

Module 2

Homelessness Reduction Act and the 'Duty to Refer'

Common questions, common assumptions

- If you are homeless, how do you get help with housing?
- Can you just 'go to a homeless hostel'?
- Whose problem is it? And whose responsibility to help?

The Law



Statutory Homelessness Applications: '5 tests of Homelessness'

- 'Vulnerable' (or other 'priority need' category)
- Eligible for assistance
- Homeless

Also:

- Local connection
- 'Intentionally homeless'

Assessing “vulnerability” for priority need

“The housing authority should determine whether, if homeless, **the applicant would be significantly more vulnerable than an ordinary person would be if they became homeless.**”

Para 8.15 Homelessness Code of Guidance , MHCLG,
Feb 2018.

Patients may be “vulnerable” due to:

- Physical health
- Learning disabilities
- Old age
- Mental health problems
- Fleeing domestic abuse or violence
- Due to time spent in care, prison or the armed forces

Other “priority need” categories:

- Homeless due to fire or flood
- Children live with applicant
- Pregnant
- Aged 16 or 17
- Care leavers aged 18-20



COVID & “vulnerability”

During the COVID-19 pandemic, the argument for a priority need based on the applicant’s vulnerability is **strengthened** where the applicant is **70 years old or above**, **OR** has **at least one** of the underlying health conditions (although this list is **non-exhaustive**):

- chronic (long-term) respiratory diseases, such as asthma, chronic obstructive pulmonary disease, emphysema or bronchitis
- chronic heart disease, such as heart failure
- chronic kidney disease
- chronic liver disease, such as hepatitis
- chronic neurological conditions, such as Parkinson’s disease, motor neurone disease, multiple sclerosis, a learning disability or cerebral palsy
- diabetes
- problems with the spleen, such as sickle cell disease or removal of the spleen
- a weakened immune system as the result of conditions such as HIV and AIDS, or medicines such as steroid tablets or chemotherapy
- being seriously overweight, with a body mass index of 40 or above.

Supporting vulnerability assessments

- Clinical staff can play a crucial role in providing supporting medical evidence of ‘vulnerability’
- Discharge summaries help, but a written summary aimed at a lay/non-medical reader is even better!
- The letter should explicitly state the increased risks to health posed by the patient’s circumstances – especially when sleeping rough
- An example letter is provided with this training module

Who is eligible?

This includes anyone who is not a 'person subject to immigration controls', but also some who are:

- Habitually resident UK nationals
- Commonwealth Citizens with a Right of Abode
- EEA nationals exercising their treaty rights
- Overseas nationals with leave to remain
- A person with refugee status
- Certain other groups specified by secretary of state



Who is eligible?

- The previous list is not exhaustive. This is a complex area. Where any doubt – **always seek advice, and don't assume someone is not eligible.**
- Also, during COVID, there is [some additional support](#) available for (otherwise ineligible) EEA nationals is now available from local authorities.

Determining Homelessness

Definition applies to a broad range of circumstances:

- Threatened with homelessness
- No accommodation in UK or abroad
- No legal right to occupy
- Reasonable to continue to occupy
- Unable to secure entry
- Moveable structures with nowhere to lawfully place them

Local Connection

- You've **lived in** a council area for at least:
6 out of the last 12 months OR
3 out of the last 5 years
- You're **currently working** or self-employed in a council area.
- If **close family members** have lived in a council area for at least 5 years

Local Connection

However:

- where someone was born
- the area they are rough sleeping in

...have no bearing on 'local connection' under the Act...

'Intentionally homeless'

”Deliberately **do** or **fail to do** anything in consequence of which they cease to occupy accommodation”

“an act or omission made in good faith by someone who was unaware of any relevant fact **must not be treated as deliberate**”

Duty to Refer

Section 213B of HRA 2017

Hospital staff (based in A&E's, outpatients, wards – all staff!) now have a **statutory “duty to refer”** patients they think may be homeless or threatened with becoming homeless in 56 days.

They must:

- Have consent from the individual
- Ask which LHA they would like to be referred to

The Local Housing Authority are then required to respond by making contact with the individual.

Recap and Summary

- Of the '5 tests of Homelessness', the first three are most important: Priority need/vulnerability, Eligibility, Homelessness
- All hospital staff have a legal duty to help by referring consenting homeless patients to their LA
- A supporting letter from a clinician can also make a huge difference in meeting the priority need criteria

Complexity

- The law is complex, and some people's circumstances are even more complex
- Time is needed to gather all the information required
- Advocating for yourself is difficult
- Although the HRA has improved things for homeless applicants, due to the short supply of accommodation, some gatekeeping occurs
- **Pathway Teams** are in-house specialists who can help homeless patients, and help hospital trusts in the discharge of their duties



Further reading!

More on evidencing medical 'vulnerability' under the HRA:

https://www.nhas.org.uk/docs/NHAS_Vulnerability_Guide_2019.pdf

Pathway resources on the legal 'Duty to Refer':

<https://www.pathway.org.uk/about-us/what-we-do/knowledge-share/homelessness-reduction-act/>

Homelessness Code of Guidance for local authorities. Recently updated in response to COVID:

<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

Shelter: overview of emergency measures introduced to deal with the coronavirus (COVID-19) pandemic that are relevant to homelessness:

https://england.shelter.org.uk/legal/housing_options/covid-19_emergency_measures/homelessness#_edn1

Questions

What are the main three considerations for emergency housing assistance under the HRA?

- a) Local connection, being intentionally homeless, and 'eligibility'
- b) Homelessness, vulnerability/priority need, and eligibility
- c) Homelessness, local connection, and vulnerability/priority need

Questions

Whose responsibility is it to fulfill the hospital's 'duty to refer' homeless patients to their local authority?

- a) The admitting consultant
- b) The nurse in charge of the ward
- c) Any clinical staff
- d) All hospital staff

Questions

Which of the following may be considered 'homeless' under the HRA?

- a) A patient who says they cannot return home because their partner has changed the locks
- b) A patient who was sleeping their car prior to admission
- c) A patient who has recently become wheelchair bound, but lives on the 5th floor with no lift access