

Introduction

The Homelessness (Review Procedure etc.) Regulations 2018 have been made under the *Homelessness Reduction Act 2017* (HRA) and will be brought into force on 01st October 2018. Regulation 10 specifies that public authorities set out in the schedule to the regulations will have a duty to refer people in England they consider may be homeless or threatened with becoming homeless within 56 days to local housing authorities (LHAs).

What is the duty to refer?

The HRA introduces a new duty to refer requiring specified public authorities in England to notify LHAs of service users they think may be homeless or threatened with becoming homeless in 56 days. The public authority must have consent from the individual before referring them and the individual should identify which LHA they would like to be referred to, as they would if approaching a housing authority directly.

Which public authorities have the duty to refer?

The following services will be required to refer consenting service users whom they consider may be homeless or at risk from October 2018:

- Prisons (public & private)
- Youth offender institutions
- Secure training centres
- Secure colleges
- Youth offending teams
- Probation services (Inc. community rehabilitation companies)
- Jobcentre Plus
- Hospital A&E Services
- Urgent treatment centres
- Hospitals (in-patient treatment)
- Social service authorities.
- The Secretary of State for Defence (in relation to members of): Royal Navy, Royal Marines, Army (regular), Royal Air Force

How to identify clients triggering the duty

A person may be homeless or threatened with homelessness if:

- I. They have no accommodation available for his occupation, in the UK or elsewhere which he is entitled to occupy (by interest, license, right, tenancy, court order etc)
- II. They have accommodation but:
 - a. cannot secure entry to it
 - b. It is a moveable structure used as a home and there is no place where they are entitled to place it and to reside in it
- III. The accommodation available is unreasonable for them to continue to occupy

“Public authorities are not expected to conduct housing needs assessments as part of the section 213B duty to refer¹”. Public Authorities should employ a common sense approach, if in doubt, make the referral.

When does the duty apply and what are the public authorities required to do under it?

If a public authority considers that a service user may be homeless or threatened with becoming homeless within 56 days, or if a service user positively discloses this information, the public authority will be required to:

- a) ask the customer if they would like to be referred to a LHA of their choice on the grounds that they are homeless or at risk.
- b) Ask the customer which LHA they would like to be referred to
- c) If the individual consents to a referral (and chooses an LHA), the public authority will be required to make the referral, notifying the identified LHA of the reason for the referral and how the individual may be contacted.

¹ Homelessness Reduction Act (2017) Code of Guidance, paragraph 4.4

How to make a referral?

Each Local Housing Authority may have a different referral process or mechanism. The referral process for each authority should be “**clearly accessible on the housing authority website for referrals made by public authorities in different districts**”². Birmingham City Council has developed an online only referral process specifically for partners subject to this duty. To refer a client to Birmingham go to www.birmingham.gov.uk/213b or visit the homepage (www.birmingham.gov.uk) and search for “213b”. This will take you to an online portal where you can make your referral.

We would encourage you to make this referral in the clients’ presence (wherever possible) as this will ensure that you are able to provide specific information that we may request; in order to best assist your client.

When to make a referral?

You should ask the client if they consent to the referral and where they would like to be referred as soon practicable after you identify that they are homeless or at risk of homelessness. You should make the referral as soon as practicable after the client has consented to you doing so.

The referral duty does not provide an emergency response. “**The Secretary of State recommends that the notified authority should respond to a referral within 10 working days**”³. Birmingham presently aims to respond to s213b referrals within 5 working days (however this target is to be agreed in a final protocol).

If you identify a client is likely to become roofless within 7 working days, or feel that an urgent response is required for another reason (i.e. Safeguarding) either contact (or direct the client to contact) the nearest local authority Housing Options service (Birmingham clients tel: 0121 303 7410 or 0121 303 2296 [Out Of Hours]).

In some cases, it may still be useful to make a referral after you have done this however please ensure this action is clearly identified in the referral.

Does a referral trigger a Homeless Application or a Housing Application?

No. The receiving LHA will determine if a Homeless Application is required and applicants must still make a Housing Application in the usual way following a referral. However, the Homelessness Code of Guidance sets out an expectation that local authorities should always respond to referrals by making contact with the individual⁴.

What does the duty seek to achieve?

There are varied and sometimes complex reasons behind a person’s homelessness, and we know that many people come into contact with a range of public services before reaching a homelessness crisis or approaching a LHA for advice. The duty to refer is intended to help people get access to homelessness services as soon as possible so their homelessness can be prevented or relieved in a timely manner.

² Homelessness Reduction Act (2017) Code of Guidance, paragraph 4.7

³ Homelessness Reduction Act (2017) Code of Guidance, paragraph 10.31

⁴ Homelessness Reduction Act (2017) Code of Guidance, paragraph 4.18