Annex A

A GUIDE TO ELIGIBILITY UNDER THE HOMELESSNESS ACT

The guide identifies the position of the applicant. After considering each question the answer can be recorded on ‘Sheet 1’ at the end of the section. The information is provided as basic guidance only.

Part 1 – “Where do I stand?”

Q.1. “Am I homeless or threatened with homelessness under the law?”
You are considered Homeless if,

i. You have no accommodation available for you to occupy
ii. You have accommodation, but cannot secure entry to it
iii. You have accommodation, but it is not reasonable for you to carry on living there e.g. the property may be dangerous or you may be at risk of violence.
iv. You are likely to become homeless within 28 days.

Accommodation is only seen as suitable if,

i. It is available also for any person who normally lives with you as part of your family e.g. children
ii. If you or a person living with you as family is free from violence or threats of violence – not just domestic violence.

Court rulings have said that prison cannot be counted as settled accommodation. So if you are being released in 28 days time and have nowhere to live - you are homeless.

➢ Are you Homeless? Turn to Sheet 1

Q.2. “Where can I look to find a home?”
Normally you would apply to the local authority where you have a local connection. A local connection would usually mean you,

i. Have normally been a resident, now or in the past.
ii. Are employed there.
iii. Have family connections.
iv. Have special reasons.

Being in prison in a particular town does not count as a local connection.

If you cannot return to your normal area of residence because you have been subject to actual or threatened violence you can apply to live in a safer area.

If there are other reasons such as you are excluded from your home area by a court order or it would be harmful for your children to return to their home area, these could be seen as special reasons.

➢ Have you a Local Connection? Turn to Sheet 1

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Being threatened with homelessness has the same effect as actually being homeless.
Q.3. “Am I eligible to apply for Housing?”
i. If you are a person from abroad, there are a number of eligibility rules, which would need to be discussed with a special adviser.

ii. Most authorities would consider you to be ineligible to be housed if you are ‘guilty’ of unacceptable behaviour. The grounds for this have been changed and need careful reading. There is a three stage test for the local authority to apply.

- Has the applicant been guilty of behaviour, which – if they were a secure tenant – a court would grant a possession order under Section 84 of the Housing Act 1985? (This could include persistent noise, domestic violence, racial harassment, intimidation or drug dealing.)
- Having decided that an order could be obtained, the authority needs to satisfy themselves that the behaviour is serious enough to make the person unsuitable as a tenant.
- The authority will then have to satisfy themselves that the person’s behaviour is still unsuitable at the time when the application was made.

The important point to make here is – even if you could have been evicted (or actually have been) does that situation apply now. For example, if you were involved in drug dealing or prostitution was that under coercion from a partner who is no longer on the scene.

➢ Are you eligible to apply for housing? Turn to Sheet :1

Q.4. “Would I be considered as a Priority for Housing?”
There are groups of people who are considered as in Priority Need. These people must be accommodated if they are Homeless and Eligible.

These groups include,
- A pregnant woman
- A person with dependant children
- A person who is vulnerable as a result of old age, mental illness or handicap or physical disability
- A person who is homeless as a result of a disaster such as a flood or fire.

The above groups also include people who would normally live with someone in priority need.

- 16 and 17 year olds other than those for whom social services hold a responsibility
- Care leavers aged 18-20 years who were looked after by social services when they were 16 or 17
- People aged over 21 who are vulnerable as a result of being in care
- People who are vulnerable as a result of spending time in prison.
- People who are vulnerable as a result of fleeing violence

In cases involving violence, the safety of the applicant and ensuring confidentiality must be of paramount concern.

Priority need is automatic for some groups but others have to show vulnerability due to the experience / condition. Vulnerability is not clearly defined, the guidance for local authorities outlining –
It is a matter of judgement whether the applicant’s circumstances make him or her vulnerable. When determining whether an applicant in any of the (priority) categories... is vulnerable, the local authority should consider whether, when homeless, the applicant would be less able to fend for him/herself than an ordinary homeless person so that he or she would suffer injury or detriment, in circumstances where a less vulnerable person would be able to cope without harmful effects.

➢ Am I in a Priority Need group? Turn to Sheet:1

Q.5. “Did I make myself Intentionally Homeless?”
A local authority does not have to re-house a person who has become homeless intentionally.

By doing something, or not doing something, which results in you losing your home, you could be seen as Intentionally Homeless.

However if you are in Priority Need the local authority must,

i. Make sure that the accommodation is available to you for long enough for you to enable you to find alternative accommodation.

ii. Give advice and help to find alternative accommodation.

If you are not in priority need you should still be provided with advice and assistance.

Case law has established that offenders, who do things such as dealing drugs, should have known that their actions would have caused them to lose their homes. As such, they were held to be Intentionally Homeless.

➢ Am I Intentionally Homeless? Turn to Sheet:1

Where are you?
By this point it will have been established where the potential applicant fits within housing law.

If the offender is Homeless, has a Local Connection, is Eligible, in Priority Need and not Intentionally Homeless – and the local authority agrees – she is pretty certain to be housed under homelessness law.

On the other hand if the offender is Homeless, Not Eligible, Not in Priority Need and Intentionally homeless – energies would probably be better spent looking for property in the private sector.

If the woman is in the middle, it is always worth pursuing a homelessness application, but making sure that as much support as possible is given by housing advice staff.
Sheet One – The Homelessness Act 2002

1. Am I homeless
   Why am I homeless?
   Yes / No

2. Have a local connection
   If Yes, what is the connection
   Yes / No
   If No
   Am I under threat of violence if I return to my home area?
   Yes / No
   What is the threat?
   Am there special reasons why I cannot return to my home area?
   Yes / No
   What are those reasons?

3. Am I eligible
   Am I a person from another country
   Yes / No
   - seek specialist advice
   Do I feel I could pass the 3 stage test?
   Yes / No
   If Yes How – What support could I get
   To show this?

4. Am I in Priority Need
   How do I qualify?

   Why do I feel I am vulnerable?

5. Am I Intentionally Homeless
   If Yes am I in Priority Need
   Yes / No

6. Who can provide any letters of support to improve my application?
   For example -
   Prison
   Probation
   Social Worker
   Doctor