively excludes thousands of people from any housing support beyond advice and assistance to find suitable housing. Amnesty International met many people who were not considered to be in 'priority need' and as a result had to sleep rough or resort to sofa-surfing. The principle of progressive realisation, permitted under ICESCR, allows for some form of prioritisation in allocation of housing. However, the current system in England – where an applicant is disqualified from being provided with housing, based on their inability to meet the priority need criterion – is inconsistent with international human rights standards.

Measures to prevent abuse of available resources are permissible under international human rights law. However, the intentionality test as currently applied in England is

303 UN Rapporteur on adequate housing, Report *Guidelines for the Implementation of the Right to Adequate Housing*, 26 December 2019, A/HRC/43/43, para. 58(b).

304 House of Commons Housing, Communities and Local Government Committee, *Protecting the Homeless and the Private Rented Sector: MHCLG's Response to Covid-19*, Sixth Report of Session 2019–21, 31 March 2021, committees.parliament.uk/publications/5342/documents/53217/default/, para. 45.

over broad and effectively excludes thousands of the most vulnerable people from accessing housing, even if they would qualify as priority need. Many people interviewed by Amnesty International accepted substandard housing – that could put their health at risk – or did not even approach their local authorities for fear of being told that they had made themselves ‘intentionally homeless’.

Legal scholars Suzanne Fitzpatrick and Liz Davies, in their paper on the ideal homelessness law, have also advocated abolition of the priority need and the intentionality test. As they point out,

The intentionality test is only met where a local housing authority concludes that an applicant has behaved in a way that is ‘deliberate’, so as to have caused him or her to cease to occupy accommodation which was available and reasonable to continue to occupy. It was designed to address the ‘moral hazard’ associated with people rendering themselves homeless or colluding with others to have themselves defined as homeless, in order to gain preference in the ‘queue’ for social housing. However, the interpretation of the word ‘deliberate’ by both local authorities and the courts has become harsher over time, and now includes behaviour that many would consider to be feckless or foolish, rather than deliberate.³⁰⁵

In 2018, Crisis, in its publication *Everybody In: How to End Homelessness in Great Britain* called for, among other steps, the abolition of ‘priority need’, a duty on local authorities to provide emergency accommodation to all with nowhere safe to stay, abolition on ‘intentionality’ in its current form and for ensuring that ‘local connection’ is no longer a barrier for anyone threatened with homelessness or experiencing homelessness, to access assistance.³⁰⁶

Lawmakers in England do not need to look far for examples of attempts to bring laws and policies closer to the UK’s international human rights commitments. Scotland abolished the ‘priority need’ condition with effect from 31 December 2012.³⁰⁷ As a result, local authorities in Scotland have a duty to provide permanent housing to all eligible people who are unintentionally homeless. Taking another step forward, the Scottish government committed to making key changes to remove some of the barriers that people who are homeless or threatened with homelessness face when trying to access support. From November 2019, local authorities in Scotland were no longer required by law to assess whether a homelessness applicant had become ‘intentionally’ homeless.³⁰⁸ This was left to the discretion of local authorities. A similar commitment was made by the Scottish government in the case of ‘local connection’, although legal changes are yet to be introduced. In Wales, local authorities cannot apply the intentional homeless test to applicants who are pregnant, or have dependent children, or are young people.³⁰⁹

305 Suzanne Fitzpatrick and Liz Davies, *The ‘Ideal’ Homelessness Law: Balancing ‘Rights Centred’ and ‘Professional-Centred’ Social Policy*, 27 April 2021, *Journal of Social Welfare and Family Law*, Volume 43, 2021 - Issue 2, doi.org/10.1080/09649069.2021.1917712.

306 Crisis, *Everybody In: How to End Homelessness in Great Britain*, 2018, crisis.org.uk/media/239951/everybody_in_how_to_end_homelessness_in_great_britain_2018.pdf.

307 Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012, SSI 2012/330.

308 Housing (Scotland) Act 1987, section 28(2).

309 Housing (Wales) Act 2014, section 75(3). The Welsh government is also considering the abolition of priority need.



Above: Shelter constructed for sleeping rough. Photo by Ruben Torosyan from *Stories from Gilded Pavements* (London 2002-5) by Anthony Luvera

The changes were accompanied by the prioritisation of homelessness on the Scottish government's agenda since 2017 and its commitment to transition to an approach that over time does away with temporary accommodation and adopts 'Housing First' as the first response to people experiencing severe and multiple disadvantage. However, the removal of barriers also meant a dramatic increase in the number of people living in temporary accommodation in Scotland: 13,097 in March 2021, a 21 per cent rise from pre-Covid numbers. Although this has placed an increasing burden on local authorities, it also highlights the need for changes in law and policy to be accompanied by long-term investment in creating truly affordable housing stock to match growing need.

As JT, Chief Executive of St Basils and Chair of West Midlands Combined Authority Homelessness Taskforce, said:

Homelessness is an experience not a process. Our response through the homelessness legislation is a process to identify who is entitled to state support and who is not. There is no legislation in place which gives us explicit rights to a home. What we have are rationing systems for inadequate supply.³¹⁰

310 Interview by video call with JT, 8 March 2022.

10. A way forward: Housing First

One of the main issues that emerged throughout Amnesty International's discussions with people experiencing homelessness and people working in the sector is the need for a personalised approach and wrap around services tailored to suit the specific needs of the individual. Experiencing homelessness often means dealing with multiple disadvantages and unmet needs. In most cases where people had been able to secure housing and other support they needed, they had done it through their own determination but also because they received continuous support and care.

Housing First is an approach designed to provide the sustained and personalised support and care that people need. It is based on ensuring that people experiencing homelessness are supported in every possible way to access and maintain settled housing. It is often used when the person experiencing homelessness requires multi-agency support, including from health, drug and alcohol dependence, disability and other services, to help them leave homelessness behind. It has also proved effective where people experiencing homelessness do not have access to social support and family networks.³¹¹

The Housing First approach is not based on conditionalities. Housing is not offered as a prize or reward to those who can complete all the steps. Instead, housing is seen as a human right that is universal and inalienable, and depending on the specific needs, a person is helped to access and remain in housing.

The development of Housing First

Housing First was developed in New York City in 1992 by Dr Sam Tsemberis, at Pathways to Housing. It has since been used to address homelessness in Austria, Finland, France, Ireland, Italy, Norway, Portugal, Spain and Sweden. It was introduced in the UK in Glasgow in 2010 and in England in 2016.

Housing First is an alternative to the 'staircase services' approach used in the USA and many countries in Europe.

The 'staircase' approach requires people with multiple disadvantages, including mental health and drug and alcohol dependence, to go through a series of steps preparing them for independent living before they are offered long-term housing. The effectiveness of 'staircase' services is increasingly questioned as few people experiencing homelessness get the support they need to complete the steps. Many are discouraged by the string of conditions required to qualify for the next step. It was also a concern that the 'staircase' approach could end up blaming people for their homelessness rather than viewing homelessness as a systemic failure.³¹²

311 Nicholas Place, *Housing First Guide, Europe*, 2016, housingfirsteurope.eu/assets/files/2017/03/HFG_full_Digital.pdf, p. 12.

312 Nicholas Place, '1.2. The History of Housing First' in *Housing First Guide, Europe*, 2016, housingfirsteurope.eu/guide/what-is-housing-first/history-housing-first/.

10.1 Housing First in England

Housing First was initiated in England in 2016, driven by Homeless Link, the national membership organisation for the homelessness sector in the UK. In May 2018, the Westminster government announced the allocation of £28 million to three Housing First pilot projects, one each in Greater Manchester, the West Midlands and Liverpool City region.³¹³ Funding for this approach comes from a combination of sources. A survey by Homeless Link found that 66 per cent of Housing First services receive local authority funding from one or more allocations, with the most common funding stream being the Rough Sleeping Initiative.³¹⁴ Other sources included the homelessness grant provided by the DLUHC to local authorities, and funding for adult social care and public health.

The Housing First approach begins by offering the person experiencing homelessness a settled home and wrap-around services. Support provided typically includes assessments to ensure that users are supported through outreach, continuous contact and home visits; delivering essential household items; provision of electronic equipment such as mobiles, TVs and radios to help with communications to enable the person to stay connected; budgeting advice; help with setting up bank accounts, direct debits and checking utility bills; ensuring access to food especially during lockdowns in the pandemic; accompanying them for appointments and delivering prescriptions, liaising with the Department of Work and Pensions to set up benefit payments; organising and liaising with service professionals, in particular GPs, hospitals, mental health and physical health teams, occupational therapy teams, district nurses, Jobcentres, social care teams, probation, the courts, police, domestic violence services and local community services for vulnerable people; and organising activities to deal with boredom and isolation, especially during the lockdowns.³¹⁵

Amnesty International researchers spoke with Betty (not her real name) who had recently been provided with a flat through Housing First. Like several others in the Housing First programme, for almost seven years Betty had experienced different forms of homelessness including street homelessness, sofa surfing and living in temporary accommodation. Speaking of her Housing First support worker she said:

She is my support worker and meets me once a week. I also got mental health support. I also have a CPN (a mental health nurse). It was the support staff that did the questionnaire for me and my partner [Betty's partner died before they were allocated the flat]. They sent us to the Housing First team, and we had the necessary points. I think we got lucky. When I got a home, I got a furniture pack, a fridge and freezer. It will be two weeks tomorrow since I moved in. I had seen it from the outside before – it is a nice place and has a nice warm feeling. Yes, I had a choice as well – if I did not like it, I could have said no. I have everything sorted now. It is a very nice place and I am able to sleep with the lights off.³¹⁶

313 Ministry of Housing, Communities and Local Government and The Rt Hon James Brokenshire MP, 'Housing Secretary James Brokenshire awards funding to reduce rough sleeping', 9 May 2018, [gov.uk/government/news/housing-secretary-james-brokenshire-awards-funding-to-reduce-rough-sleeping](https://www.gov.uk/government/news/housing-secretary-james-brokenshire-awards-funding-to-reduce-rough-sleeping).

314 In terms of funding, this is very significant as the rough sleeping initiative is committed only year on year.

315 All Party Parliamentary Group for Ending Homelessness, *'It's Like a Dream Come True': An Inquiry into Scaling Up Housing First in England*, 2021, crisis.org.uk/media/245348/appg-housing-first-report-2021.pdf, p. 24.

316 Interview by voice call with Betty (name changed), 21 October 2021.

The housing offered is self-contained with security of tenure. There are no conditions regarding health or sobriety. Instead, people are supported to access relevant services. Housing First takes a harm reduction approach to drugs and alcohol, recognising that overcoming dependence is a complex process that often involves relapse. Housing is not taken away from people if they cannot stop using drugs or alcohol.³¹⁷ A Housing First worker told Amnesty International that most of the people they worked with are more willing and able to engage in drug and alcohol support programmes once they have a stable and secure home.³¹⁸

People using Housing First have a choice over where they live and the support that they will access. Support is not contingent on maintaining the tenancy and is available even if the person returns to the streets, goes to prison or is admitted to hospital.³¹⁹

There is now sufficient evidence to show that Housing First is effective in ending homelessness. A 2013 study on these services in the European Union showed that at least 80 per cent of people using Housing First services experienced an end to homelessness.³²⁰

A report on Housing First by the All-Party Parliamentary Group (APPG) on Ending Homelessness noted that by September 2020 the three pilot projects had provided housing and other wrap-around services to 450 people, with 88 per cent of them being able to sustain their housing. The report also notes that ‘up to May 2021, the West Midlands pilot recorded a sustainment rate of 93 per cent and the Liverpool City region pilot recorded 90.4 per cent sustainment in the quarter up to April 2021.’³²¹

According to Homeless Link’s survey of Housing First services in England in 2020, there are at least 87 services with the capacity to support 1,995 people.³²² Although this is a six-fold increase in Housing First services in England since the first survey conducted in 2017, it occupies a very small space in the homelessness sector, which remains heavily reliant on the traditional ‘staircase’ approach.

A study commissioned by Crisis in 2018, taking into account the number of people in some of the worst forms of homelessness, estimated that there was a need for Housing First support for a minimum of 16,450 people and for up to 29,700 at the highest estimate.³²³ According to the APPG on Ending Homelessness, the Westminster government would need to commit to an annual budget of £150.3 million for three years to fulfil the requirement of at least 16,450 Housing First places across England.³²⁴

317 For a detailed discussion on Housing First and the different models used, see Nicholas Pleace and Joanne Bretherton, *The Case for Housing First in the European Union: A Critical Evaluation of Concerns about Effectiveness*, Centre for Housing Policy, University of York, England and the European Observatory on Homelessness Centre for Housing Policy, University of York, England, *European Journal of Homelessness* _ Volume 7, No. 2, December 2013, feantsaresearch.org/download/np_and_jb2687551474794273246.pdf.

318 Interview by video call with Ciara Walsh, Housing First Worker at Manchester Action on Street Health, 7 October 2021.

319 All Party Parliamentary Group for Ending Homelessness, *‘It’s Like a Dream Come True’: An Inquiry into Scaling Up Housing First in England* (previously cited).

320 Nicholas Pleace and Joanne Bretherton, *The Case for Housing First in the European Union: A Critical Evaluation of Concerns about Effectiveness* (previously cited), p. 32.

321 All Party Parliamentary Group for Ending Homelessness, *‘It’s Like a Dream Come True’: An Inquiry into Scaling Up Housing First in England* (previously cited), p. 6.

322 Housing First England and Homeless Link, *The Picture of Housing First England in 2020*, November 2020, hfe.homeless.org.uk/sites/default/files/attachments/Picture%20of%20Housing%20First%202020_Full%20Report_0.pdf, p. 13.

323 Crisis, *Implementing Housing First across England, Scotland and Wales*, August 2018, crisis.org.uk/media/239451/implementing_housing_first_across_england_scotland_and_wales_2018.pdf, p. 21.

324 All Party Parliamentary Group for Ending Homelessness, *‘It’s Like a Dream Come True’: An Inquiry into Scaling Up Housing First in England* (previously cited).

While Housing First is an extremely promising approach to address homelessness, it is not without its challenges. For example, even though it discards barriers such as ‘priority need’ and ‘intentionally homeless’, Housing First is not available to people who are subject to immigration control and therefore excluded from public funds.

The other main challenge is the lack of easily available suitable accommodation including the need to secure ‘buy-in’ from social landlords. A Housing First worker in Manchester told Amnesty International that it was proving very difficult to promote the Housing First model owing to the lack of suitable properties:

I have been working with some women since January/February [2021] and they are still not in a property. We haven’t been able to find them anything. And obviously that makes it very difficult with engagement...the people who have referred them into Housing First say, ‘Oh yeah, you have got on to Housing First and will get a flat really quickly’, and then they come to you and you are like, actually it’s not like that and usually they are really OK with it at the start but then eight, nine, 10 months down the line the frustration really starts to build... and keeping the engagement through all this time is really difficult.³²⁵

Guaranteeing long-term funding is also a challenge as most of the funding from local authority sources is not available for longer periods of time even though the key principle for the Housing First approach is that people using the services will be supported as long as they need it. Around 40 per cent of the funding according to Homeless Link’s 2020 survey was for up to a year and 43 per cent for two to three years.³²⁶ Other challenges mentioned in the survey included difficulties in accessing wraparound services, reduced visits, having to balance health and safety concerns of staff and clients and securing initial engagement of people deemed eligible for Housing First because they do not trust the system.³²⁷

As Crisis has highlighted in its report *Home for All. The case for Scaling up Housing First in England*, the funding challenges are compounded by cuts in support services such as drug and alcohol dependence services, mental health services, adult social care budgets and youth services. Because of this and the multi-departmental involvement that Housing First requires, Crisis, the Centre for Social Justice and the APPG for Ending Homelessness have called for funding to be ‘delivered as part of a cross-departmental funding stream, involving the Ministry of Housing, Communities, and Local Government, Home Office, Department of Health and Social Care, Ministry of Justice and the Department for Work and Pensions’.³²⁸ Along with this, they called for a framework to monitor outcomes across the different departments and sectors.³²⁹

325 Interview by video call with Ciara Walsh, Housing First Worker at Manchester Action on Street Health, 7 October 2021.

326 Housing First England and Homeless Link, *The Picture of Housing First England in 2020* (previously cited), p.17.

327 Housing First England and Homeless Link, *The Picture of Housing First England in 2020* (previously cited), p. 31.

328 Crisis, *Home for All: The Case for Scaling Up Housing First in England*, September 2021 crisis.org.uk/media/245740/home-for-all-the-case-for-scaling-up-housing-first-in-england_report_sept2021.pdf.

329 Crisis, *Home for All: The Case for Scaling Up Housing First in England* (previously cited), p. 33.

11. Conclusion

‘It cannot be right in the 21st century that people are homeless or having to sleep on our streets, and this government will work tirelessly to bring this to an end.’

Prime Minister Boris Johnson, 23 December 2019³³⁰

England’s housing system is a gruelling obstacle course for some of the most disadvantaged people in the country. Access to housing is offered as a prize for those who can jump through all the hoops and cross all hurdles. Many fail to get past the first barrier and are not considered eligible for any support. Others fall through trap doors along the way. As a result, they have no choice but to sleep rough, or live in extremely precarious and inadequate housing, often at great risk to their mental and physical health and personal safety.

Homelessness can be a terrifying and isolating experience for many. People experiencing homelessness often face extreme social exclusion and are considered among the most marginalised people in the UK. Many have faced physical assault and violence, domestic abuse, sexual or other gender-based violence. While rough sleeping is the most visible form of homelessness, it represents a small fraction of all the people facing homelessness. People who experience homelessness also often have multiple disadvantages as a result of entrenched inequality and complex unmet needs, including physical and mental health needs.

The root causes of homelessness lie in the affordable housing crisis, where the availability of social housing stock is well below the demand for it. This increasingly pushes people towards the private rental market. While the scale of the crisis is subject to geographic variations, with growing rents and brutal benefit cuts, it is nearly impossible for people living in, or on the brink of, poverty to obtain adequate and affordable housing.

International human rights law and standards recognise homelessness as an extreme violation of the rights to adequate housing and non-discrimination and often also a violation of the rights to life, to security of person, to health, to protection of the home and family and to freedom from cruel and inhuman treatment. The UK is a state party to several international human rights instruments that recognise the right to adequate housing, most notably the International Covenant on Economic, Social and Cultural Rights. Along with its constituent nations and regions, it is therefore obliged to guarantee each right in the covenant, including the right to adequate housing for all.

However, in England, housing continues to be treated as a benefit, charity or even a reward, instead of a human right. As a result, local authorities do not have a duty to provide housing to every person facing homelessness. They are only required to provide housing to people experiencing homelessness – who pay for it through their social security benefits – if they meet certain essential criteria. Others are expected to

³³⁰ UK Government, ‘Prime Minister pledges new action to eliminate homelessness and rough sleeping’, 23 December 2019, gov.uk/government/news/prime-minister-pledges-new-action-to-eliminate-homelessness-and-rough-sleeping.

fend for themselves which often results in prolonged periods of homelessness. EveryoneIn, the UK government's programme for providing emergency accommodation to all who needed it in the early days of the pandemic, showed the potential of an approach to homelessness that was devoid of arduous conditions and eligibility criteria. Healthcare professionals and homelessness support workers told Amnesty International about the progress that they made in assisting people in transitioning to independent living since they had been provided (albeit for a short time) with a secure and adequate place to live.

The UK is due to present its next periodic report on the implementation of the ICESCR to the Committee on Economic, Social and Cultural Rights in 2022. In the last reporting period when questioned by the Committee about ratification of the treaty's Optional Protocol, the UK's response was: 'The UK Government considers that protection for ICESCR-based rights is already afforded by domestic law, including under the Human Rights Act 1998 and the Equality Act 2010; individuals may therefore seek remedies in UK courts or tribunals if they feel that their rights have been breached.'³³¹ However, in reality, the full range of economic, social and cultural rights that the UK government is bound by are not enforceable in UK courts because they have not been incorporated into domestic law. This makes for a serious human rights deficit in the UK, especially in the context of economic, social and cultural rights.

For too long, homelessness has been explained as the failure of the individual to cope with the stresses and strains of life. It is high time that we see it for what it is: a failure of the state to guarantee equality of opportunity, equal access to essential services to all and to ensure that no one is left behind.

331 CESCR, Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, 25 September 2014, E/C.12/GBR/6, digitallibrary.un.org/record/782347?ln=en, para. 89.

12. Recommendations

In the light of this report's findings and in order to provide to all people living in the UK the widest possible protection from homelessness and other violations of the right to adequate housing, Amnesty International makes the following recommendations:

To the UK government

- Ensure that the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which the UK is a state party, is incorporated into domestic law and the rights enshrined within it are enforceable through domestic courts in the UK.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the revised European Social Charter and incorporate it into domestic law.
- Enact and enforce the public sector duty regarding socio-economic equalities in Section 1 of the Equality Act to ensure that government policies do not result in a retrogression of ESC rights including the right to housing.
- Urgently establish an independent inquiry into the high numbers of early deaths among people experiencing homelessness, including the high levels of death from treatable causes and drug and alcohol overdoses, and prioritise a multi-agency approach to addressing the issue.
- Commit to and ensure greater collaboration between different ministries, possibly through a cross departmental working group involving the Department of Levelling Up, Housing and Communities, the Department of Work and Pensions, the Department of Health and Social Care, the Home Office, the Ministry of Justice and local authorities, to ensure that the right to housing of people experiencing or threatened with homelessness is effectively implemented.
- Take steps, through a multi-agency approach, to ensure that no one is denied access to the support they need, including access to housing, healthcare and social security, due to lack of access to a smartphone or internet, or to the inability to use online portals.

To the Department of Levelling Up, Housing and Communities

- Amend the Housing Act 1996, Part 7, to abolish the criteria of 'priority need' and 'intentionality' for determining entitlement to housing; and ensure that everyone who is homeless and unable to provide for themselves, is provided with housing while prioritising those most at risk of abuse, exploitation and other human rights violations.
- Explicitly recognise and incorporate the right to adequate housing as a human right in domestic law, policy and practice. Ensure that all victims of violations of the right to adequate housing have access to effective remedy, including access to domestic judicial remedy.
- Issue instructions and guidance to all local authorities, including through the Homelessness Code of Guidance for Local Authorities, to ensure that local authorities act in line with the UK's international human rights obligations, including those on the right to adequate housing as articulated in the *UN Guidelines for the Implementation of the Right to Adequate Housing*. Local authorities should be supported to ensure that everyone within their district has access to minimum essential levels of housing and other ESC rights.

- Engage in a process of genuine consultation with people with experience of homelessness, service providers, civil society organisations including charities and grassroots groups, to develop and implement a human rights compliant national housing and homelessness strategy and ensure that there is sufficient funding and administrative support to realise the right to adequate housing for all.
- Take urgent steps and prepare a roadmap with concrete targets to fulfil unmet housing needs, including by building and enabling local authorities to provide adequate and genuinely affordable housing for every person who needs it.
- Take steps to engage in a genuine consultation with people with experience of homelessness, and other stakeholders on the creation of an independent regulatory body to oversee the quality and management of housing provided in B&Bs, hostels, supported housing, and other forms of temporary accommodation.
- Scale up Housing First across England by making the necessary financial commitments to deliver and maintain support for at least 16,450 one-bedroom Housing First units in the country as outlined by the APPG on Ending Homelessness.
- Work with the Ministry of Justice to ensure that people leaving prison and other similar institutions are effectively supported including with guidance to complete the administrative procedures necessary to retain and access settled housing upon release.
- Ensure that all homelessness and housing policies take into account the specific needs and rights of different categories of people experiencing homelessness, including by ensuring a sufficient supply of women-only hostels and other safe accommodation.
- Provide the necessary funding and technical support to enable local authorities to effectively discharge their obligations with respect to the right to housing, including through long-term funding grants that can help local authorities plan and deliver high quality services on a continuing basis.

To the Department of Work and Pensions

- Take urgent steps to ensure that the Local Housing Allowance is immediately adjusted to keep in step with increasing rents in the private rented sector and meets at least the 30th percentile of current local rents with a clear commitment to progressively raise LHA to the median of market rents within a specific time period. The LHA must be reviewed on a regular basis to ensure that it allows people to access safe and habitable housing in line with international human rights law and standards.
- Review and revise cuts to public spending, including the Benefit Cap, the removal of Spare Room Subsidy (bedroom tax) and the reversal of the £20 Universal Credit uplift, to ensure that social security measures are sufficient to guarantee the right to an adequate standard of living including the right to adequate housing. All social security benefits must be regularly increased in line with the cost of living, including rents in particular areas.

To the Local Government Association

- Take steps to prioritise compliance by local authorities with the UK's human rights obligations under international law and including those relating to the right to adequate housing by ensuring that everyone has access to minimum essential levels of housing.
- Take urgent steps to ensure that information about homelessness services and their contact details are easily accessible to people experiencing homelessness and are made available in public places, schools, libraries, markets, high streets, bus stops, etc, in a form and in languages that would guarantee widespread accessibility.
- Issue clear guidance to ensure that local authorities do not use the lack of 'local connection' to deny or delay housing and other support to people facing homelessness. Ensure that special circumstances including health and well-being needs are taken into consideration when applying the local connection criterion.
- In line with Home Office guidance, take steps to ensure that measures such as Public Space Protection Orders and Community Protection Notices are not used to criminalise and penalise people for acts associated with homelessness such as sleeping rough.
- Ensure that homelessness and related services are available and accessible to all, including those who may not have access to the internet or are unable to use online portals.

To the Department of Health and Social Care

- Ensure that all relevant agencies and bodies, including NHS England and through them Clinical Commissioning Groups, and Primary Care Networks, take urgent and immediate steps to prioritise the healthcare needs of people experiencing homelessness, regardless of immigration status. This must include supporting GP surgeries in guaranteeing access to primary healthcare for people experiencing homelessness.
- Ensure that hospitals and their staff are adequately supported and equipped to guarantee safe discharge of people experiencing homelessness and no one is discharged back on to the street.
- Ensure that people experiencing homelessness have access to follow-on care.
- Increase access, including through securing sufficient funding, for people experiencing homelessness to drug and alcohol dependence services to reduce the risks and harms associated with drug and alcohol use, including prevention, information, harm reduction, voluntary treatment and rehabilitation services where medically indicated and on a non-discriminatory basis.
- In line with the Guidelines by the National Institute for Health and Care Excellence (NICE), ensure that specialist homelessness multidisciplinary teams which also include people with experience of homelessness, are set up across sectors and levels of care, tailored according to local needs. The teams should offer wrap-around health and social care support that covers physical health, mental health, physical rehabilitation (such as occupational therapy and physiotherapy) drug and alcohol recovery needs and practical needs, such as help with benefits and housing.

To the Ministry of Justice

- Engage with the Department of Levelling Up Housing and Communities and local authorities to devise a strategy to ensure that people leaving prison have access to safe and adequate housing.
- Ensure that prison and probation services are adequately equipped to support those threatened with homelessness upon release to make homelessness applications, where relevant, 56 days before their release date.
- Ensure that prison and probation services are in regular contact with local authorities to plan for the housing needs of people leaving prisons.
- Review the impact of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 on housing and homelessness in England and in line with the Westminster Legal Aid Commission's recommendation, ensure that legal aid for early legal advice is available to areas of social welfare law (including welfare benefits and housing) and housing disrepair cases.

To the Home Office

- Take steps, including through amendments to immigration legislation, to ensure that every person regardless of immigration status has access to benefits and other essential services to avoid homelessness and is able to access their right to an adequate standard of living.
- Review immigration rules, policy and practice to ensure that destitution and homelessness is not used directly or indirectly as a tool of immigration control; and end vulnerability to destitution and exploitation caused by exclusion from public funds.
- Take steps to ensure that Home Office accommodation provided for people seeking asylum is regularly monitored to guarantee that it is in line with domestic and international human rights law and standards on habitability of housing, including in terms of overcrowding and health and safety.
- Work closely with local authorities to ensure people seeking asylum in accommodation are individually supported to make homelessness and social security applications, where relevant, upon being granted leave to remain and before their stay at the Home Office provided accommodation comes to an end.

AN OBSTACLE COURSE

Homelessness assistance and the **right to housing** in **England**

England's affordable housing crisis has left a rising number of people without safe or adequate homes. This report examines the law that governs homelessness in England and highlights key policy decisions that have led to thousands of people being denied housing support by the state. It identifies gaps between the UK's international human rights commitments and domestic law and policy.

People experiencing homelessness face an often terrifying and isolating ordeal. The stock of social or affordable housing remains too low. The private rental market seems to offer a way out, but with rising rents and brutal benefit cuts those living in poverty find themselves excluded from affordable housing.

For this report, Amnesty International researchers spoke to people trapped in precarious living situations because they did not meet eligibility criteria for long-term housing. Navigating the obstacle course of England's housing system leaves those most vulnerable to abuse and exploitation at risk of homelessness. Without housing it is nearly impossible for them to access other rights.

For too long, homelessness has been explained as the failure of the individual to cope with the stresses and strains of life. It is high time that we see it for what it is: a failure of the state to guarantee equality of opportunity, equal access to essential services to all and to ensure that no one is left behind.

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