

# Defining Homelessness: Who does the safety net help and how does it support them?

# Defining Homelessness

## What is homelessness?

There is no commonsense definition of homelessness and determining whether a household is homeless is not always straightforward. It is, however, an important question to resolve as local authorities have a legal duty to help certain households who are homeless.

Shelter does not have its own definition of homelessness. We use the legal definition set out in the Housing Act 1996. It has been set out in law since 1977, providing a clear test of who is or isn't homeless.

Someone is homeless if:

- They have no accommodation that they are entitled to occupy;
- Or, they have accommodation they are entitled to occupy it but it is so bad that they cannot reasonably be expected to occupy it.

Local authorities must treat someone as homeless if they are threatened with homelessness within 28 days, for example because a landlord has secured a bailiffs' warrant to evict them from a rented property.

This means a person does not have to be roofless to be homeless. They may be staying informally with friends or family ("sofa surfing"), placed in a poor quality Bed and Breakfast (B&B), or living in conditions so appalling or unsafe that they cannot reasonably be described as a home. This is often referred to as a "broad definition" of homelessness.

## The case for a broad definition

Some have suggested that the legal definition is too broad, precisely because it includes those who are not street homeless. It has been argued that those in unreasonable accommodation or sofa surfing are not homeless and the term should be reserved for those who quite literally have no roof over their heads.

Reverting to a very narrow definition would reduce the numbers of homeless households recorded, but it would ignore thousands of households in dire housing need without any suitable and settled place to live. Because a household needs to be legally homeless to qualify for help, it would create the perverse scenario where a family could not access the essential safety net until they were physically on the streets. It is therefore as a direct result of the broad definition of

homelessness that we do not see families and children on our streets.

Past debates on the legal definition of homelessness have consistently come to the conclusion that a broad definition of homelessness is vital in order to measure the full scale of the problem and identify solutions.

## How does homelessness legislation work?

Local authorities are not obliged to help every homeless person. Their legal duty is towards those who fit four criteria:

- They are homeless – as per the broad definition above.
- They are eligible – This is an immigration test, taking into account nationality and immigration status. Non-resident British nationals and some EU nationals can be excluded from the safety net if they have not been living in Britain for long enough prior to becoming homeless.
- They are in priority need – This includes families with children; pregnant women; 16 and 17-year-olds; 18-20 year-old care leavers; people who are vulnerable due to leaving care; service in the armed forces; times spent in prison; or fleeing violence or threats of violence.
- They are not intentionally homeless - This test is intended to ensure that households who have knowingly done or failed to do something which resulted in the loss of their home cannot receive help. This is the most subjective of the tests and local authority decisions on this are frequently challenged.

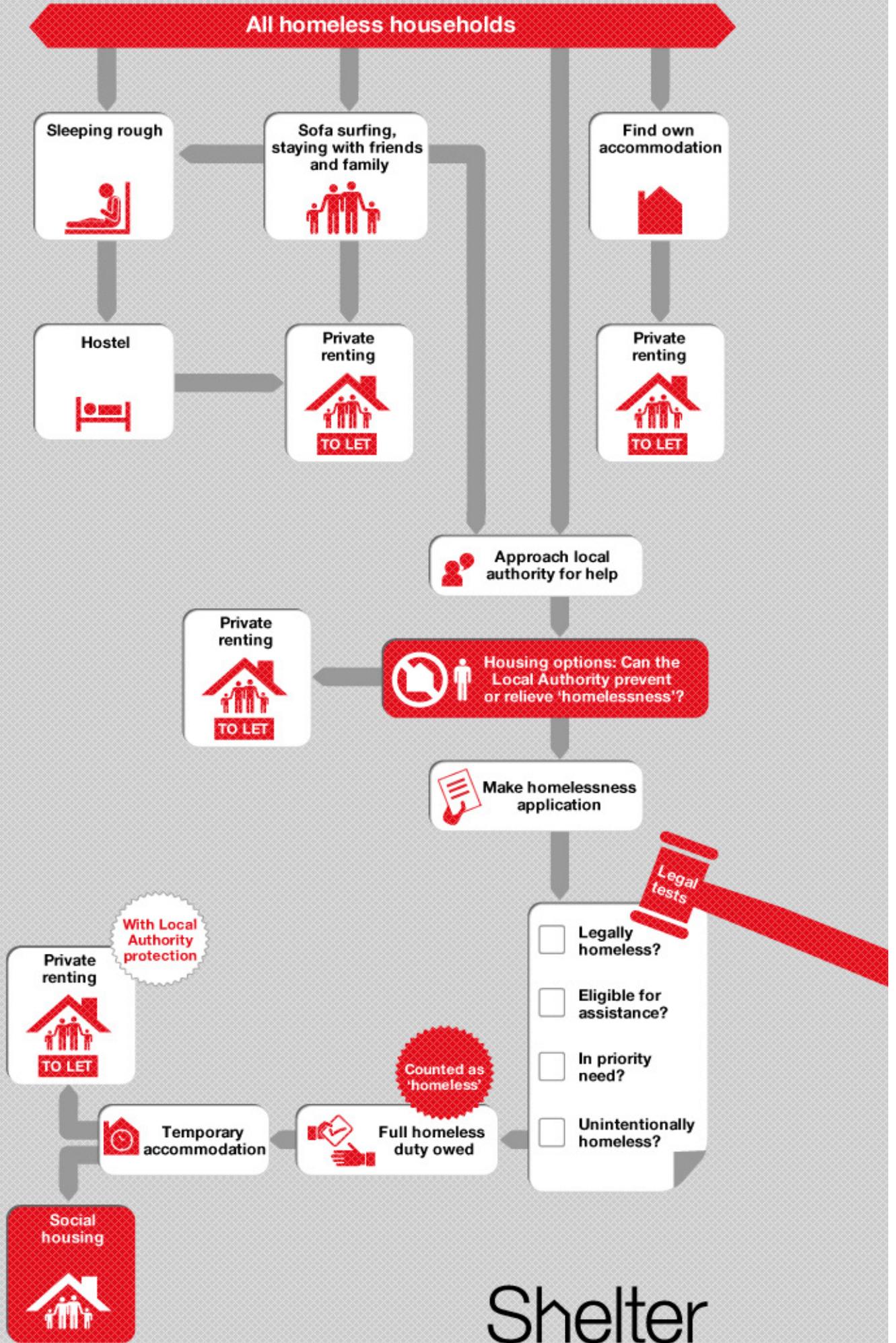
The local authority has a duty to provide temporary accommodation for the household while it assesses their situation.

If the local authority is satisfied that an applicant fits these four criteria it must find them settled accommodation.

Prior to the Localism Act 2012, "settled accommodation" was normally interpreted as meaning social housing, although families could be offered private rented accommodation which they could choose to accept if it met their needs.

Therefore, following the Act coming into force on 9th November 2012, households found legally homeless and whom the local authority has a responsibility to re-house may be offered the same accommodation that is available to families assisted through more informal routes and they will not have the right to reject an offer in the private rented sector.

# Homelessness: who counts?



## Housing options

In recent years, local authorities have moved away from routinely using the homeless legislation to formally assess those who approach them as homeless, and have instead moved towards a Housing Options approach. This means a Housing Options team will interview those approaching the council to identify alternative ways of dealing with their housing situation, commonly by helping them to find a short-term private rented tenancy. Households assisted via Housing Options are not formally assessed as to whether they are homeless or not, and therefore do not appear in the official statistics.

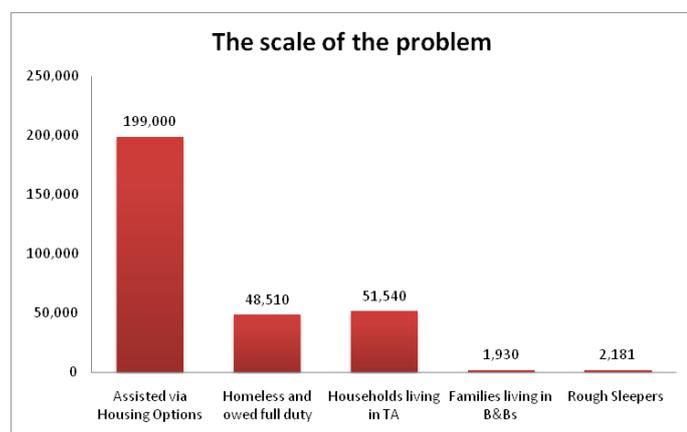


Figure 2: Households by group (Source: CLG 2011-12, exact timescales vary)

## How is homelessness measured?

The Department for Communities and Local Government (DCLG) publishes quarterly information on the number of households local authorities find to be homeless, including those they have a duty to re-house.

These are the headline figures on homelessness in England and are the basis for media reports about homelessness rising or falling.

However, the statistics provide an incomplete picture of the level of housing need as they exclude certain groups of people who are homeless. Not everyone who is homeless will approach their local authority for help. Fear, shame or ignorance of their rights prevents some people accessing help from their local authority. Other households will be aware of the restrictions outlined above and will not approach their local authority, meaning that the true scale of housing need in an area remains unmeasured. Many people will try to find a home by themselves, or resort to informal arrangements with friends. If these attempts breakdown or are unsuccessful the household may approach their local authority as a last resort.

The move towards using Housing Options rather than assessing households who approach their local authority for help has meant that the number of households found to be homeless and placed in temporary accommodation

has dropped since 2005, when this policy was introduced. Shelter argued that households were simply being prevented from making a homeless application and the official homelessness statistics now underestimated housing need. DCLG now publish statistics on the outcome of homelessness prevention and relief provided via Housing Options.

The impact of the Localism Act 2012 and increased reliance on the private rented sector to house homeless families could further reduce the number of households found to be statutorily homeless. This is because fewer applicants are likely to push to access the legal safety net when it does not provide a significantly better option.

As a result of these complex pressures and incentives the official homelessness acceptance figures only represent the tip of the iceberg.

## Rough sleeping

Rough sleeping is measured separately by Street Counts used to estimate the number of people sleeping rough, capturing one tranche of the hidden homeless. However, these figures are themselves incomplete as many rough sleepers will not be visible. Women are particularly likely to avoid sleeping rough in visible locations due to concerns for their safety.

## What causes homelessness?

Government homelessness statistics capture the reason that the household lost their last settled home, for example because they were asked to leave by family or friends; their landlord did not renew their assured shorthold tenancy; or because of rent or mortgage arrears, among others. These are the immediate triggers for homelessness and do not always point to the underlying reason. In particular people are likely to turn to family and friends as a stop-gap solution before approaching the council, so the category “relatives/friends no longer able to accommodate” is particularly misleading. For example, a household may lose their private rented accommodation if their landlord decides to sell the property. If they are unable to find new accommodation, the household will often stay informally with friends or family for a few weeks. If they are asked to leave and approach their local authority as homeless, the information which is then officially recorded will refer to “relatives/friends no longer able to accommodate”, rather than their inability to find suitable private rented accommodation.

Shelter believes that the real causes of homelessness are structural: insecure tenancies in the private rented sector, very limited access to secure and genuinely affordable housing; and affordability constraints due to poverty, low wages, unemployment and benefit shortfalls set against high housing costs.

# Frequently asked questions

## Can anyone who is homeless submit a homeless application to their local council?

In principle anyone who is lawfully in the country can submit an application, although this does not mean the local authority will be responsible for re-housing them.

If a person approaches a local authority for assistance and the local authority has reason to believe they may be homeless or threatened with homelessness, the local authority has a duty to:

- Assess their case according to homelessness legislation
- Notify the applicant of the decision
- In the case of eligible households in priority need, to provide temporary accommodation pending the outcome of those enquiries.

The legal threshold for these preliminary duties has been set deliberately low to ensure homeless households can be assisted quickly.

However, in practice local authorities tend to refer households who approach them as homeless to Housing Options teams who work with them to see if there is an alternative to making a homeless application – such as returning to the parental home or placing households directly into the private rented sector.

## What do people need to demonstrate to their local council to be accepted as homeless?

The burden of responsibility lies with the local authority to make enquiries as to whether the household is homeless and whether the council has a duty to re-house them. Local authorities will need to be satisfied that an applicant is:

- homeless
- eligible for assistance (an immigration check)
- in priority need
- unintentionally homeless

Local authorities only have a duty to re-house households who meet all of the above criteria. For example, if an applicant is unintentionally homeless and in priority need, but fails the immigration check, no duty is owed.

## Why do you only see single people rough sleeping?

One of the four tests a household must pass to access the legal safety net is being in “priority need”. Any household with dependent children or containing a pregnant woman is automatically classed as priority need and therefore they are more likely to be eligible for help.

Some households without dependent children may also be classed as being in priority need if:

- They lost their home because of flood, fire or other disaster
- It contains certain people aged 16 and 17
- It contains certain care leavers
- Other people who are particularly vulnerable.

People judged to be particularly vulnerable may include:

- An older person
- Someone with a physical or learning disability, or mental health problems
- Someone leaving care, the armed forces, prison or a young offenders’ institution
- Someone under 25 who has previously slept on the streets or had problems with drugs or alcohol.
- Someone who has left their home because of violence

In practice, many single adults without dependent children will not be in priority need and the local authority only has a duty to offer them advice and assistance to find somewhere to live, and not to actually rehouse them.

## How many families with children are homeless?

In 2011/12, 35,907 families with dependent children were accepted as homeless in England.

At the end of June 2012 there were 39,491 families with children in temporary accommodation. In total there were nearly 75,000 children living in temporary accommodation, including hostels and B&Bs.

## Why are homeless families housed in temporary accommodation?

A local authority will place a family in temporary accommodation while it investigates whether the full homelessness duty is owed. However, families will often also remain in temporary accommodation after their homelessness application has been accepted because of a shortage of suitable homes. The family may have to remain in temporary accommodation until a suitable, settled home is found for them.

Under the Localism Act 2012 local authorities will be able to make greater use of the private rented sector to re-house families. This may reduce the length of time which homeless families spend in temporary accommodation.

## How long can homeless people be housed in temporary accommodation?

There is no limit to how long homeless households can be placed in temporary accommodation (although separate rules apply to families in B&Bs). In areas where suitable accommodation is in short supply families may have to wait in temporary accommodation for a long time, but this is preferable to being placed somewhere unsuitable or provided with no support at all.

As of June 2012:

- Two-thirds of people in temporary accommodation in England had been there for less than six months.
- 15 per cent had been housed in TA for more than six months but less than one year.
- Nine per cent had been in place for between one and two years.

Households in London can expect a longer wait in temporary accommodation:

- 37 per cent of households had been housed for less than six months.
- 16 per cent had been waiting for between one and two years.

Temporary accommodation can take many forms: a B&B, a hostel, a flat. Although B&Bs can be used in an emergency to accommodate a homeless household, it is illegal for local authorities to place a household with dependent children in B&B accommodation for more than six weeks. But as of June 2012, 690 families with children in England had been living in a B&B for more than six weeks.

## Why does Shelter insist on referring to those in temporary accommodation as homeless when they are often in decent privately rented accommodation?

In order to be placed in temporary accommodation the council themselves must have reason to believe a household may be homeless. If a council looks into the case and find the household is not homeless, then temporary accommodation will be terminated.

Temporary accommodation is precisely that – a temporary stop gap while a more settled solution is found. It is not a permanent and settled home.

## How many people are homeless but don't show up in the official statistics?

We don't know because no one collects this information. Shelter argues that everyone who approaches their local authority for help should have their homelessness formally assessed, but even if this approach were adopted it would still miss households who do not approach their local authority.

## Can a household be homeless because they are overcrowded?

Only in very extreme cases. Legally a household is homeless if it is not reasonable for them to occupy their accommodation. The test of "reasonableness" may include severe overcrowding, as measured by the legal definition of overcrowding. This is an extremely strict definition of overcrowding and would not cover cases such as a couple sharing a one bedroom flat with a teenage son and daughter.

Even where a family is statutorily overcrowded a local authority can still refuse to accept them as homeless if overcrowding is common in the area. This is because the Homeless Code of Guidance gives local authorities the freedom to look at the "general circumstances prevailing in relation to housing in the district" when they assess the case.

Examples of households who have been found homeless because of severe overcrowding include a husband and wife sharing a two bedroom flat with six children, and 11 people living in a three bedroom flat.

Contact: [kate\\_webb@shelter.org.uk](mailto:kate_webb@shelter.org.uk)