

[‘Your right to a homeless review’. Text for webpage and/or booklet guide about requesting a section 85 review](#)

Your right to a homeless review

If you disagree with a decision the Council makes on your homeless application you can ask for a review. The Council must then look at the decision again.

This [\[guide/leaflet/webpage\]](#) explains your right to a review. It also explains what happens when you ask for a review.

[\[To help applicants navigate the guide \(or webpage\) you may want to create a contents page. Please refer to the following webpage for a list of all the section headings:](#)

[https://markprichard.co.uk/documents/your-right-to-a-homeless-review-text-for-webpage-and-or-booklet-guide-wales\]](https://markprichard.co.uk/documents/your-right-to-a-homeless-review-text-for-webpage-and-or-booklet-guide-wales)

Key points

- A review must usually be requested within 21 days of you receiving the Council’s decision. See ‘What is the time limit for asking for a review?’ below.
- A review can be requested verbally or by email. However, make it clear that you are asking for a review and state clearly which decision you want the Council to reconsider. Keep a copy or record of your review request.
- The Council must review the decision within a certain period of time. This is usually 8 weeks from when you requested the review. However, reviews sometimes take shorter or longer. See ‘When will a decision be made on my review?’ below.
- The review will be carried out by a Council officer who was not involved in the original decision.
- The Council will give you a deadline for providing your reasons for requesting a review and any evidence you want the Council to consider.
- The Council does not have to provide accommodation until the review is completed. However, you can ask the Council to provide accommodation (or continue providing accommodation). Accommodation may be



provided if your circumstances are exceptional. See 'Is accommodation provided until the review is completed?' below.

- The decision on your review will be confirmed in writing. If the Council makes a negative decision we will tell you were unsuccessful.
- You can appeal to the county court if you are unhappy with the review decision. Appeals are only available on a 'point of law'. This means that the Council made a legal mistake during the review process. See 'What is a point of law?' below.
- Appeals must be brought within 21 days of the review decision being notified. See 'Can I appeal the review decision' below.
- Legal advice is available for homeless people and is free if you are on a low income. A legal advisor will be able to advise you on whether a review (or appeal) is likely to be successful. They can also present evidence to the Council and make representations on your behalf. See 'Can I get independent advice?' below.

What is a homeless review?

By law you can ask the Council to look again at most decisions made on your homeless application. This is called asking for a 'review'.

We will change the decision if we made a mistake. We may also overturn a decision if your situation has changed.

Which decisions can I ask the Council to review?

You can ask the Council to reconsider the following types of decision:

- A decision that you are not homeless.
- A decision that you are not threatened with homelessness.
- A decision that you do not qualify for help because of your immigration or nationality status. This is called being 'ineligible' for help.
- A decision that you do not have a priority need.
- A decision that you became homeless intentionally.
- A decision that your case should be referred to another council because you do not have a local connection with our area but have a connection with another council's area.



- A decision that your case has been transferred to another council because you do not have a local connection with our area but have a connection with the other council's area.
- A decision that accommodation offered to you is suitable (where we are under a duty to arrange accommodation for you or the accommodation is being offered to end our duty towards you).
- A decision that you are not owed one of the following duties or a decision that one of the following duties has ended:
 - The duty to prevent homelessness. This is a duty to take steps to help you keep your present accommodation. The Council owes this duty when we are satisfied you are threatened with homelessness and eligible for help (the 'prevention' duty, under section 66 of the Housing (Wales) Act 2014).
 - The interim duty to provide temporary accommodation. The Council must provide temporary housing when we have reason to believe you may be homeless, may be eligible for help on immigration grounds, and may have a priority need (under section 68 of the 2014 Act).
 - The duty to help you find accommodation. The Council owes this duty when we are satisfied you are homeless and eligible for help (the 'relief' duty, under section 73 of the 2014 Act).
 - The duty to provide accommodation if you are homeless and in priority need when the 'relief' duty ends (under section 75 of the 2014 Act).
- A decision that we have taken reasonable steps to help you find accommodation, under the 'relief' duty. You can ask us to review our decision that we have taken reasonable steps to help you when the relief duty ends, either because 56 days have passed (from when we first accepted you were homeless) or because the Council has decided that reasonable steps to help you were taken before the 56-day period ended.

What if I'm unsure whether a decision can be reviewed?

Your decision letter will tell you if you can ask for a review. Please contact us if you have you have questions. You can also get independent advice (see 'Can I get independent advice?' below).

What is the time limit for asking for a review?

You must ask for a review within 21 days of being notified of the decision. This usually means 21 days from when you receive the decision letter.



Special rules apply if you do not receive the decision letter (see the next section 'What if I did not receive the decision letter?' below).

If you accepted temporary accommodation some time ago and want us to reconsider it's suitability you can ask for a review. You will need to demonstrate that the accommodation has *become* unsuitable (since you accepted it) because your circumstances have changed.

What if I did not receive the decision letter?

If you did not receive the decision letter we can usually treat you as if you did receive it (by law). This is because decisions are available for you (or someone on your behalf) to collect from our office at [\[office details/address\]](#).

Ask the Housing Options Team if you want to know whether this rule applies in your case (it depends on the type of decision you want us to review).

If you miss the 21-day deadline you can ask us to accept a late review request (see the next section below).

What if I miss the 21-day deadline for asking for a review?

You lose your right to a review if you miss the 21-day deadline for requesting it. However you can ask us to accept a late review.

By law we do not have to accept a late review request. However, we will consider whether we should make an exception in your case. You will usually need to show a very good reason for your delay in asking for a review.

How do I ask for a review?

You (or someone acting on your behalf) can request a review

- by completing the online form at [\[webpage address\]](#)
- by emailing [\[email address\]](#)
- by phoning us on [\[tel no\]](#)
- in person at our offices, or
- by writing to [\[address\]](#).

Make sure you clearly ask for a review and tell us which decision (or decisions) you want us to look at again.

If you prefer you can use the **Requesting a homeless review** form. You can either:



- complete the form online at [[webpage address](#)] , or
- download the form and then post it, or email it to [[email address](#)].

Please ask us if you want the form posted to you or if you need help with asking for a review.

You should keep a copy of your review request (or keep a record if you asked for a review verbally).

Must I give reasons when requesting the review?

No. But explaining why you are asking for a review can help us make a quicker decision.

We will always write and give you a date by when you must provide your reasons and any supporting information you want us to consider.

Explain why you think the decision was wrong. It is usually better to send evidence to support your review. If you send us evidence make sure you keep a copy.

I am thinking of refusing an offer of accommodation. What should I do?

The Council's duty towards you is likely to end if you refuse accommodation we believe is suitable for you.

You should therefore think very carefully before refusing accommodation.

If you think accommodation is unsuitable we strongly advise you to accept it and ask us to review its suitability. This will mean you have somewhere to stay while we review the decision. It will also mean you have accommodation if your review is unsuccessful.

If you are unsure of your position you should get advice from the Housing Options Team or a legal advisor (see 'Can I get independent advice' below).

Can someone else act on my behalf?

Yes. You can ask someone else to act for you in connection with your review. You must confirm in writing that they are acting on your behalf (advisors will have a form). See 'Can I get independent advice?' below for organisations that may be able to advise and represent you.

If you have a representative we may write to them instead of you in connection with the review.



Can I get independent advice?

The following organisations advise and represent homeless people:

- **Shelter Cymru**

Tel: 0345 075 5005 (open 9.30am – 4pm Monday to Friday)

Email: emailadvice@sheltercymru.org.uk

Find a local advice centre near you at sheltercymru.org.uk/get-advice/advice-near-you/

- **[Local agency name]**

Tel: **[Tel number]** / Email: **[email address]**

A legal advisor may be able to obtain information to support your case.

Legal advice about homelessness is free if you have a low income. You can check if you can get legal aid at www.gov.uk/check-legal-aid

Do I need to provide an address? What if I don't have an address?

We strongly advise you to provide a contact address because we need to write to you during the review process.

If you are moving from place to place you must tell us the addresses (even if your accommodation is only temporary).

If you are sleeping rough we suggest you get an independent adviser to represent you. We can then send your letters to them (see 'Can I get independent advice?' above for organisations that may be able to represent you).

We strongly advise you to provide a telephone number and email address. This allows us to contact you during the review process and email letters to you. This is very important if you have problems receiving post. Or we can phone and tell you when a letter is ready to collect from our office at **[address]**.

Who will make the decision on my review?

A Council officer who was not involved in the original decision will make the review decision.

We sometimes ask an independent contractor to carry out the review on our behalf, or to look into your case. We would tell you if this applies in your case.

What procedure does the Council follow when carrying out a review?



We will write to you within 5 working days of receiving your review request.

We will:

- Invite you to make written or oral representations, or both, in connection with the review (someone can make representations on your behalf if you prefer).
- Give you a date by when we must receive your reasons for requesting a review and any supporting information. You will usually be given at least 14 days to do this.
- Confirm the procedure we will follow.
- Confirm who will carry out the review.
- Give you the name and details of a Council officer you can contact if you have any questions about your review.

Special safeguards apply if:

- The reviewing officer believes there was an irregularity in the original decision, or something lacking in the decision or how it was made,
- But the reviewer is considering making a negative decision on your review.

If this is the case we will:

- Give you advance notice in writing that we are considering making a negative decision, despite the problem with the original decision.
- Confirm the reasons why.
- Confirm that you (or someone acting on your behalf) can make more representations to the reviewing officer (orally or in writing, or both), and
- Give you an opportunity to meet with the reviewing officer to make oral representations (if you prefer a representative can attend for you, or someone else can accompany you).

When will a decision be made on my review?

We will try and make a decision as soon as possible, once we have looked into your case and received all the information we need.

The time we can take to make a final decision depends on the type of decision being reviewed.

For most types of decision we must send you the decision in writing within **8 weeks** of when you requested the review.

We can take up to 10 weeks to make the review decision if the original decision was that your case has been referred to another council (because you do not have a local connection with our area but have a connection with the other council's area).



Sometimes we ask for more time to make the decision, for example if we are waiting for information. If you agree to an extension we are allowed to take longer to complete the review. We will confirm any extension in writing.

How does the Council decide whether to overturn the original decision?

When deciding whether to overturn the original decision we:

- Consider your circumstances.
- Make sure the law has been properly applied.
- Consider Welsh Government guidance.
- Consider any changes in your situation, and
- Make the decision according to the merits of your case.

We are likely to uphold the original decision if no legal error was made.

You can get independent advice on whether a review is likely to be successful. See 'Can I get independent advice?' above for organisations that can advise and represent you.

What if my situation changes?

You must tell the Council if your situation changes. For example you must tell us if you move address, even if it's only temporary. We will take account of any relevant changes when making a decision on your review.

You may commit a criminal offence if:

- You do not tell the Council about a relevant change in your circumstances
- You withhold information we need to administer your homeless application, or
- You make a false statement intending to make us believe that you are homeless or qualify for help or accommodation.

We have to consider your situation as it is on the date we make the review decision (unless you refused accommodation and we are deciding whether the accommodation was suitable when you refused it).

Is accommodation provided until the review is completed?

You can ask the Council for temporary accommodation. However, we do not have to provide accommodation while you are waiting for the review decision.



We will consider your situation and decide if temporary housing should be provided. We usually only agree in exceptional circumstances. For example, if we think a mistake was made when making the original decision, your review is likely to be successful, and you are likely to be owed an accommodation duty.

What if I cannot ask for a review?

Some decisions on homeless applications do not carry a right to review. For example, you cannot ask the Council to review a refusal to accept a homeless application.

Please ask the Housing Options Team if you are unsure whether you have a right to ask for a review (see the last section below for our contact details).

If a decision does not carry a right of review or if you want to challenge a delay in making a decision you can apply for judicial review. You should get independent legal advice if you want more advice about this option.

Can I appeal the review decision?

Yes. You can appeal to the county court if you disagree with the review decision.

You can also appeal if the Council fails to complete the review within the relevant time limit (see 'When will a decision be made on my review?' above).

You must appeal:

- Within 21 days of receiving the review decision, or
- Within 21 days of the date on which the review decision should have been sent to you, or
- Within any longer period allowed by the county court because you have a good reason for not appealing in time.

You can only appeal 'on a point of law' arising from the decision. This means that the Council made a legal error when carrying out the review (see 'What is a 'point of law'?' below).

You should get independent legal advice if you want to appeal (see 'Can I get independent advice?' above).

A legal advisor can advise on whether you have grounds for appealing. They will also be able to tell you if legal aid will pay for an appeal.

What is a 'point of law'?



A point of law (or 'error of law') is where the Council makes a legal mistake when making the decision. This includes where the process we followed when reaching the decision was unfair or unlawful.

Examples include where the Council:

- Misinterpreted what it was legally required to do.
- Took irrelevant matters into account.
- Failed to take relevant matters into account.
- Failed to consider your case on its own merits.
- Used an unfair procedure, eg by denying you an opportunity to put your case.
- Did not give adequate reasons for a negative decision.
- Failed to comply with procedural requirements contained in the Homelessness (Review Procedure) (Wales) Regulations 2015.
- Made a perverse decision. This means that no reasonable council could have made the decision given the particular facts of your case.

The above is not an exhaustive list.

You should get independent legal advice if you want advice on whether you have grounds for appeal. The Legal Aid Agency can help you can find a local provider of specialist housing advice (see 'Can I get independent advice?' above).

You can also get advice from Shelter Cymru's helpline by telephoning 08000 495 495 or via their email advice service at <https://sheltercymru.org.uk/email-advice/>

Can I complain?

Yes. If you want to complain you can use the Council's formal complaint procedure. However, please contact us first before complaining. This allows us to discuss your concerns and put things right.

You can complain if you are unhappy with how we have handled your case. For example if you think we are taking too long (or took too long) to make a decision.

However, you should ask for a review if you want us to change a decision we have made on your homeless application.

More information about the Council's complaints procedure (and a complaint form) is available online at [\[webpage URL address\]](#)



Please tell us if you need this information posted to you, or if you need help to complain, e.g. because of a disability.

You can also complain to the Public Services Ombudsman for Wales. The Ombudsman is likely to uphold a complaint if you have suffered injustice because the Council has been at fault.

However, the Ombudsman may decide they cannot investigate until you have exhausted our complaints procedure. The Ombudsman may also refuse to look into a complaint if you have a right of review or appeal.

More information about complaining to the Ombudsman (and a complaint form) is available online at **www.ombudsman.wales**

What if I have more questions?

Please contact the Housing Options Team, and we will be happy to help.

Our contact details are:

Address: **[address]**
Tel: **[tel no(s)]**
Email: **[email address]**
Website: **[website address]**

