

# Policy: report

## Rights and wrongs

The homelessness safety net 30 years on



# Shelter



# Foreword

Eddie MacDonald



In 1977, the Callaghan Government passed a landmark piece of legislation: the Housing (Homeless Persons) Act. For the first time, the 1977 Act gave local authorities the legal duty to house homeless people in priority need, and to provide advice and assistance to those who did not qualify as having a priority need. In the intervening 30 years, this and subsequent legislation has helped thousands of vulnerable households to access decent, secure housing.

However, it is also clear that the homelessness legislation is by no means perfect. Although the number of homeless acceptances has fallen in recent years, there is genuine concern that the effective homelessness prevention practised in some areas is being undermined by gatekeeping in others. Despite significant reductions in rough sleeping over the last decade, there remain a number of barriers to permanent rehousing for the street homeless population, not least the woeful lack of appropriate move-on accommodation. And, of course, there is still much more work to be done in tackling the root causes of homelessness.

On the thirtieth anniversary of the 1977 Act, we should certainly celebrate all that it has achieved and acknowledge all those whom it has helped. The picture of housing and homelessness today is very different to that in the 1970s, and it is encouraging to see the shift in national policy focus from a reactive approach, to one that embraces homelessness prevention and includes a commitment to an increased social housebuilding programme. But we can, and must, do more.

At the start of the twenty-first century it is clear that we need to re-visit the issue of homelessness and ask ourselves critical questions, as outlined in the report, to reinvigorate the debate about not just tackling homelessness, but ending it.

A handwritten signature in black ink that reads "Adam Sampson". The signature is written in a cursive, flowing style.

Adam Sampson  
Chief Executive

# Policy: report Rights and wrongs

*Elizabeth O'Hara*

Cover photograph by Felicia Webb

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# Introduction

Currently, discussions around homelessness often use terminology such as temporary accommodation, priority need and intentional homelessness. This is the language of the homelessness legislation, first created 30 years ago in 1977. It was a landmark piece of legislation, among the most progressive in the world. It was created at a time when the worst housing shortages of the post-war period had eased, yet a significant group of people had been left behind. For the first time, there was an enforceable duty to house some people who found themselves homeless. It was a major achievement.

Thirty years on, the legislation is still in place and continues to assist thousands of homeless households every year. Yet homelessness has not gone away. The social realities of homelessness are still with us. In 2006/07, 160,000 decisions were made by local authorities on homelessness applications in England. Currently, nearly 85,000 families are in temporary accommodation.<sup>1</sup> There are no official figures for the numbers of people sleeping on friends' floors and in other hidden homeless situations.<sup>2</sup> There are still people sleeping rough and there are indications that, despite a significant drop in the street homeless population in recent years, numbers are once again on the increase.

While England and the rest of UK have in many ways some of the most progressive legislation in the world concerning homelessness, certain debates and issues persist. Who can reasonably be described as homeless? Is it their own fault? Who should receive help? Are some homeless households more deserving of help than others? At what point should assistance be given and what form should that assistance take? What about those who fall outside of the safety net? These questions have not gone away, although the context has changed. On the thirtieth anniversary of the homeless legislation, this report considers the current system of homelessness provision in England, the strengths that need to be retained but also the areas where improvement is needed.

<sup>1</sup> CLG, *Statutory homelessness: 2nd quarter 2007*, England.

<sup>2</sup> As estimated in Crisis and New Policy Institute, *Homelessness policy watch, hidden homelessness: overview*, <http://tinyurl.com/yowmaw>

# Homelessness and its causes

## What is homelessness?

When the Housing (Homeless Persons) Act 1977 came into force<sup>3</sup>, it settled a longstanding debate concerning who could be reasonably described as homeless. For the first time a definition of homelessness appeared on the statute books and all local authorities were bound by it.

### The original need for a broad definition

In the years leading up to the 1977 Act, a heated public debate had taken place over the extent of homelessness in the UK. Official figures only counted those who came to welfare departments for shelter in temporary accommodation. David Ennals, Minister of State for Health and Social Security at the time, described these people as the 'truly homeless'.

In 1977, Shelter argued that to consider only those accommodated temporarily by the local authority as homeless was to ignore the true dimensions of the problem; and that the first step towards tackling the problem was to face the full facts. While fewer than 4,000 families were in temporary accommodation provided by local authorities, a further three million lived in slums or near-slums, (for example there were 1.8 million houses unfit for human habitation), or were grossly overcrowded (1.6 million people).<sup>4</sup> This led Shelter to argue that the true number of homeless households was likely to be nearer one million. Shelter argued that those who live in conditions so bad that civilised family life is impossible, including families living apart due to lack of space, are, in effect, homeless.<sup>5</sup>

While some continued to claim that there was a great deal of exaggeration regarding the number of homeless households, a broad consensus was growing around the idea that there was an inherent problem in defining homelessness too literally. When the Housing (Homeless Persons) Act 1977 was introduced, it reflected what had become a widely held view, that a person is homeless if:

- s/he has no accommodation that he and anyone who normally resides with him as a member of his family is entitled to occupy or
- s/he has accommodation but cannot secure entry to it, or if to do so will lead to violence or threats of violence.

In 1985, a test case in the House of Lords decided that the legislation did not require a particular standard of accommodation. As a result, the family in the case, comprising two adults and three children living in one room in a bed and breakfast hotel, were not, in law, homeless.<sup>6</sup> The following year, in direct response, Parliament amended the definition of homeless to include those who have an entitlement to occupy accommodation but the accommodation is so bad that it would be unreasonable to remain in occupation of it, having regard to the general housing circumstances in their area.<sup>7</sup> The definition also obliges the local authority to treat someone as homeless if they are threatened with homelessness and likely to become homeless within 28 days.<sup>8</sup>

However, the debates have not stood still. In 1994, the Housing Green Paper published by the then Department of Environment proposed changes to the homelessness legislation to limit the duty to accommodate homeless households to those who are literally roofless. This proposal was rejected and the broad legal definition of homelessness remains the law today (see Appendix 1).

### The need for a broad definition today

Forty years on from the start of the debates, Britain's housing conditions have improved greatly. The housing stock is, on the whole, in better condition than it was in the 1960s. Is it then still necessary to employ such a wide definition of homelessness?

Shelter believes it is. In order to see a full picture of the spectrum of homelessness and acute housing need, a broad view is vital. Without this, it is just as difficult to devise effective solutions to the problem as it was 40 years ago.

3 The provisions of the Housing (Homeless Persons) Act 1977 were subsequently included within the Housing Act 1996, Part VII, which superseded the original legislation. The 1996 legislation was subsequently amended by the Homelessness Act 2002.

4 Wilson, D, *Who are the homeless? Face the facts*, Shelter, 1969.

5 Bailey, R, and Ruddock, J, *The grief report*, Shelter, 1972, page 9.

6 *R v Hillingdon LBC, ex parte Puhlhofer* [1986] AC 484, (1985) 18 HLR 158.

7 Section 14(2) of the Housing and Planning Act 1986, superseded by sections 175-178 of the Housing Act 1996, as amended by the Homelessness Act 2002.

8 Section 175(4) of the Housing Act 1996.

Although the number of affluent households in Britain has risen, this has been accompanied by growing inequality. While the population as a whole may be better housed than in the days of *Cathy Come Home*<sup>9</sup>, there is still a significant minority living in unacceptable housing conditions.

Official statistics show that nearly 85,000 households are currently placed in temporary accommodation by local authorities in England.<sup>10</sup> Yet even this startling figure masks the wider problem. When the Audit Commission published its national report on homelessness services within local authorities, it started by defining homelessness. While it may be instinctive to think of homeless people as those who are literally roofless, this, it argued, is the tip of the iceberg. The report went on to make the important point that some homelessness is visible, some not so visible.<sup>11</sup> Crisis has estimated the extent of the less visible instances of homelessness and believes that around 400,000 people sleep rough or on friends' sofas; live in hostels, shelters or bed and breakfast hotels; are due for discharge from institutions, such as prison or hospital, and have nowhere to go; are squatting; or are at risk of eviction.<sup>12</sup>

## What are the causes of homelessness?

A key reason for regarding homelessness broadly is, as mentioned earlier, to understand the realities and dimensions of the problem, with a view to finding solutions. This is not just about semantics but rather is inextricably linked to understanding, and tackling, the root causes of homelessness.

### Historical context

Historically, homelessness assistance was heavily influenced by the Poor Laws. Homelessness tended to be regarded as a result of personal inadequacy, and assistance by the state given to homeless people tended to be punitive. By the time of the post-war housing shortage in the 1950s and 1960s, powers to care for homeless and vulnerable people rested with social services, but much of the same thinking defined who was considered deserving of help. This help often amounted to single-sex hostels, and children were often removed from parents who had become homeless.

By the end of the 1960s and 1970s, public attitudes began to change. Slum clearance programmes were displacing households; deregulation of the private rented sector was leading to an increase in landlord evictions; and, although the mass housing shortage of the post-war period was much less severe than it had been, there was a public mood that homelessness was a housing problem rather than a personal failing.

Shelter argued that the real causes of homelessness were structural, such as poverty and the scarcity of decent housing. Reporting in 1972 on those families seeking help from local authorities, Shelter wrote:

'They are in the main poor families. Their poverty arises in a number of ways. The wage earner is most often in a low paid job or employed without security in an uncertain industry... A consistently below average income or a fluctuating one offers a family little choice in the housing market... But poverty is most damaging in a shortage situation and it is in those areas of acute housing shortage where the poor family is most disadvantaged. In major cities and London in particular, lack of buying power in the housing market means renting furnished accommodation from a private landlord. In this sector the tenant has no security and evictions by private landlords figure high in the causes of homeless.'<sup>13</sup>

### What causes homelessness today?

The causes of homelessness are often confused with the immediate reasons why households approach local authorities for assistance. Councils record their statistics against pre-set categories for the reason why an applicant has lost their last settled base. The three main reasons that emerge are outlined in Table 1, below.

**Table 1**

Reasons for loss of last settled base	Per cent of those accepted
Parents, friends or relatives unwilling to continue to accommodate	37
Relationship breakdown, including domestic violence	20
Loss of an assured shorthold tenancy	14

Source: CLG, *Statutory homelessness: 2nd quarter 2007*, England.

9 *Cathy Come Home*, directed by Ken Loach, is a BBC drama documentary that was first broadcast on 16 November 1966. It raised public awareness of the lack of a safety net for homeless families. Shelter was launched as a charity shortly after its broadcast.

10 CLG, *Statutory homelessness: 2nd quarter 2007*, England.

11 Audit Commission, *Homelessness: responding to the new agenda*, 2003, page 5.

12 Crisis and New Policy Institute, *Homelessness policy watch, hidden homelessness: overview*, <http://tinyurl.com/yowmaw>

13 *The grief report*, op cit, page 10.



These three categories are now widely used to form the basis of government-led homelessness prevention work. In order to prevent homelessness among those asked to leave by family and friends, the Government recommends mediation when appropriate; sanctuary schemes for those experiencing violence from outside the home who do not wish to flee; assistance for those whose tenancy in the private rented sector (PRS) ends to facilitate entry back into the private sector, into another assured shorthold tenancy.<sup>14</sup>

However, the causes of homelessness revealed by the official statistics are, in reality, only the immediate trigger for people to seek assistance, and often mask a whole range of underlying and structural issues. For example, Shelter's experience of advising and supporting homeless households indicates that being asked to leave by family and friends is not necessarily the main cause of homelessness. Homeless people often seek help initially from family and friends, but tend to approach the council when this stop-gap solution becomes unsustainable.

Looking further into the causes of homelessness, a plethora of other factors emerge: the predominance of insecure tenancies in the private rented sector; very limited access to secure and affordable housing; affordability issues arising from a combination of low wages and poverty, high housing costs and steep housing benefit tapers and shortfalls; and unemployment. Although personal factors undoubtedly play a significant role in causing homelessness, the root causes of homelessness are largely structural.

### **Affordability, arrears and repossession**

Close to 13 million people in Britain currently live below the poverty line after housing costs, and almost nine million people live on incomes just above it.<sup>15</sup> The growth in the economy has disproportionately benefited those at the top of the income scale leading to a polarisation of income and housing wealth. According to the Joseph Rowntree Foundation, Britain is moving towards levels of wealth inequality and poverty not seen for 40 years.<sup>16</sup>

The problems of poverty are intertwined with the emergence in recent years of unprecedented levels of consumer credit. Average debt is increasing and stands at just under £9,000 (excluding mortgage debt) or £55,000 (including mortgage debt) per household. Student debt averages £13,000 upon leaving education and is predicted to rise<sup>17</sup>; Citizen's Advice Bureaux report significant increases in their debt advice caseloads over the last few years, particularly housing-related debts, which increased by 20 per cent from April 2005 to May 2006.<sup>18</sup>

The phenomena of poverty, wealth inequality and personal debt are set against a huge shortage of housing. This shortage has, in part, driven a dramatic rise in house prices. There is no town in the UK with an average house price of less than £100,000.<sup>19</sup> As a consequence, the average house price to average earnings ratio is at an unprecedented high. At the same time, the shortage of decent rented housing, particularly social rented housing, has pushed more households into owner-occupation. In contrast to the 1970s, it is estimated that today nearly half of all those in poverty are owner-occupiers<sup>20</sup> and the welfare safety net of housing benefit, available for renters on a low income, is not available for owner-occupiers living in poverty.

Official Government statistics on the reasons for applying as homeless reveal very little about housing affordability as a cause of homelessness. In fact, the numbers accepted as homeless by local authorities due to mortgage arrears is low (three per cent of all acceptances), suggesting that affordability among those with mortgages is not a problem that results in homelessness.<sup>21</sup> However, this must be set against a 50 per cent increase in repossessions between 2005 and 2006<sup>22</sup> and recent CML predictions of further steep rises. While the structural issue of affordability is virtually unrecorded in the official 'causes' of homelessness, there can be no doubt that the fragile economic situation of the many households who live precariously on incomes boosted by credit, increases their vulnerability to homelessness.

14 For further information, see the following Shelter policy briefings, *Homelessness prevention*, *Homelessness prevention and mediation*, *Homelessness prevention and sanctuary schemes*, and *Homelessness prevention and the private rented sector*, 2007.

15 Department for Work and Pensions, *Households below average income 1994/95 – 2005/06*, 2007.

16 Joseph Rowntree Foundation (JRF), *Poverty and wealth across Britain 1968 to 2005*, July 2007.

17 Credit Action, Debt statistics, November 2007, includes NatWest student debt survey, August 2006.

18 [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk), press release 11/2006.

19 Bank of Scotland, *Scottish house price index: 1st quarter 2007*.

20 DWP, *Households below average income*, 2007.

21 For further info, see Shelter, *Policy briefing: mortgages and repossessions*, 2007.

22 <http://www.cml.org.uk/cml/statistics>

For those on low incomes who pay rent, rather than a mortgage, housing benefit payments can help ease problems of affordability. However, in the private rented sector, housing benefit payments often fall short of the full rental charge, leaving households to pay the shortfall.<sup>23</sup> Delays in processing housing benefit payments can also lead to a build up of arrears. It is difficult to estimate the number of private rented sector tenants who lose their homes due to problems of affordability, rent arrears or housing benefit delays. This is because the quickest way to evict an assured shorthold tenant is to repossess using an accelerated possession procedure where landlords do not have to give a reason for eviction. Figures for the social sector are also worrying. In 2006, social landlords initiated possession proceedings against 108,000 tenants, mainly for rent arrears.<sup>24</sup>

### **Lack of access to a secure tenure**

At the time of the 1977 homelessness legislation, most private tenants had full security of tenure in the form of 'regulated tenancies'. The Housing Act 1988 radically reduced security of tenure by introducing the assured shorthold tenancy regime. Security was further eroded by the Housing Act 1996. This made the 'assured shorthold tenancy', rather than the more secure 'assured tenancy', the default tenancy type where no written agreement or notice of tenancy type was provided by the landlord. Assured shorthold tenancies provide no minimum security of tenure, although the courts cannot make a possession order that takes effect before the tenant has been in occupation for six months (known as the 'six-month moratorium').

There remain a small number of regulated tenancies under the Rent Act 1977 that still enjoy a fair rent, fixed by the Rent Service, and full security of tenure. However, the deregulation of the private rented sector has largely resulted in a dramatic reduction in security of tenure. Assured shorthold tenancies currently account for 73 per cent of new lettings in the private rented sector.<sup>25</sup>

Recent analysis by Shelter<sup>26</sup> revealed that around 80 per cent of the assured shorthold tenancies set up between 2000 to 2004 initially provided less than 12 months security of tenure.

Those on low incomes face very little choice. Unable to access either outright or partial home ownership, these households find themselves increasingly excluded from social rented housing. The dwindling supply of council and housing association properties has forced many into private renting who would otherwise seek long-term, low-cost housing in the social sector. There is an urgent need for a large increase in the supply of social rented homes, and a review of the role of the private rented sector in providing homes with security of tenure.

## **Current public perceptions of homelessness**

The broad definition of homelessness contained in the 1977 Act reflected a growing awareness of the structural causes of homelessness and the need to address these. However, over the years, views as to how homelessness should be tackled have varied. The structural causes of homelessness are often overlooked or underestimated, and homelessness is often still seen as the result of personal failings.

Some insight into the possible factors behind changing attitudes towards homelessness is provided by the social attitudes survey carried out by the Centre for Analysis and Social Exclusion. This data, while not containing a specific question on homelessness, seems to indicate that the public's perception of those on low incomes, in particular people claiming benefits, is strongly influenced by the economic climate. There is a feeling that if the economy is going well, there is no excuse for not getting on.<sup>27</sup>

The following section shows how the perception that homelessness is a person failing still influences public policy concerning homelessness assistance.

23 Some 70 per cent of HB applicants may pay a shortfall – see Kemp, P, Wilcox, S, and Rhodes, D, *Housing benefit reform: next steps*, JRF, 2002, page 19.

24 Ministry of Justice data 2007.

25 CLG, *Survey of English Housing 2005–06, live table S522* – this shows that of all the private rented sector tenancies set up between 2003–05, 73 per cent were assured shorthold tenancies.

26 Reynolds, L, *Safe and secure? The private rented sector and security of tenure*, Shelter, 2005.

27 Hedges, *Perceptions of redistribution*, Centre for Analysis of Social Exclusion (CASE), 2005.

# Who falls within the homelessness safety net?

Given the 1977 Act's broad definition of homelessness, and the further extension of the definition in subsequent legislation<sup>28</sup>, it is an ongoing anomaly that many people who fall within the definition are not legally entitled to homelessness assistance and therefore do not appear in the official statistics.

## Priority need and single homelessness

Campaigners for the 1977 Act were worried that if they insisted on assistance for all homeless people, then the legislation would not make it onto the statute book. Therefore, compromises were made, with the outcome that while a safety net was introduced, it was only for some homeless people. The concept of 'priority need' was established to ensure that pregnant women, homeless families with children and vulnerable adults would be prioritised for assistance. By contrast, homelessness among unmarried people without children, or 'single homeless' people, was considered less deserving of help and somehow more tolerable. Perversely, this meant that the group that most readily comes to mind when discussing homelessness – those who sleep on the streets – was largely excluded from statutory entitlement to housing.

In 2002, the categories of priority need were extended in England and Wales to include the following new groups<sup>29</sup>:

- 16- and 17-year-olds
- 18- to 20-year-old care leavers
- those who are vulnerable due to leaving care; service in the armed forces; time spent in prison; or fleeing violence or threats of violence.

Shelter welcomed these amendments to the legislation, believing they would ensure that more

homeless people would qualify for housing. The Government also anticipated an increase in the number of people recorded as homeless.<sup>30</sup> However, in practice, the impact of the changes has been limited. In particular, the wording of the regulations means that, even in cases where an applicant is homeless following violence or time in prison or care, they must still prove vulnerability. This means that, for many who the changes were enacted to help, it is arguably little easier to be found in priority need now than before the categories were extended. Indeed, according to CLG statistics, in 2002/03 63 per cent of acceptances on priority need was given to households with children and pregnant women and 37 per cent was due to vulnerability, whereas in 2007/08 only 33 per cent of acceptances on priority need were due to vulnerability.

In Scotland, there has also been a reassessment of priority need. After devolution in July 1999, the Scottish Executive set up a Homelessness Task Force to make recommendations on how homelessness in Scotland could best be tackled. In 2000, the Homelessness Task Force's first report sought to address the most obvious gaps in the safety net created in 1977. The Housing (Scotland) Act 2001 introduced a new duty on local authorities to provide interim accommodation pending inquiries to all homeless applicants, regardless of priority need. Later, the Homelessness (Scotland) Act 2003 incorporated a phased widening of the priority need criteria, leading to the eventual abolition of priority need by 2012.<sup>31</sup>

By contrast, there does not appear to be the same appetite in Whitehall to remove priority need criteria for homeless households in England. This may be due to the lack of social housing available, which would make it difficult, in practice, to fulfil promises if increased rights to assistance were granted to those falling outside the priority need criteria.

<sup>28</sup> Part 7 of the Housing Act 1996, previously Part 3 of the Housing Act 1985.

<sup>29</sup> Homelessness (Priority Need for Accommodation)(England) Order 2002, SI 2002/2051.

<sup>30</sup> DTLR, *More than a roof*, 2002, page 5.

<sup>31</sup> Fitzpatrick, S, *Homelessness policy in Scotland* in Sim, D, *Housing and public policy in post-devolution Scotland*, Chartered Institute of Housing (CIH) and the Housing Studies Association, 2004, Chapter 12.

## Eligibility for assistance

While the 1977 Act omitted single homeless households from entitlements to assistance from the outset, a further group of homeless people were excluded from the homelessness safety net in subsequent legislation. The Housing Act 1996 introduced the concept of eligibility for assistance to homelessness legislation, with a household's nationality and immigration status becoming a deciding factor. Certain 'persons subject to immigration control' and other 'persons from abroad' were excluded from entitlement to homelessness assistance unless they fell under one of several qualifying groups. Non-resident British nationals and some EU nationals were excluded from assistance if they were not habitually resident.

Since then, a succession of regulations has restricted further categories of persons from homelessness assistance. In 2004, and again in 2006, new regulations were enacted which had the effect of excluding unemployed EU nationals from eligibility for homelessness assistance. Additional restrictions were placed on nationals of the A8<sup>32</sup> states which acceded to the EU on 1 May 2004, and subsequently on nationals of the A2<sup>33</sup> states which joined on 1 January 2007. As a result, increasing numbers of people from all EU countries find they are no longer eligible for homelessness assistance, including many people who have become homeless after living in the UK for years. Of all the groups excluded from assistance under eligibility criteria, homeless asylum seekers have been the subject of the most systematic and persistent exclusion from assistance; they are often seen as the least deserving of homeless people and have therefore become the most excluded from mainstream entitlement.

### Homelessness assistance for asylum seekers

The Immigration and Asylum Act 1999 introduced a set of entirely new arrangements for supporting destitute asylum seekers. It removed the rights of asylum seekers to homelessness assistance from the local housing authority or through access to the local housing register. It also removed their entitlements

to mainstream welfare benefits. Responsibility for assisting destitute asylum seeking households was transferred from local housing and social services authorities to a new Home Office department – the National Asylum Support Service (NASS). The Act also introduced a system of 'dispersal', whereby offers of accommodation were restricted to a dispersal region outside London, usually where the household had no previous connection. NASS entered into contracts with a number of public and private accommodation providers, most of which then subcontracted the individual dwellings from private landlords.

In 2002, further asylum legislation was passed to limit the entitlements of homeless asylum-seeking households. Section 55 of the Nationality, Immigration and Asylum Act 2002 allows the Home Secretary to deny asylum support to adult asylum seekers who cannot convince the Home Office that they claimed for asylum 'as soon as reasonably practicable after... arrival in the United Kingdom'. From January to December 2003, section 55 of the legislation denied asylum support to 9,415 destitute people. Such was the impact of the legislation that, by 2004, it was adding an additional 140–150 rough sleepers in London on any given night, threatening to double London's rough sleeping population and to undermine the Government's own target to reduce rough sleeping by two-thirds.<sup>34</sup>

A series of legal challenges to the operation of section 55 of the 2002 Act finally led to a House of Lords ruling<sup>35</sup> that the policy was in breach of asylum seekers' human rights where there was strong evidence that the policy would lead to inhumane and degrading treatment. On 25 June 2004, the Home Secretary issued guidance to immigration officers that had the effect of mitigating the test of applying for asylum as soon as reasonably practicable, but section 55 still remains on the statute book. The legislative changes resulting in the enactment of section 55, illustrate a deliberate policy to exclude this particular group of homeless people from receiving assistance. Professor John Hills, author of a recent report into the future role of social housing in England, has likened this to the punitive principles of the Poor Law era.<sup>36</sup>

32 The A8 states are the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

33 The A2 states are Bulgaria and Romania.

34 Social Exclusion Unit, *Rough sleeping*, 1998. This report set a target of reducing the numbers of rough sleepers by two-thirds by 2002. In order to achieve this, the report advocated a joined up solution. It stated that 'Whitehall departments' policies and special initiatives for rough sleepers need to be joined up and given sustained political priority' and 'more attention needs to be given to preventing flows into rough sleeping'.

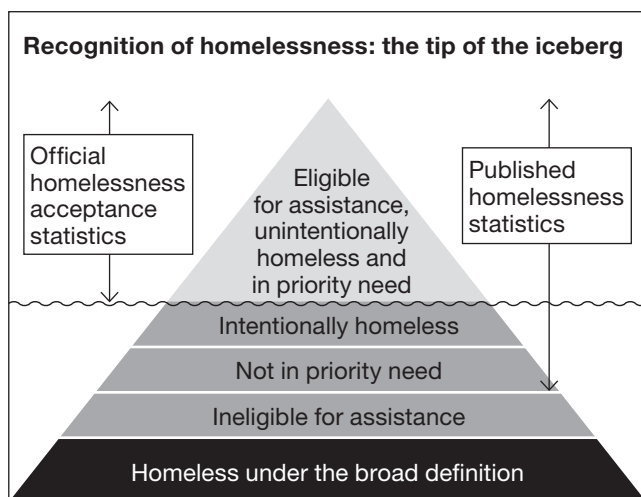
35 *R v Secretary of State for the Home Department, ex parte Adam*; *R v Secretary of State for the Home Department, ex parte Limbuela*; *R v Secretary of State for the Home Department, ex parte Tesema* [2005] UKHL 66, [2006] 1 AC 396.

36 Hills, J, and Stewart, K, *A more equal society? New Labour, poverty, inequality and exclusion*, Policy Press, 2005.

In 2005, the Government introduced a new asylum model (NAM). All households claiming asylum after 5 March 2007 are dealt with according to the framework this sets out. The Government body now responsible for asylum issues is the Border and Immigration Agency (BIA, formerly the Immigration and Nationality Directorate (IND)). The National Asylum Support Service no longer formally exists: instead its functions are simply referred to as BIA asylum support, and its duties have passed to teams of NAM case owners.

## Intentional homelessness

If a local authority is satisfied that a presenting household is homeless and in priority need, then further inquiries are made in order to establish if that household has knowingly done, or failed to do, something that has resulted in their homelessness. If the household's actions or inaction has led to their homeless status, a local authority is entitled to reject a homelessness application on grounds of intentional homelessness.



## Measuring the scale of the problem

One important consequence of the limitations on those qualifying for assistance through the homelessness safety net is that many of those who conform to the legal definition of being homeless are lost from view. This makes it more difficult to quantify the true scale of the homelessness problem.

## Official homelessness statistics

The official statistics submitted to Central Government by local authorities count the number of decisions made on applications for assistance. The latest figures show that 73,360 households were accepted as being eligible, unintentionally homeless and in priority need by local authorities during 2006–2007. Of those, 55 per cent were households with children, and a further eight per cent were 16- and 17-year-olds. In addition, black and minority ethnic (BME) households are disproportionately represented, accounting for 21 per cent of those accepted as homeless, compared to approximately seven per cent of the population.<sup>37</sup>

A closer look at the statistics also reveals that a further 31,100 households were considered to be homeless but were not accepted as being eligible, unintentionally homeless and in priority need. These homeless households are not included in the headline homelessness figures issued quarterly by the Government. While the official statistics are useful to some extent, they are certainly not an absolute measure of homelessness.

## Street counts

In addition to the official statutory homelessness figures, the Government estimates that fewer than 500 people sleep rough on any one night in England. Official estimates have hovered around this mark since 2002, following a major drive by the Government to reduce rough sleeping by two-thirds, from an estimated 1,850 people in June 1998.<sup>38</sup> However, the numbers are once again on the increase. Recent research by Broadway into the extent of rough sleeping in London found that 3,938 rough sleepers were contacted by outreach or building-based services in 2006–2007. This is an increase of 17 per cent in the two years since 2004–2005.<sup>39</sup>

In addition, those who work closely with people who are street homeless believe that the official statistics underestimate the scale of street homelessness. Street homelessness agencies have identified that the nature of the street homeless population has changed over the last 10 years. Through a combination of street outreach and enforcement measures, visible rough sleeping in city centres has been reduced. However, there has been a shift towards 'hidden' rough sleeping away from the most central areas.

<sup>37</sup> CLG, *Statutory homelessness: 2nd quarter 2007*, England.

<sup>38</sup> <http://tinyurl.com/3ak29d>

<sup>39</sup> Broadway, *Street to home: key findings on London report 2006/2007*.

There is limited information about the size and characteristics of the hidden rough sleeping populations, although research suggests it is likely to contain people with complex and multiple needs, such as drug and alcohol dependencies and mental health problems.<sup>40</sup> In addition, it is probable that a higher proportion of street homeless BME people and women exist than are found on street counts, where 90 per cent of those counted are white males.

Recent research published by Crisis highlights the vulnerabilities of women who sleep rough and the way in which they seek to avoid sleeping out in visible locations, preferring instead to conceal themselves as far as possible. Of those surveyed, over 60 per cent had slept rough but only 12 per cent had come into contact with rough sleeper teams.<sup>41</sup>

More recently, there have been suggestions that homeless EU nationals from the recent accession states with restricted rights should be excluded from rough sleeper counts. *Inside housing*<sup>42</sup> reported that councils have been asking the Government for permission to discount homeless migrants, mainly Eastern European nationals, from local counts and to record those sleeping in tents as tourists. In March 2007, the Government issued updated guidance on carrying out rough sleeper counts. While the guidance made clear that all rough sleepers are to be included in the counts, as of Spring 2007, the forms used by those carrying out the counts have been amended to allow for separate counting of those from the EU accession states with limited rights.

## Asylum support statistics

Home office statistics show that at the end of 2006, there were 49,295 asylum seekers (including dependants) in receipt of asylum support. Of these, 36,420 were being supported in dispersal accommodation and 1,525 supported in initial accommodation.

Asylum support statistics under-record the number of homeless asylum seekers, because not all homeless asylum seekers are in receipt of asylum support, either because they have lost their entitlement or because they prefer not to take up an offer of accommodation in a dispersal area. Research carried out in 2004 into those sleeping in London's hostels found that, on a one-night count, refugees and asylum seekers accounted for one-fifth (474) of the 2,431 bed spaces in 58 participating residential projects for homeless people.<sup>43</sup>

40 For further info, see Leeds Simon Community, *Street homelessness in Leeds*, 2006 and Lifeline, *Multi-drug injecting in Manchester*, 2007.

41 Crisis, *Homeless women: still being failed yet striving to survive*, 2006.

42 Inside Housing, 'Eastern European migrants sleeping rough should not count, local authorities have told the government', 1 Feb 2007 and Inside Housing, 'Immigrants labelled as tourists in bid to keep rough sleeper figures down', 10 August 2007.

43 London Housing Federation and Broadway, *Pathways – the route of refugees and asylum seekers into single homeless accommodation*, 2006.

# Identifying housing need and assessing entitlement

It is important to appreciate that not everyone who finds her/himself homeless under the legislation will approach the local authority for assistance. This can be for a variety of reasons, including:

- some people want to sort out their own housing problems without having to approach the local authority as a homeless person
- many people are unaware that they would fall under the definition of homeless, or have entitlements to statutory assistance and provision of housing
- some people are fearful or shameful about approaching the local authority. This is particularly true of refugees, who may have good reason to fear local officials from experiences in their country of origin. There is also evidence to show that BME households and older people are often ashamed of asking for statutory assistance.<sup>44</sup>

Many of those who do approach the local authority tend to do so as a last resort, once they are already at crisis point – for example, once a possession order has been granted or an eviction date set. At this point, it is much more difficult to prevent the household from losing their home. There is a strong case for the promotion and provision of both independent and statutory advice services to people before they reach this stage, to help prevent them losing their home. This might involve signposting towards appropriate support or advice, or negotiation with the landlord or mortgage lender, or legal representation to enforce legal rights.

## Applying for assistance

A very important feature of the 1977 Act was its low threshold for local authority intervention to be triggered once an approach for assistance is made. A local authority has a duty to make inquiries if it receives an application for accommodation, or for assistance in obtaining accommodation, and it has reason to believe an applicant may be homeless or threatened with homelessness. There is no

requirement for the application to be in any particular form. Importantly, the homeless household does not have to prove their homelessness in order to receive assistance: rather the onus is on the local authority to investigate relevant factors and satisfy themselves of the circumstances of the applicant.

In addition, if the authority has reason to believe that a person may be eligible for assistance and fall into a priority need category, a duty arises to ensure that accommodation is made available while inquiries are made. Before the 1977 Act, when accommodation was provided to homeless families, many social services departments did not consider it their responsibility to accommodate fathers, leading to the separation of families. By the time of the 1977 Act, this practice was considered by many to be draconian. Therefore, the new legislation specifically created a duty on local authorities to accommodate households together, as soon as there was even a ‘reason to believe’ that there may be homelessness and a priority need.

At the time the legislation was introduced, one of the key aims was to ensure that homeless households were not refused assistance on the grounds that they had ‘no local connection’. Therefore, local connection was removed as a determinative factor in establishing whether or not a local authority had a duty to accommodate and it could only be considered once a formal decision had been made on a homelessness application. This means that, in principle, a household can apply for assistance anywhere in the country and their application must be assessed before they can be sent elsewhere for help.

The 1977 Act was constructed on the premise that assistance to homeless households should be easily accessible. This principle is important because if homeless people feel that the local authority will not consider their case properly, they are less likely to present as homeless. The consequence of people not making homelessness applications would be that, firstly, they would not receive the help that they are entitled to and, secondly, the scale of the homelessness problem would be more difficult to quantify.

<sup>44</sup> Shelter, *The advice gap: a study of barriers to housing advice for people from black and minority ethnic communities*, 2007, page 27.

Despite the low threshold for making inquiries set out by the legislation, there is evidence that homeless people are experiencing difficulties in getting their cases assessed. A study carried out by the University of Stirling into the experiences of young people seeking to access statutory homelessness services, has found numerous examples of applications not being taken, obstacles placed in the paths of those seeking assistance, and excessive amounts of paperwork being requested before applications are taken.<sup>45</sup> Similarly, research commissioned by Crisis highlighted that the majority of women surveyed reported very negative experiences of approaching local authorities as homeless, with some being turned away at the door or deterred by front-line staff from making an application.<sup>46</sup>

### Housing options interviews

Central to the Government's current approach to homelessness and its prevention is the concept of housing options. Under this model, all those who approach the council for assistance are required to have a formal interview offering advice on housing options. This is not only a pre-requisite for those seeking homeless assistance but also for those seeking to join the housing register or apply for social housing under a choice-based letting scheme. Housing options offered may include a variety of services designed to prevent the need for a homelessness application, for example family mediation or rent deposit schemes.

Shelter strongly supports the provision of a wider range of housing options to homeless households. However, it is vital that this does not impose a barrier to accessing the statutory safety net for those entitled to rely upon it. While relatively few people approaching local authorities will be roofless, many will fall within the broad legal definition of homelessness and may therefore be entitled to housing assistance. Shelter supports a broad definition of homelessness and cannot support any measure that limits its practical application.

Therefore, where a duty exists on a local authority to assess a household under the statutory homelessness framework and provide interim accommodation, the household should be free to choose to make a homelessness application, in addition to any other options offered under the

authority's homelessness prevention service. This has been confirmed in case law<sup>47</sup>, and is important because it is only at the point where a homelessness application is made that the duty on the local authority to provide interim accommodation begins. This aspect of the legislation has been instrumental in ensuring that homeless households can access accommodation immediately.

The Government's good practice guide to homelessness prevention states that housing options interviews should never replace or delay a statutory homelessness application and assessment where there is reason to believe that the applicant may be homeless or threatened with homelessness. However, the guide also suggests a two-stage process 'with options and prevention considered first, but with safeguards in place where a person is eligible for and requires assistance under the homelessness legislation'.<sup>48</sup> It also falls short of explicitly confirming that, in urgent cases, the housing options interview must be immediate. Indeed, it even mentions a possible target time for offering interviews to those who approach without an appointment as five days.<sup>49</sup>

Shelter believes there is a risk that, because of the way in which the housing options system operates, some homeless people may be deterred from seeking assistance. This could be because they believe they will be encouraged to return to their former home, or to accept alternative accommodation, without any prospect of their cases being properly investigated or assessed, or an offer of a satisfactory housing outcome. As a result, some very vulnerable people, such as young runaways, care-leavers or victims of domestic violence, could end up being excluded from proper assessment of their need and the provision of a suitable home.

Shelter believes that homelessness prevention efforts should focus on identifying those at risk of homelessness and intervening as early as possible to provide them with sustainable solutions. Shelter is concerned that some of the homelessness prevention options being promoted, particularly schemes to assist households into private lettings, may only provide a short-term housing solution, leading to a strong risk of repeat homelessness. The ending of an assured shorthold tenancy is one of the top three reasons why applicants seek assistance from councils in the first place.<sup>50</sup>

45 Anderson, I, and Thomson, S, *More priority needed*, Shelter and the University of Stirling, 2005.

46 Reeve, K, Casey, R, and Goudie, R, *Homeless women: still being failed yet striving to survive*, Crisis, 2006, page 4.

47 DCLG, *Homelessness prevention: a guide to good practice*, 2006, paras 2.8 and 3.1.

48 *R (on the application of Aweys and others) v Birmingham CC* [2007] EWHC 52 (Admin) and *Robinson v Hammersmith and Fulham LBC* [2006] EWCA Civ 1122, [2006] 1 WLR 3295.

49 *Ibid*, para 3.34.

50 See Shelter, *Policy briefing: homelessness prevention and the private rented sector*, 2007.



Consequently, Shelter considers that the Government's approach should be rebalanced to focus more on earlier intervention, and that local authorities should only refer households to tenancies in the private rented sector that offer reasonable security of tenure and are affordable.

### **Assessment of homelessness applications**

For those cases where a homelessness application is taken and inquiries commence, it is important that there is a meaningful and accurate assessment of both the housing and support needs of a household, so that the correct decision is made and appropriate assistance given.

In 2003, the Audit Commission published a report based on the experience of inspections and audits of homelessness services in England and Wales. Inspection findings revealed a disappointing picture. Only one in five of the 50 services inspected were judged to be good and only one was deemed excellent.<sup>51</sup> The Audit Commission advised that not all homelessness investigations are as rigorous as they should be, and advised councils to: improve record keeping; consider investigation procedures; and look again at the consistency of decisions, review and appeals procedures, as well as the way their services maintained contact with homeless households.<sup>52</sup>

One unintended consequence of the 1977 Act, in creating a very housing-focused response to homelessness, is that support needs are not always addressed. For example, a homeless household comprising a single parent with mental ill health and two dependant children is likely to be assessed on the needs of the children: by virtue of the children, the household would be assessed as homeless and in priority need. However, the support needs of the parent with mental health problems should be an integral part of the homelessness assessment. Research commissioned by the Government and published in 2005 identified, as a weakness of the statutory homelessness provision, 'the lack of emphasis on or responsibility for the wider care and support needs of vulnerable homeless households assisted under the legislation'.<sup>53</sup>

### **Assessment by social services**

Those who are unable to secure assistance under the 1996 Act may, in some cases, receive help from social services. However, while there is a duty on local authorities to carry out an assessment where it appears that an applicant may be in need of services under community care legislation<sup>54</sup>, it does not give a right to a specific service, such as accommodation or support.

A longstanding problem has been the difficulty of ensuring that local authority departments work effectively together where there are children in need or vulnerable adults. Community care assessments were introduced to ensure that people who needed help were able to secure a range of services. However, in 1998, the Audit Commission identified that assessments often failed to include housing and housing options.<sup>55</sup>

Some social services departments have excelled in ensuring good assessments, even if their hands are tied in the real provision of services. However, there are also examples of very poor practice, seen at its worst when different departments of the same unitary authority pass responsibility back and forth in relation to a particular applicant. One problem is that, under the legislation governing social services, particularly the Children Act 1989 and the National Assistance Act 1948, the way in which social services carry out the process of assessment is largely unaccountable and there is no readily accessible means of challenge. In addition, the courts have not always been helpful in ensuring the most appropriate outcomes for homeless households, especially the House of Lords decision in *R v Barnet LBC, ex parte G; R v Lambeth LBC, ex parte W; R v Lambeth LBC, ex parte A*<sup>56</sup>, in 2003, in which the policy of offering, in most cases, to take the children into care rather than provide a one-off deposit and rent in advance was upheld.

### **Assessment by outreach teams**

Outreach workers making contact with rough sleepers work within the context of another set of assessment criteria. Concerns have mounted

51 Audit Commission, *Homelessness: responding to the new agenda*, 2003, page 9.

52 Ibid, page 35.

53 ODPM, *Evaluation of English housing policy 1975 – 2000, Theme 1: supply, need and access*, 2005, page 55.

54 Section 47 of the National Health Service and Community Care Act 1990. There is a separate right to an assessment of a child as a 'child in need' under section 17(10) of the Children Act 1989.

55 Mullins, D, and Murie, A, *Housing policy in the UK*, Palgrave Macmillan, 2006, page 239.

56 [2003] UKHL 57.

in recent years about the development of a 'problematic' street culture sometimes associated with rough sleeping – especially begging and drinking in the street. There has been a significant shift towards enforcement measures aimed at street homeless people involved in such activities. This has led towards assertive methods being used to move rough sleepers off the streets and has gone hand-in-hand with a trend to consider rough sleeping, at least in part, as an unacceptable lifestyle and form of antisocial behaviour, rather than as a housing and welfare issue. This, in turn, influences the type of assessment as well as the type of solutions provided.<sup>57</sup>

Over the past two to three years, there has been a new move to introduce local connection criteria into rough sleeper assessments. In 2006, the Government published guidelines for operating 'reconnections' policies for rough sleepers.<sup>58</sup> Although these guidelines reflect Government concern that some policies adopted by local authorities could deny vulnerable people access to hostels and support services, at the same time they encourage some of the practices criticised in the 1960s and 70s, such as returning homeless people to other locations. The Government guidance recommends that those referred to other areas should have accommodation, if appropriate with support, available when they arrive, to prevent rough sleeping in those areas. However, it falls short of recommending how those working with rough sleepers might determine for whom reconnection is appropriate. In fact, reconnections policies vary from authority to authority and therefore the criteria against which a rough sleeper is assessed will depend on where in the country they come into contact with outreach teams.

### **Assessment for asylum support by the Border and Immigration Agency**

Since the introduction of the new asylum model (NAM), responsibility for making all decisions on eligibility, payment and cessation of asylum support is made by NAM case owners. These are Home Office officials responsible for the applicant's case throughout the whole asylum process, from application for asylum through to granting of refugee

status or removal from the country. The intention is that, through this system, each household should have a named contact who is familiar with both their application and asylum support needs, and that claims should be processed quicker.<sup>59</sup>

Destitute asylum applicants can apply for accommodation and/or subsistence support.<sup>60</sup> They are initially offered full-board temporary accommodation, known as 'initial accommodation', while the application for asylum support is being assessed. When staying in initial accommodation, households are not entitled to any form of cash support.<sup>61</sup>

Once a decision is made to grant asylum support, households are referred to longer-term accommodation in a dispersal area. This is offered on a no-choice basis. Those not wishing to be dispersed out of London and the south east often apply for subsistence-only support and then find accommodation via friends or relatives.

Accommodation provided in the dispersal areas continues to be provided by contracted accommodation providers. The accommodation may be provided by a local authority, registered social landlord or private landlord. BIA accommodation is required to meet certain basic quality and safety standards that are set out in the contract between the BIA and the accommodation provider.

### **Priority need**

In practice, assessment of priority need is more straightforward for applicants with dependant children or who are pregnant, or are aged 16- or 17-years-old. Most of the other categories of priority need require local authorities to satisfy themselves that the applicant is vulnerable in some way. This is a complex and controversial test. Case law has established that vulnerability means the applicant is 'less able to fend for himself than an ordinary homeless person so that injury or detriment will result when a less vulnerable man would be able to cope without harmful effects'.<sup>62</sup> This position has subsequently been affirmed in the 2006 Code of Guidance.<sup>63</sup>

57 For further information see Johnsen, S, and Fitzpatrick, S, *The impact of enforcement on street users in England*, JRF, 2007.

58 CLG, *Getting connected*, 2006.

59 Refugee Council, *Briefing: the new asylum model*, August 2007.

60 Section 95 of the Immigration and Asylum Act 1999.

61 It should be noted that destitute asylum seekers with significant physical or mental health problems must be supported and accommodated by social services under section 21 of the National Assistance Act 1948.

62 *R v Camden LBC, ex parte Pereira* [1998] EWCA Civ 863, (1998) 31 HLR 317.

63 para 10.13 of the CLG's *Homelessness Code of Guidance for Local Authorities*, 2006.

In practice, the nature of the vulnerability test gives rise to a number of problems. Firstly, because of the inherent imprecision of the definition, it is virtually impossible to ensure consistency in decision-making, whether between different kinds of case or between different authorities. Secondly, although the concept of vulnerability is intended to be applied as an absolute test, in reality it tends to be applied in a way that is resource-driven.<sup>64</sup> As such, it becomes a question of degree, with the bar of acceptance getting higher all the time. In Shelter's experience, the statutory test is particularly inadequate for dealing with cases in which both physical and mental health conditions are a fact, and with cases involving experiences such as domestic violence, addiction and those experiencing difficulties after leaving institutions such as the armed forces.

The applicant is also often dependent on how much time and commitment her/his doctor or other professional is able or willing to put into the exercise of preparing a comprehensive medical report. Shelter is increasingly worried by the use of paper-based assessments, such as those contracted from private medical companies. In many cases, an applicant's best efforts to improve their situation are taken to work against them. For example, the fact that a former drug user is presently clean of drugs can be considered as a sign that they are able to engage with services, have a support network and can look after themselves. Similarly, the fact that the applicant has consulted a solicitor and sought advice can be taken to indicate social capabilities.

## Intentionality

Intentionality is arguably the most subjective test applied to homeless households. Shelter highlighted its concern about the the intentionality criteria in evidence to the Select Committee inquiry into homelessness in 2005.<sup>65</sup> Shelter's experience from its own casework is that the test is applied inconsistently, with significant regional variations and with many intentional homelessness decisions overturned on review, suggesting poor original decision-making.

The Code of Guidance, which assists local authorities in interpreting the legislation around homelessness, is clear that non-payment of rent or antisocial behaviour should not necessarily lead a local authority to conclude that an applicant is intentionally homeless. By contrast, in the case of 16- and 17-year-olds, a group brought within the priority need categories in 2002, the Code specifically warns local authorities to be alive to the possibility of collusion, ie where parents and their teenage children may attempt to fabricate homelessness in order to take advantage of the housing duty.<sup>66</sup>

Shelter believes that to identify this group as one likely to collude in order to obtain assistance is a questionable policy and one that may lead to wrong and damaging decisions being made in relation to young homeless people. Among those who approach local authorities as homeless, there will be a disproportionate number of young people for whom the parental home is not a suitable environment. Compared to their peers, homeless 16- and 17-year-olds are more likely to come from highly deprived areas, be poor, and to experience household friction. They are also more likely to be excluded from school and to have parents exhibiting 'high-risk' behaviour, including verbal or physical abuse, substance use and mental health problems.<sup>67</sup>

If, after investigating and assessing the case, the local housing authority accepts that the household is unintentionally homeless and in priority need, then the Housing Act 1996 requires the authority to provide ongoing temporary accommodation until the household can be made an offer of more settled accommodation. If a household is found intentionally homeless and that household contains children, it is possible that those children may become children in need<sup>68</sup> and housing departments are required to refer the household to social services, with the applicant's consent.

64 The Court of Appeal acknowledged this in *Osmani v Camden LBC* [2004] EWCA Civ 1706.

65 Select Committee on Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions, Homelessness 24 October 2004, Written evidence from Shelter, HC1116-11, HOM55.

66 CLG, *Homelessness Code of Guidance for Local Authorities*, 2006, Chapter 11.

67 Safe in the City, *Taking risks: an analysis of the risks of homelessness for young people in London*, 1999.

68 As defined by section 17(10) of the Children Act 1989.

# Nature of housing assistance

If a local authority is satisfied that an applicant is eligible, unintentionally homeless and in priority need, the duty on local authorities is to provide suitable temporary accommodation until some form of settled accommodation can be found.

In 1977, most rented homes provided security of tenure effectively, with social landlords providing long-term tenancies (which became statutorily protected under the Housing Act 1980) and private accommodation in the form of regulated tenancies under the Rent Act 1977. Therefore, from the time of the 1977 Act until the mid-1990s, such accommodation would usually take the form of a secure tenancy, or (since 1989) an assured tenancy from a housing association. Part VI of the Housing Act 1996 established that permanent accommodation can only be obtained through the allocations scheme, not through the homelessness duty, although homeless persons are entitled to receive a reasonable preference for allocations.

Consequently, while the 1977 Act did not give homeless applicants a right to an offer of permanent social housing, in practice, until the 1996 Act, local authorities tended to provide this for those to whom they had accepted a duty to house. Since the 1996 Act, authorities have provided temporary accommodation under homelessness duties, as a stop-gap until more secure accommodation can be provided under the allocations scheme.

## Temporary accommodation

As the supply of social housing has dwindled, local authorities have found it increasingly difficult to provide settled homes for homeless households. Consequently, homeless households find themselves spending longer periods of time in what is classified as 'temporary' accommodation. By September 2004, the number of homeless households in temporary accommodation exceeded 100,000 for first time. Sixty per cent of these households were in London. However, since then, the numbers have fallen to 84,900 in June 2007.<sup>69</sup>

## Temporary accommodation target

In January 2005, the Government announced its target to halve the number of households in temporary accommodation by 2010. Shelter welcomed the target and saw it as a key milestone in the process of helping homeless households out of temporary accommodation into permanent housing. Since the introduction of the temporary accommodation target, there has been a significant drop in the number of households placed in temporary accommodation.

However, this drop is not entirely attributable to homeless households being placed in more permanent accommodation. It correlates with a drop in the overall number of households accepted as homeless. Between December 2004 and September 2007, there was a 16 per cent drop (from 101,030 to 84,000) in the numbers of households placed in temporary accommodation. In the same period, there was a 45 per cent drop (from 28,890 to 15,960) in the number of households accepted as homeless.<sup>70</sup>

As discussed above, many of those who approach the council for assistance are now offered solutions outside of the homelessness legislation. A number of these involve offering alternative, usually short-term, accommodation remedies. For some households this can be short-term assured shorthold tenancies, for young applicants it could be crash pads and supported lodging schemes. Such provision can be appropriate and useful in some cases, but it does not necessarily count as temporary accommodation for the purposes of the homelessness legislation and may not, therefore, be reflected in the official temporary accommodation figures.

While Shelter has repeatedly highlighted the plight of homeless households in temporary accommodation, this does not equate to a view that temporary accommodation should not be offered. While there are sound policy objectives for the target, it must not translate into denying homeless households temporary accommodation

<sup>69</sup> CLG, *Statutory homelessness: 2nd quarter 2007*, England.

<sup>70</sup> Ibid.

where it is needed. Instead, the solution must be to increase the supply of social rented housing, so that more social tenancies are available for those coming through the homelessness system, as well as others in housing need.

### **Length of stay in temporary accommodation**

Despite the reduction in the number of households placed in temporary accommodation, homeless households are still spending significant amounts of time in this form of housing. In the second quarter of 2007, 27 per cent of those leaving temporary accommodation had spent over a year there. In London, 61 per cent had spent over a year and 25 per cent had spent over three years in temporary accommodation.<sup>71</sup> This means that homeless children are spending a significant proportion of their school years in temporary accommodation. As a result, proximity to schools and support networks becomes critical.

### **Standards of temporary accommodation**

When the 1977 legislation was introduced, there was no requirement that accommodation had to meet a particular standard. The Housing and Planning Act 1986 introduced a requirement that accommodation had to be suitable, but this did not include interim accommodation provided pending inquiries, it only covered temporary accommodation provided until a full duty was discharged. Subsequently, the Housing Act 1996 extended suitability requirements to all accommodation, both pre- and post-decision.

In some circumstances, bed and breakfast accommodation may be suitable. However, prior to 2003, its use as temporary accommodation was common, even for families with children. Many homeless households had only one room and shared kitchen and bathroom facilities, often on different floors, with other households. There were frequently restrictions on times residents could be in or out of bed and breakfast accommodation, and limited times when washing or laundry facilities might be available.

In 2003, the Government ended the placement of households with children in bed and breakfast hotels, except in an emergency and then for no more than six weeks.<sup>72</sup> This prohibition, plus incentives built into the housing benefit subsidy regime for temporary accommodation, effectively discourages local authorities from using bed and breakfast accommodation for homeless

households. In November 2006, Ruth Kelly MP announced a target to end the use of private bed and breakfast accommodation for 16- and 17-year-olds, except in an emergency, by 2010. Shelter warmly welcomes this as a step towards improving temporary accommodation standards.

Many of those now accommodated in temporary accommodation are in good quality, self-contained properties. Suitability requirements ensure that local authorities must not statutorily overcrowd a household, or place people in accommodation that falls short of minimal physical standards. However, there are no national standards for temporary accommodation. In 2002<sup>73</sup>, the Government said that it would consider introducing a minimum standard, but nothing has been forthcoming. Some local authorities have procedures for visiting properties and checking standards before procuring temporary accommodation, but others do not. Moreover, a large amount of temporary accommodation is procured from the private sector, which has the highest levels of unfit properties of any sector. Shelter believes that minimum temporary accommodation standards should be introduced, and also that the support needs of the households living in temporary accommodation must be met.

### **Affordability of temporary accommodation**

A further major problem arises from long spells in temporary accommodation. The cost of providing temporary accommodation is high and rents are charged at a rate over and above market rent levels. Low wages, combined with steep housing benefit tapers, can deter low-income families in temporary accommodation from working.

One response to the problem has been the *Working Future*<sup>74</sup> pilot in East London. It is designed to reduce the number of people out of work in temporary accommodation by ensuring that the household is only liable for a social rent, while the Department for Work and Pensions pays the remaining rent through a block grant to the landlord. Shelter has supported this as a way of enabling homeless households, waiting for more settled accommodation, to work. Shelter would like the Government to roll this pilot out more widely. However, although it provides a lower rent, the household remains in accommodation with little security. The real problem remains the lack of social housing that can provide both low rent and security of tenure.

<sup>71</sup> CLG, *Statutory homelessness: 2nd quarter 2007*, England.

<sup>72</sup> Homelessness (Suitability of Accommodation)(England) Order 2003, SI 2003/3326.

<sup>73</sup> Office of the Deputy Prime Minister Homelessness Directorate, *Improving standards of accommodation for homeless households placed in temporary accommodation: a consultation paper*, May 2003.

<sup>74</sup> [www.workingfuture.org.uk](http://www.workingfuture.org.uk)

## Provision of more settled or permanent accommodation

While many people would agree that homeless households need a settled home, there are a wide range of views around what this constitutes. Just as there has been a long standing debate over who is homeless, with some favouring a narrower and some favouring a broader definition, similarly there has been a debate about whether homelessness is a temporary aberration or a longer-term experience. Those who believe it is a temporary state of affairs, tend to advocate shorter-term remedies. Those who believe it is a deeper, more entrenched problem tend to opt for longer-term solutions.

### Nature of settled accommodation

As stated above, while the 1977 legislation did not give a right to homeless households to be housed in social housing, in practice local authorities tended to provide this for those to whom they had accepted a rehousing duty.

International comparative research, carried out by the Centre for Housing Policy at the University of York, concluded that the UK is highly unusual in providing, for some homeless groups, a legally-enforceable right to suitable accommodation that usually lasts until settled housing can be found. In the other countries surveyed, any rights homeless people may have only related to temporary or emergency forms of accommodation provided for those who are roofless.<sup>75</sup> In this sense, England is very progressive. However, it could be argued that the 1977 legislation that introduced these rights was designed to fit a system that has since changed shape.

At the time Aneurin Bevan's 'from the cradle to the grave' ideas were dominant, council housing was much more widely available, having expanded from 20,000 dwellings to six million between 1914 and 1979. The private rented sector, by contrast, had few champions, although in comparison with the private sector today it was, at that time, much more secure and affordable for tenants.

By the late 1980s, more insecure forms of tenure had been introduced, notably assured shorthold tenancies. By the early 1990s, there were some attempts by local authorities to discharge their duty through assured shorthold tenancies in the private rented sector.<sup>76</sup> The Housing Act 1996 limited the duty to accommodate homeless applicants to two years.

### Use of assured shorthold tenancies

The Homelessness Act 2002 removed the two-year time limit, restoring the duty to accommodate indefinitely until a settled home is secured. The 2002 Act also introduced the 'qualifying offer' that allows local authorities to discharge their duty to house homeless households through the offer of an assured shorthold tenancy in the private sector. This can only be done with the household's written consent. Shelter supports the offer of assured shorthold tenancies in the private rented sector to homeless households, provided the households can freely choose whether or not to accept such an offer, without punitive measure if the offer is not taken.

Since 2002, however, there has been a marked emphasis by the Government on the use of the private rented sector for homeless households. The Government's five-year strategy for tackling homelessness considers whether legislative changes could be made to encourage greater use of the private rented sector to provide settled housing options.<sup>77</sup> Shelter is concerned that such a course of action, if pursued, could involve removing the element of choice a homeless household would have in accepting an offer of an assured shorthold tenancy.

In addition, the recent report of the Hills review of social housing has explored the case for moving away from lifelong security of tenure for all those accepted as homeless. The report considers the arguments for and against withdrawing people's entitlement to social housing if their circumstances improve, and argues that while for some of those in housing need a traditional social tenancy will be the most appropriate solution, others may prefer quicker, more flexible forms of support. The Government is expected to set out its proposals for taking forward the conclusions of the review shortly.

<sup>75</sup> CLG, *Homelessness research summary 4: an international review of homelessness and related aspects of housing policy: preliminary findings*, 2006.

<sup>76</sup> Campbell, R, 'Beyond the fringe', *ROOF*, November/December 1993.

<sup>77</sup> ODPM, *Sustainable communities: settled homes, changing lives*, 2005, para 3.15.

## Temporary to permanent schemes

A recent report by the National Housing Federation and Housing Corporation considers ways to reduce the number of people in temporary accommodation, and ease their transition to settled homes.<sup>78</sup> It advocates the creation of 'temporary to permanent' schemes. These offer accommodation with limited security of tenure to homeless households and use the high rental income from the schemes to create long-term social housing. The report argues that, if the 2010 target to halve numbers in temporary accommodation is to be met, there is a need to refine legal concepts of temporary and settled housing. It advocates that settled housing should not be determined by the tenure offered to the household alone, but rather there should be a greater emphasis on the quality and likely length of occupancy and support available.

Shelter supports the use of these schemes as temporary accommodation. However, we do not agree that such schemes should be classified as permanent accommodation into which local authorities can place homeless households to discharge their housing duty.

## Need for secure accommodation

While offers of accommodation, both temporary and settled, need to take into account issues of quality and available support, Shelter does not believe that this should be at the expense of long-term security of tenure. An evaluation of housing policy, commissioned by the Office of the Deputy Prime Minister, suggested that, on balance, statutory homelessness is a reasonably good proxy for long-term housing need.<sup>79</sup> Discharge of duty into insecure accommodation is much less likely to create a sustainable housing solution. For those who are poorest and for whom market housing is not an answer, social renting with low rents and security of tenure is an essential option.

In 1996<sup>80</sup>, repeat homelessness applications to a local authority were identified as one indication that sustainable solutions are not being secured for some homeless people: 28 per cent of all homelessness applications involved households who had made

a previous application at some point. Of the repeat applicants, one-third had made only one previous application but over one-quarter had made three or more applications, and this was most common among single people.<sup>81</sup> In 2001, Shelter's own study of families in temporary accommodation in Manchester found that over 40 per cent had been homeless before.<sup>82</sup> A five-year longitudinal study in New York City found that the provision of subsidised housing is, by far, the most successful intervention in promoting long-term residential stability among formerly homeless families.<sup>83</sup>

## Allocation of social housing to homeless households

The ODPM policy evaluation<sup>84</sup>, mentioned above, acknowledged that the homelessness legislation has probably contributed to the concentration of poor and vulnerable households within the social rented sector and, in some cases, within particular neighbourhoods. However, it also argued that homeless households typically exhibited housing needs that would have, in any case, put them near to the top of needs-based waiting list systems for social housing.

There are certainly other factors that have contributed to the concentration of poor and vulnerable households within the social housing sector, such as the chronic reduction in the number of social housing units resulting from the right to buy and, until recently, a decline in the number of units built. In addition, widening economic inequalities and schemes like the Tenants Incentive Scheme have encouraged wealthier households to leave the sector. This has led to a situation where the best social housing stock and the wealthier households have left the sector, leaving a vastly reduced pool of social housing for the use of those most in need.

Shelter considers it a strength of the system that, in England, homeless households are housed as part of mainstream social housing. In other countries, such as France and Sweden, homeless households are often segregated and excluded from mainstream housing. The housing available for the poorest in other countries, known as 'very social housing', is often more insecure and precarious.<sup>85</sup>

78 Cope, H, *Coming home: reducing the use of temporary housing and tackling homelessness*, National Housing Federation and Housing Corporation, July 2007.

79 ODPM, *Evaluation of English housing policy 1975-2000*, op cit, para 5.41.

80 O'Callaghan, B, and Dominian, *Study of homeless applicants*, Department of the Environment, 1996.

81 Ibid, page 53.

82 Shelter, *No room to play*, 2003.

83 Shinn et al 'Predictors of homelessness among families in New York City: from shelter request to housing stability' (1998) 88 *American Journal of Public Health* 1651-1657.

84 ODPM, *Evaluation of English housing policy 1975-2000 – theme 1: supply, need and access*, 2005, page 55.

85 Whitehead, C, and Scanlon, K, *Social housing in Europe*, LSE, 2007.

Shelter believes that there is great benefit in maintaining the practice of awarding reasonable preference in allocations to homeless households. Increasingly, there appears to be a blurring of the lines between private and social renting, and a strong emphasis placed on maximising the use of private renting for not only homeless households but for all those without the financial means to enter full or partial owner occupation. Private rented housing is now seen as the sector to absorb surplus housing need. Yet, the private rented sector is characterised by a lack of security of tenure, often high market level rents, and poorer physical conditions, on average, than other housing sectors. While many may live happily in the private rented sector, Shelter has serious doubts over a presumption in favour of its use for homeless, poor and vulnerable households.

## Provision of housing-related support

A recently published report by Crisis highlights that, although settled accommodation is important, it does not necessarily mean an end to homelessness for a particular household if the right support is not provided at the same time.<sup>86</sup>

Longer-term housing solutions need to be provided with support, where necessary. From April 2003, under the Supporting People programme, housing and social services departments have been required to work in partnership with other stakeholders to address support needs of vulnerable people. Supporting People plays a central role for households at risk of social exclusion, including those at risk of homelessness, and Supporting People strategies are intended to link to homelessness strategies. In the past, low intensity, supported accommodation, eg hostels, was developed on an ad hoc basis, and service provision was often dependent on a voluntary sector organisation securing additional funding from the local authority through the housing benefit system. Supporting People, by contrast, has introduced strategic planning into the provision of supported housing and housing-related support for the first time.

However, since 2003, the Supporting People budget has been subject to cuts. Furthermore, in 2009, the Government proposes to lift the ringfence on Supporting People and merge the funding with

that for the funding for the implementation of local area agreements. Shelter believes that there is a need to protect the Supporting People funding stream and is concerned that groups which are sometimes considered unpopular, such as homeless people, those fleeing violence or those with drug or alcohol dependencies, are more likely to be classified as a low priority if spending decisions are made at a local, rather than national, level. For similar reasons, the London Mayor's draft housing strategy also advocates maintaining the ringfence on Supporting People funding.<sup>87</sup>

## Outcomes for households not assisted under the homelessness legislation

If a local authority, having made inquiries, decides that a household is not eligible, unintentionally homeless or in priority need, then no full duty is owed and the local authority ceases to be under a duty to provide interim accommodation. Some households may manage to secure assistance from social services authorities, but most will not. For those deemed ineligible, intentionally homeless or without a priority need, the outlook is bleak. There is no legally enforceable right to any emergency accommodation at all. This is in contrast to other countries, such as Sweden, Hungary, Germany and Poland<sup>88</sup>, where those who are roofless have enforceable rights to some form of emergency accommodation. Instead, in England, all homeless households have a right to advice and assistance to help them secure accommodation, but not to accommodation itself. In practice this amounts to housing options interviews (see page 16) and lists of local hostels and private landlords who may or may not accommodate.

Those denied assistance under both the Housing Act 1996 and social services legislation, who cannot secure accommodation, may face street homelessness. At this point, some may be assisted by rough sleeper outreach teams to access hostel accommodation. In January 2005, the Government invested a very welcome £90 million in the Hostels Capital Improvement Programme to redesign and upgrade hostel facilities in London. In the capital, the number of longer-stay beds for homeless people has increased by about one-fifth since 2001.<sup>89</sup> However, the number of quick access beds has decreased by

86 Reeve, K, Goudie, R, and Casey, R, *Homeless women: homelessness careers, homelessness landscapes*, 2007.

87 Greater London Authority, *The draft Mayor's housing strategy*, September 2007.

88 CLG, *An international review of homelessness and related aspects of housing policy: preliminary findings*, Homelessness research summary 4, 2006.

89 Broadway and Resource Information Service, *Accommodation for single homeless people in London: supply and demand*, 2006.



the same amount. Research by Broadway and the Resource Information Service has revealed that the number of quick access bed spaces on any given day is significantly fewer than the numbers sleeping rough each night. The same research also showed that the average length of stay in 13 key London hostels nearly doubled between 2001 and 2006, from just over six months to nearly 12 months.<sup>90</sup> This reduction in the speed at which people move on makes it more difficult for those on the streets to access emergency accommodation, and is related to a shortage of suitable move-on accommodation.

Broadway research<sup>91</sup> has shown that fewer people are being assisted to move off the streets by outreach teams. A growing proportion of people contacted each year have never been booked into accommodation or diverted by outreach or building-based support teams (47 per cent in 2006/07; 39 per cent in 2005/06; 33 per cent in 2004/05).

In August 2007, the Government published the results of its review of hostels in London. The review was carried out to establish whether or not some rough sleepers were unable to access hostels and, if so, whether this problem had grown worse in recent years.

The Government concludes:

- there is no overall shortage of hostel accommodation
- more people need to be moved on into the private rented sector
- there is more scope for reconnecting street homeless people out of London.<sup>92</sup>

Shelter has serious doubts about the emphasis on reconnection (see page 18) and, instead, believes it would be an important step forward if there was a right for those on the streets to be accommodated while their full housing and support needs are assessed. Shelter supports the idea of moving towards the provision of interim accommodation for all homeless households, pending full assessment.

There is a strong case for ensuring that *all* homeless households have some enforceable right to temporary accommodation.

<sup>90</sup> Ibid, page 3.

<sup>91</sup> Broadway, *Street to home key findings report for London 2005/06*.

<sup>92</sup> CLG, *Review of hostels for rough sleepers in London, 2007*.

# Thirty years on: strengthening the homelessness system

Since the introduction of the homelessness legislation 30 years ago, it has played a vital role in assisting tens of thousands of homeless households every year. While there is little doubt that the wider housing landscape has changed, many of the provisions of the homelessness legislation have stood the test of time and are continuing to prove their worth today. At the same time, there are certain aspects of current legislation, policy and practice that Shelter believe could be strengthened. In this concluding chapter, we set out the features of the current system we believe it is vital to retain, while also highlighting possible options for reform.

## Retaining a broad definition of homelessness

Shelter believes that a broad legal definition of homelessness is as relevant today as it was in 1977. A broad view of homelessness is essential if the true scale of the problem is to be understood and tackled. The wide definition and, crucially, its practical application are also important so that as many households as possible are counted in homelessness statistics. If only those who are roofless are counted as homeless, this will lead to solutions and policies that only tackle part of the problem.

## Developing a more comprehensive picture of homelessness

Shelter is concerned about the number of homeless households who are not counted in the official homelessness figures, and believes that excluding large numbers of homeless households from the figures due to immigration status or priority need provides an incomplete picture. A more comprehensive way of counting homeless households is needed.

- All those approaching a local authority for assistance as homeless should have their case recorded. This would give a clearer picture of the numbers in need of homelessness assistance.
- The 'reasons for loss of last settled base' monitoring question that local authorities complete should be expanded to include financial difficulties leading to rent arrears, non-payment of housing benefit, eviction on no grounds from the private rented sector (PRS), overcrowding, and disrepair.
- The methodology for street counts needs to be improved. The way in which counts are carried out in England has been shown to miss those sleeping rough in more hidden locations.

## Tackling the causes of homelessness

Shelter believes that the Government's homelessness prevention approach focuses almost exclusively on pre-crisis intervention. Although Shelter acknowledges that prevention at this stage has a role to play, we believe that there needs to be more emphasis on preventing the structural causes of homelessness.

## Increasing the supply of social rented homes

An adequate supply of social housing is vital to both preventing homelessness and to the functioning of the homelessness safety net. Shelter welcomes the Government's commitment to increase the number of new social rented homes per annum to 45,000 by 2010-11, and its goal to reach 50,000 per annum during the course of the next Comprehensive Spending Review. Shelter also welcomes the Government's target to deliver three million new homes by 2020. Shelter believes that somewhere in the region of one-quarter to one-third of these three million homes must be for social renting.

## Developing a strategy for the private rented sector

If the private rented sector is to absorb the housing need currently unmet by owner occupation or social housing, there is a need for a thorough review of the sector to ensure that it is fit for purpose. Following the Hills review of the social rented sector, Shelter believes that a review of the private rented sector is now needed. Shelter has serious concerns about the PRS's ability to effectively accommodate the majority of homeless households. In particular we remain concerned about the inherent lack of security provided by assured shorthold tenancies, the issues of affordability for those on lower incomes and the poor physical and management standards which are prevalent in parts of the sector. Shelter believes that work needs to be done to enable the PRS to provide a suitable home for its tenants.<sup>93</sup>

### Improving affordability

- Difficulties in accessing a secure, rented home, combined with rapidly rising house prices, have pushed many households into owning homes that they are hard-pressed to afford. All those considering home ownership should have access to clear and realistic advice on affordability, not only in terms of mortgage repayments but also the cost of repairs and maintenance.
- The current system of regulated rents in the social rented sector must be maintained. At present, social rented housing offers the only truly secure and affordable housing option for households with a low income.
- It is essential that those on low incomes are able to pay their rents. Improvements to the housing benefit system are required, including amending housing benefit tapers to reduce the impact of the poverty trap and support employment, and addressing housing benefit shortfalls in the private rented sector, particularly the single room rent restriction for the under 25s.
- Shelter is also concerned about elements of the roll out of local housing allowance (LHA) which is scheduled to take place nationally in April 2008. In particular, Shelter believes there is a need to:
  - include rent levels as a determining factor in the definition of a broad rental market area
  - ensure adequate and properly funded money management services are available to all tenants in the new climate of direct payments

- pro-actively identify vulnerable tenants who may need to continue to have their benefit paid directly to their landlord
- carry out an early review of the impact of LHA to assess its effectiveness in attaining the primary goal of helping those on low incomes to access and sustain a tenancy

### Reducing the number of repossessions and evictions

With rising mortgage repossessions, there is an urgent need for further action to prevent those with difficulties meeting mortgage payments from losing their homes. In particular, the following improvements are required:

- a stronger welfare safety net for homeowners who fall into difficulty
- more effective regulation of mortgage lenders and intermediaries in order to ensure that households do not overstretch themselves by borrowing more than they can afford. The sub-prime mortgage sector, in particular, needs closer regulatory attention.

The Government should act to reduce the number of evictions by housing associations, for example by abolishing ground 8, Schedule 2 of the 1988 Housing Act, which allows mandatory eviction of assured tenants if they have eight or more weeks of rent arrears.

### Tenancy sustainment

Where people struggle to maintain their tenancies, it is important that they receive the support they need to maintain their tenancies and avoid eviction:

- tenancy sustainment services, such as floating support, should be available in every local authority, to help prevent problems leading to eviction, such as antisocial behaviour and rent arrears
- measures should be taken to identify and prevent homelessness at the earliest possible stage, for instance the use of pre-tenancy assessments, early warning systems to highlight rent arrears, and joint protocols for sharing information about people vulnerable to homelessness.

<sup>93</sup> Jones, E, *Fit for purpose?* Shelter, 2007.

## Independent housing advice and representation

As a result of pressure on civil legal aid and public funding resources, it is becoming increasingly difficult for those with housing problems to access specialist advice. This has a negative impact on those who are homeless. It is estimated that 83 per cent of those living in temporary accommodation experience legal problems.<sup>94</sup> It is vital that the civil public funding budget is ringfenced and significantly increased, in order to ensure that people can access their housing and other rights.

## Retention of the low threshold for interim accommodation

Shelter believes that any system that is designed to assist homeless households should be easily accessible and have a low threshold. This is one of the most important parts of the legacy of the 1977 Act.

- Shelter supports the provision and retention of a safety net that gives emergency accommodation promptly to those who are homeless in the broadest sense.
- Local authorities should review their practices to ensure that their homelessness prevention services do not impose barriers to statutory assistance by replacing or delaying a statutory homelessness application and assessment where there is reason to believe that a household is entitled to statutory assistance.

## Possible extension of the the duty to provide interim accommodation

One way of improving protection for those currently excluded from the homelessness safety net would be to consider offering emergency accommodation to any homeless household, regardless of priority need, while a full assessment of needs is carried out. This would prevent a situation where some

of those who are homeless and have the most complex needs have no entitlement to even the most basic housing provision while they are assessed. The Government should investigate the possibility of extending the provision of interim emergency accommodation to homeless households who do not have a priority need.

## Priority need and vulnerability

When the priority need categories were extended in 2002, it was hoped that those homeless households who were particularly vulnerable but who did not have children, would be able to access help more easily under the homelessness provisions. There are grounds for the Government to confer priority need on those who have experienced violence, or spent time in prison, or in the armed forces, so that they no longer have to pass the vulnerability test.

## Standards of temporary accommodation

Shelter supports the Government's target to halve the number of households in temporary accommodation by 2010. However, we remain concerned about the standards of temporary accommodation. The Government should investigate the standards of temporary accommodation and consider the case for introducing national minimum temporary accommodation standards.

## Access to services for the street homeless

Shelter is concerned that the introduction of reconnection criteria into the provision of services for street homeless people means that some individuals are sent to a different area without a comprehensive assessment of their housing and support needs taking place. The Government should review its guidance on reconnection to ensure that outcomes for street homeless people are not compromised.

<sup>94</sup> Department for Constitutional Affairs, *A fairer deal for legal aid?* 2005.

## **A new framework for housing and homelessness assessment**

Shelter believes that there is a strong case for the introduction of a single housing and homelessness assessment interview for any household facing housing difficulties, which would be a holistic examination of the individual's background, current situation and support needs. This would involve an assessment of the household's status in housing law, and any potential need for additional practical or emotional support for either adult or child members of the household. Where the local authority believes the household may be homeless, or at risk of being so, a homelessness application would be made alongside the wider examination of their needs and options.

This process, including the assessment of support and available options, should be regulated and accountable. It would strengthen the quality of the advice and assistance given by local authorities, and would ensure that all efforts are made to prevent homelessness for those in other types of housing need. Assessment of housing and support needs would then be passed to social services where relevant.

## **Better quality decision making**

The quality and consistency of homelessness decision-making needs to be improved. Regular training should be provided to all local authority staff with responsibility for assessing homelessness, to improve their knowledge of good practice and the legal framework.

## **Interface between mainstream housing system and asylum support system**

The difficulty with creating an entirely separate system of entitlement and provision for destitute asylum seekers is that at some point many of these households will be granted refugee status or leave to remain in the UK, and will then become eligible for homelessness assistance. People living in accommodation provided as part of an asylum support package are only entitled to a minimal seven days' notice. Therefore, it can be difficult for them to avoid crisis-driven homelessness. This can, in turn, undermine local homelessness strategies.

It is important that changes are made to notice periods within the asylum support system to ensure that people receiving a positive asylum decision have plenty of time – at least 28 days – in which to present for assistance from local housing authorities.

# Appendix 1: the legal definition of homelessness

All the following legislative provisions are taken from the Housing Act 1996.

'175 (1) A person is homeless if he has no accommodation available for his occupation, in the UK or elsewhere, which he—

- a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court
- b) has an express or implied licence to occupy, or
- c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of another person to recover possession.

(2) A person is homeless if he has accommodation but

- a) he cannot secure entry to it, or
- b) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where s/he is entitled or permitted both to place it and to reside in it.

(3) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.

(4) A person is threatened with homelessness if it is likely that he will become homeless within 28 days.

176 Accommodation shall be regarded as available for a person's occupation only if it is available for occupation by him together with—

- (a) any other person who normally resides with him as a member of his family, or
- (b) any other person who might reasonably be expected to reside with him.'



## Everyone should have a home

We are the fourth richest country in the world, and yet millions of people in Britain wake up every day in housing that is run-down, overcrowded, or dangerous. Many others have lost their home altogether. Bad housing robs us of security, health, and a fair chance in life.

Shelter helps more than 170,000 people a year fight for their rights, get back on their feet, and find and keep a home. We also tackle the root causes of bad housing by campaigning for new laws, policies, and solutions.

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Shelter  
88 Old Street  
London EC1V 9HU

0845 458 4590  
[www.shelter.org.uk](http://www.shelter.org.uk)

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