



**MARK
PRICHARD**
SOCIAL HOUSING CONSULTANT

Guide to homelessness duties in Wales

With links to online letters & documents
for local authority decision-makers

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markprichard.co.uk

Purpose of this guide

This document aims to help you quickly identify:

- when councils owe people duties under the homelessness legislation;
- what councils must do to perform each homeless duty; and
- when councils can lawfully decide a homelessness duty has ended.

How to use this guide

Each chapter deals with a specific duty owed to people who've applied to a local authority for help because they're homeless (or at risk of becoming homeless).

Use the [contents](#) on page 3 to find the relevant duty. For example, go to [Chapter 3](#) if your query is about the duty to arrange temporary accommodation.

You can return to the contents page at any time by clicking on the contents icon in the top right hand corner of the page, if you're using the pdf version of this document.

Need a letter?

If you work for a local housing authority there are hyperlinks to template documents and letters you can use to administer homeless applications. See the 'letters' section (or 'letters & documents' section) at the end of each chapter. The letters are also available online at: markprichard.co.uk/resources.

You can use these documents to:

- notify an applicant what duty (or duties) they're owed and
- notify an applicant that a duty has ended.

You will need to create an account at: markprichard.co.uk/customers/login with a work email address.

Access this guide online

An electronic version (pdf) of this document is available at:

markprichard.co.uk/news/2017/fresource-friday-welsh-homeless-duty-guide

Definitions of legal terms

This guide assumes you have a working knowledge of how certain key terms are defined in the legislation, e.g. eligibility for help, homelessness, priority need, intentional homelessness, restricted person, what constitutes suitable accommodation etc.

Disclaimer

Every effort has been made to ensure this document is accurate at the date of publication. However, the author cannot guarantee the accuracy of the contents and does not accept responsibility for any loss or damage. Please note the law changes. You should obtain your own independent legal advice.

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CONTENTS

	page	section	
Overview of the four main accommodation and assistance duties	4		
1. Duty to carry out a homelessness assessment and assess whether the applicant is eligible for help	5	s.62	
2. Assessment duties if the applicant is eligible for help	7	s.62	
3. Duty to secure interim temporary accommodation	10	s.68	
4. Duty to help prevent homelessness	16	s.66	
5. Duty to review the assessment	20	s.62	
6. Duty to help applicants who are homeless secure accommodation (the 'relief' duty)	23	s.73	
7. The ongoing 'full' duty to secure accommodation for priority need applicants	31	s.75	
8. Notification duties when ending one of the four main duties	38	s.84	
9. Power to refer applicants to another local housing authority because of local connection	40	s.80	
10. Duties owed to applicants successfully referred from another local authority because of local connection	44	s.82 & s.83	
11. Duty to notify another local authority when accommodation is secured outside the district	48	s.91	
12. Duty to protect the applicant's personal property	50	s.93 & s.94	
13. Duty to invite the applicant to consent to a referral to social services	55	S.96	
14. Reviewing homelessness decisions	57	s.85	



OVERVIEW OF THE FOUR MAIN ACCOMMODATION AND ASSISTANCE DUTIES

Duty	Duty owed if applicant:*	Section	Chapter
Duty to <i>help</i> prevent homelessness	Threatened with homelessness	66	4
Duty to secure interim accommodation	May be homeless and may have a priority need	68	3
Duty to <i>help</i> to secure accommodation	Homeless	73	6
Duty to secure accommodation	In priority need when the s.73 duty ends	75	7

*The descriptions of who is owed each duty are only summaries for the purpose of providing an overview. For example applicants must also be eligible for help to qualify for each duty. Please refer to the relevant chapter for a full explanation of when each duty is owed.

1. DUTY TO CARRY OUT A HOMELESSNESS ASSESSMENT AND ASSESS WHETHER THE APPLICANT IS ELIGIBLE FOR HELP (s.62)

When is the duty owed?

- (1) A person has applied to the authority:
 - (a) for accommodation

OR

 - (b) for help in obtaining or retaining accommodation

AND

- (2) It appears to the authority that the person may be homeless or threatened with homelessness

AND

- (3) The following does *NOT* apply:
 - (a) the person has been assessed on a previous occasion under section 62
 - (b) the person's circumstances have not materially changed since that previous assessment, *AND*
 - (c) there is no new information that materially affects that assessment (s.62(1),(2)).

Performing the duty (what must the council do?)

- (1) The authority must assess whether or not the applicant is eligible for help (s.62(4)), *AND*
- (2) The authority must notify the applicant of the outcome of the assessment (s.63(1)), *AND*
- (3) The notice must also:
 - (a) be given in writing (s.63(4)(b)), *AND*
 - (b) inform the applicant of the reasons for the decision, in so far as any issue is decided against the applicant's interests (s.63(1)), *AND*
 - (c) inform the applicant of his or her right to request a review of the



decision (s.63(4)(a)) *AND*

- (d) inform the applicant of the time within which a review request must be made (s.63(4)(a)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5)).

Additional duties if the applicant is eligible for help

See [Performing the duty](#) on page 7 below.




Power to conduct a full assessment before deciding eligibility

The authority may conduct a full section 62 assessment (including those matters mentioned in s.62(5) and (6)) *before* deciding whether the applicant is eligible for help (s.62(7)).

See [Performing the duty](#) on page 7 for an explanation of the assessment requirements under s.62(5) and (6).

Letters

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

-  [Ineligible for help \(limited assessment carried out\)](#)
-  [Ineligible for help \(full section 62 assessment carried out\)](#)
-  [Refusal to carry out homelessness assessment as circumstances not changed since previous s.62 assessment](#)



2. ASSESSMENT DUTIES IF THE APPLICANT IS ELIGIBLE FOR HELP (s.62)

When is the duty owed?

- (1) A duty to assess has arisen (see [When is the duty owed?](#) on page 5 above)
AND
- (2) The authority is satisfied that the applicant is eligible for help (s.62(5)).

Performing the duty (what must the council do?)

- (1) The authority must carry out an assessment of the applicant's case.
- (2) The assessment must include an assessment of:
 - (a) the circumstances that have caused the applicant to be homeless or threatened with homelessness (s.62(5)(a)), *AND*
 - (b) the housing needs of the applicant and any person with whom the applicant lives or might reasonably be expected to live (s.62(5)(b)), *AND*
 - (c) the support needed for the applicant, and any person with whom the applicant lives or might reasonably be expected to live, to retain accommodation which is or may become available (s.62(5)(c)), *AND*
 - (d) whether or not the authority has any duty to the applicant under Part 2 Chapter 2 of the Housing (Wales) Act 2014 ('HWA') (s.62(5)(d)), *AND*
 - (e) the outcome the applicant wishes to achieve from the authority's help (s.62(6)(a)), *AND*
 - (f) whether the exercise of any function under HWA 2014 Part 2 Chapter 2 could contribute to the achievement of that outcome (s.62(6)(b)).
- (3) The authority must notify the applicant of the outcome of the assessment (s.63(1)).
- (4) The notice must also:



- (a) be given in writing (s.63(4)(b)), *AND*
 - (b) inform the applicant of the reasons for the decision, in so far as any issue is decided against the applicant's interests (s.63(1)), *AND*
 - (c) inform the applicant of his or her right to request a review of the decision (s.63(4)(a)), *AND*
 - (d) inform the applicant of the time within which a review request must be made (s.63(4)(a)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5))).
- (5) The authority must keep the assessment under review, during the period in which the authority considers that a duty is owed to the applicant under HWA 2014 Part 2 Chapter 2 (s.62(8)) (see [Chapter 5](#) for the duty to review the assessment).

Local connection referrals – additional duties

If the authority intends to notify (or has notified) another authority because it considers the local connection referral conditions are met, the referring authority must notify the applicant of that decision and inform them of the reasons for it (s.63(3)).

See [Chapter 9](#) for the referral conditions, and the additional duties that are owed when seeking to make a referral because of local connection.

See [Chapter 10](#) for the duties that arise when accepting a referral.

Power to conduct a full assessment before deciding eligibility

The authority may conduct a full section 62 assessment (including those matters mentioned in s.62(5) and (6)) *before* deciding whether the applicant is eligible for help (s.62(7)).

Power to make the notice available to collect

The authority may:

- make the notice available at the authority's office for collection by the applicant, or by someone on the applicant's behalf (s.63(4)(b)).







Letters & documents

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):









Decision covering letter

-  [Covering letter for notifying initial s.62 homelessness assessment and housing plan](#)

Housing plan

-  [Housing plan – generic template](#)
-  [Housing plan – generic template \(with extra inserts\)](#)

Homelessness assessment

-  [Homeless assessment – generic template](#)
-  [Homeless assessment – generic template \(with extra inserts\)](#)
-  [Homeless assessment – ineligible for help](#)
-  [Homeless assessment – not homeless or threatened with homelessness](#)
-  [Homeless assessment – threatened with homelessness](#)
-  [Homeless assessment – homeless but no reason to believe applicant may have a priority need](#)
-  [Homeless assessment – homeless and reason to believe applicant may be in priority need](#)
-  [Homeless assessment – homeless but local connection referral conditions met](#)





3. DUTY TO SECURE INTERIM TEMPORARY ACCOMMODATION (s.68)

When is the duty owed?

(1) The authority has reason to believe that the applicant:

(a) may be eligible for help

AND

(b) may be homeless

AND

(c) may have a priority need (s.68(2)).

OR

(2) (a) The applicant is owed the section 73 duty (to help to secure accommodation) (see [page 23](#))

AND

(b) (i) The authority has reason to believe the applicant has a priority need

OR

(ii) The applicant is satisfied the applicant has a priority need (s.68(3))

OR

(3) (a) The authority has decided to accept a local connection referral from another local authority in Wales or England (by agreeing that the referral conditions are met)

AND

(b) The other (referring) authority has notified the applicant of the decision that the referral conditions are met (s.68(3), s.82(4), s.83(2)).

Performing the duty (what must the council do?)

The authority must secure that suitable accommodation is available for occupation by:

(1) the applicant (s.68(1)), *AND*





- (2) any other person who resides with the applicant as a member of their family (s.68(1), s.56), *AND*
- (3) any other person who might reasonably be expected to reside with the applicant (s.68(1), s.56).

When does the duty end?

(1) *[The factual requirements – one of (a) to (i) must apply]*

(a) No s. 73 homeless 'relief' duty is owed

The authority has decided the applicant is not owed a duty under section 73 (s.69(2)) (see [Chapter 6](#) for the s.73 duty).

OR

(b) Applicant with priority need (or possible priority need) notified that the 'full' s.75 duty is not owed

(i) The authority has reason to believe or is satisfied that the applicant has a priority need,

OR

the applicant's case was referred from an English local housing authority under section 198(1) of the Housing Act 1996 (s.69(3), s.68(3))

AND

(ii) the applicant was owed the section 73 duty to help the applicant secure accommodation (s.69(3), s.68(3)) (see [Chapter 6](#) for the s.73 duty)

AND

(iii) the authority has decided that the section 73 duty has come to an end (s.69(3)(a))

AND

(iv) the authority has decided that the duty under section 75 to secure accommodation is or is not owed (s.69(3)(a))

AND

(v) the authority has notified the applicant of that decision (s.69(3)(b))

AND

(vi) (*IF* the authority has decided that no duty is owed to the





applicant under section 75 because the applicant has become homeless intentionally in the circumstances that gave rise to the application)

the authority is satisfied that the accommodation it has secured under section 68 has been available to the applicant for a sufficient period following the day on which the applicant was notified (that the section 75 duty is not owed) to allow the applicant a reasonable opportunity of securing accommodation for their occupation (which cannot be less than 56 days from the date on which the applicant was notified that the section 75 duty was not owed) (s.69(4)(5)(6))

OR

(c) Offer of accommodation refused

(i) the applicant has refused an offer of suitable interim accommodation made under section 68 (s.69(7))

AND

(ii) the applicant was notified of the possible consequences of refusal before they refused the offer of accommodation (s.69(7))

OR

(d) Intentionally homeless from interim accommodation

(i) The authority has formally decided to have regard to intentionality for applicants belonging to the priority need category to which the applicant belongs (s.78, SI 2015 No 1265, Reg. 2)

AND

(ii) the authority has complied with the procedural requirements that apply in relation to having regard to intentionality (s.78, SI 2015 No. 1265) (see note III below)

AND

(iii) the authority is satisfied that the applicant has become homeless intentionally from suitable interim accommodation made available for the applicant's occupation under section 68 (s.69(8))





OR

- (e) Voluntarily ceased to occupy interim accommodation

The authority is satisfied that the applicant voluntarily ceased to occupy, as their only or principal home, suitable interim accommodation made available for the applicant's occupation under section 68 (s.69(9))

OR

- (f) No longer eligible

The authority is no longer satisfied that the applicant is eligible for help (s.79(2))

OR

- (g) Mistaken acceptance of duty

The authority is satisfied that a mistake of fact led to the applicant being notified under section 63 that they were owed the section 68 duty (s.79(3))

OR

- (h) Withdrawn application

The authority is satisfied that the applicant has withdrawn their application (s.79(4))

OR

- (i) Unreasonably failing to cooperate

The authority is satisfied that the applicant is unreasonably failing to co-operate with the authority in connection with the exercise of its functions under Part 2 Chapter 2 of the Housing (Wales) Act 2014 as they apply to the applicant (s.79(5))

AND

(2) *[The notification requirements]*

The authority has notified the applicant in writing:

- (a) that it no longer regards itself as being subject to the section 68 duty (s.84(1)(a)), *AND*
- (b) of the reasons why it considers the duty has ended (s.84(1)(b)), *AND*
- (c) of their right to request a review (s.84(1)(c)), *AND*



- (d) of the time within which a review must be requested (s.84(1)(d)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5)).

Notes:

- I Both the factual (1) and notification (2) requirements must be satisfied for the duty to end (s.69(1)).
- II This Chapter deals with the *section 68* duty to secure temporary accommodation. However, a duty to secure temporary accommodation also arises under section 82. This duty arises when a local authority seeks to refer a case to another authority because of local connection (see [page 40](#)).
- III The various procedural requirements with which the authority must comply in order to have regard to whether an applicant has become homeless intentionally from interim accommodation (see 1(d) above) are contained in:
 - [HWA 2014, s.78](#), and
 - [The Homelessness \(Intentionality\) \(Specified Categories\) \(Wales\) Regulations 2015, SI No. 1265 \(W.85\)](#).

Power to secure interim temporary accommodation in other circumstances:

The authority may secure that accommodation is available for the applicant's occupation:

- (a) pending a decision on a review (s.69(11), s.82(6)), *OR*
- (b) pending a county court appeal where the authority was under a duty under section 68, 75 or 82 to secure accommodation, during the period for appealing, and if an appeal is brought until the appeal (or any further appeal) is determined (s.88(5)).



Letters & documents

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Accepting the s.68 interim accommodation duty when notifying the initial homelessness assessment

- ✉ Homeless assessment – homeless and reason to believe applicant may be in priority need
- ✉ Covering letter for notifying initial s.62 homelessness assessment and housing plan

Offer of accommodation to end both the s.68 interim accommodation duty and the s.73 homeless relief duty

- ✉ Offer of waiting list accommodation to end the s.73 homeless duty and s.68 interim accommodation duty
- ✉ Offer of private rented accommodation to end the s.73 homeless duty and s.68 interim accommodation duty

Ending the s.68 interim accommodation duty where the s.73 homeless 'relief' duty continues

- ✉ Ending s.68 interim duty because the applicant has refused an offer of interim accommodation (but s.73 duty continues)
- ✉ Ending s.68 interim duty because applicant homeless intentionally from interim accommodation (but s.73 duty continues)
- ✉ Ending s.68 interim duty because the applicant has voluntarily ceased to occupy the interim accommodation as their principal home (s.73 duty continues)

Ending both the s.68 interim accommodation duty AND the s.73 homeless 'relief' duty

Please refer to [page 29](#):



4. DUTY TO HELP PREVENT HOMELESSNESS (s.66)

When is the duty owed?

The authority is satisfied that the applicant is:

(1) threatened with homelessness

AND

(2) eligible for help (s.66(1)).

Performing the duty (what must the council do?)

The authority must

- take reasonable steps to help to secure that suitable accommodation does not cease to be available for the applicant's occupation, having regard (among other things) to the need to make the best use of the authority's resources (s.65, s.66(1)).

Note:

The prevention duty does not require the authority to secure or otherwise provide accommodation (s.65).

When does the duty end?

(1) *[The factual requirements – one of (a) to (g) must apply]*

(a) Applicant has become homeless

The authority is satisfied that the applicant has become homeless (s.67(2))

OR

(b) Accommodation available for six months

The authority is satisfied (whether as a result of the steps it has taken or not) that:

(i) the applicant is no longer threatened with homelessness

AND

(ii) suitable accommodation is likely to be available for occupation by the applicant for a period of at least six months* (s.67(3))



OR

- (c) Offer of accommodation refused

The authority is satisfied that:

- (i) the applicant has refused an offer of accommodation, *AND*
- (ii) the accommodation is suitable for the applicant, *AND*
- (iii) the applicant was notified in writing of the possible consequences of refusal or acceptance of the offer before they refused the offer of accommodation (s.67(4)(a)), *AND*
- (iv) the accommodation is likely to be available for the applicant for a period of at least six months* (s.67(4)(b))

OR

- (d) No longer eligible

The authority is no longer satisfied that the applicant is eligible for help (s.79(2))

OR

- (e) Mistaken acceptance of duty

The authority is satisfied that a mistake of fact led to the applicant being notified under section 63 that they were owed the section 66 prevention duty (s.79(3))

OR

- (f) Withdrawn application

The authority is satisfied that the applicant has withdrawn their application (s.79(4))

OR

- (g) Unreasonably failing to cooperate

The authority is satisfied that the applicant is unreasonably failing to co-operate with the authority in connection with the exercise of its functions under Part 2 Chapter 2 of the Housing (Wales) Act 2014 as they apply to the applicant (s.79(5)).

AND





(2) *[The notification requirements]*

The authority has notified the applicant in writing:

- (a) that it no longer regards itself as being subject to the section 66 duty (s.84(1)(a)), *AND*
- (b) of the reasons why it considers the duty has ended (s.84(1)(b)), *AND*
- (c) of their right to request a review (s.84(1)(c)), *AND*
- (d) of the time within which a review must be requested (s.84(1)(d)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5)).



Notes:

- I Both the factual (1) and notification (2) requirements must be satisfied for the duty to end (s.67(1)).
- II *The six month period – see (1)(b)(ii) and (1)(c)(iv)) above – starts on the day the end of duty notice is sent or first made available for collection (s.67(5)).



Letters & documents

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Accepting the s.66 prevention duty when notifying the initial homelessness assessment

-  [Homeless assessment – threatened with homelessness](#)
-  [Covering letter for notifying initial s.62 homelessness assessment and housing plan](#)

Offer of accommodation to end the s.66 prevention duty

-  [Offer of waiting list accommodation to end the s.66 homelessness prevention duty](#)
-  [Offer of private rented accommodation to end the s.66 homelessness prevention duty](#)





Ending the s.66 prevention duty and NOT accepting the s.73 homeless 'relief' duty

- ✘ Ending s.66 prevention duty because accommodation is available for 6 months
- ✘ Ending s.66 prevention duty because the applicant refused suitable accommodation that's likely to be available for 6 months
- ✘ Ending s.66 prevention duty because no longer eligible
- ✘ Ending s.66 prevention duty because of a mistake of fact
- ✘ Ending s.66 prevention duty because application withdrawn
- ✘ Ending s.66 prevention duty because applicant unreasonably failing to cooperate

Ending the s.66 prevention duty and accepting the s.73 homeless 'relief' duty

- ✘ Ending the s.66 prevention duty / accepting the s.73 homeless relief duty / not accepting the s.68 interim TA duty
- ✘ Ending the s.66 prevention duty / accepting the s.73 homeless relief duty and s.68 interim temporary accommodation duty (applicant already in temporary accommodation)
- ✘ Ending the s.66 prevention duty / accepting the s.73 homeless relief duty and s.68 interim temporary accommodation duty (applicant not already in TA)



5. DUTY TO REVIEW THE ASSESSMENT (s.62(8)–(11))

When is the duty owed?

(1) “Case 1”

- (i) The applicant has previously been notified under section 63 (notification of assessment or review of assessment) that they’re owed the section 66 duty (to help to prevent homelessness – see [Chapter 4](#))

AND

- (ii) it appears to the authority that the section 66 duty has or is likely to come to an end because the applicant is homeless (s.62(9))

OR

(2) “Case 2”

- (i) The applicant has previously been notified under section 63 (notification of assessment or review of assessment) that they’re owed the section 73 duty (to help them to secure accommodation – see [Chapter 6](#))

AND

- (ii) it appears to the authority that the section 73 duty has or is likely to come to an end, in circumstances where the applicant may be owed the section 75 duty (the ‘full’ duty to secure ongoing accommodation for applicants in priority need – see [Chapter 7](#)) (s.62(9)).

The general duty to keep the assessment under review

The authority must keep the assessment under review during the period in which the authority considers it owes, or may owe, the applicant a duty under Part 2 Chapter 2 of the Housing (Wales) Act 2014 (s.62(8),(11)).

Performing the duty (what must the council do?)

(1) The authority must review its assessment (s.62(9))

AND

- (2) The authority must:
- (a) notify the applicant of the outcome of the assessment (s.63(1)),
AND
 - (b) inform the applicant of the reasons for its decision, in so far as any issue is decided against the applicant's interests (s.63(1)),
AND
 - (c) inform the applicant of their right to request a review of the decision (s.63(4)(a)), *AND*
 - (d) inform the applicant of the time within which a review request must be made (s.63(4)(a)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5)), *AND*
 - (e) give the notice in writing (s.63(4)(b)).

Power to make the notice available to collect

The authority may:

- make the notice available at the authority's office for collection by the applicant, or by someone on the applicant's behalf (s.63(4)(b)).

Local connection referrals – additional duties

If the authority intends to notify (or has notified) another authority because it considers the local connection referral conditions ([see page 39](#)) are met, the referring authority must notify the applicant of that decision and inform them of the reasons for it (s.63(3)).

See [page 40](#) to 41 for the additional duties that apply when seeking to make a local connection referral.

Restricted persons & accepting the 'full' s.75 duty

There are additional matters that must be notified to the applicant if the authority decides that the 'full' section 75 duty is owed, but would not have done so were it not having regard to a restricted person.

In these circumstances the notice (notifying the outcome of the review of the section 62 assessment) must:

- (1) inform the applicant that the authority would not have accepted the section 75 accommodation duty if it were not having regard to the



restricted person, *AND*

- (2) include the name of the restricted person, *AND*
- (3) explain why the person is a restricted person, *AND*
- (4) explain the effect of section 76(5) (i.e. that so far as reasonably practicable the authority must bring the s.75 duty to an end by securing a [private rented sector offer](#)) (s.63(2)).

Letters

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Ending the s.66 prevention duty and accepting the s.73 'relief' duty

- ✉ [Ending the section 66 prevention duty / accepting the section 73 homeless relief duty / not accepting the section 68 interim temporary accommodation duty](#)
- ✉ [Ending the section 66 prevention duty / accepting the section 73 homeless relief duty and section 68 interim temporary accommodation duty \(applicant already in temporary accommodation\)](#)
- ✉ [Ending the section 66 prevention duty / accepting the section 73 homeless relief duty and section 68 interim temporary accommodation duty \(applicant not already in TA\)](#)

Accepting the 'full' s.75 ongoing duty to secure accommodation

- ✉ [Accepting full s.75 duty](#)
- ✉ [Accepting full s.75 duty \(where applicant is not currently occupying temporary accommodation\)](#)





6. DUTY TO HELP APPLICANTS WHO ARE HOMELESS SECURE ACCOMMODATION (THE 'RELIEF' DUTY) (s.73)

When is the duty owed?

(1) (a) The authority is satisfied that the applicant is:

- (i) homeless, and
- (ii) eligible for help (s.73(1))

AND

(b) The authority has not referred the application to another local housing authority under section 80 on grounds of local connection (s.73(2))

OR

(2) (a) The authority has decided to accept a local connection referral from another local authority (by agreeing that the referral conditions are met)

AND

(b) The other (referring) authority has notified the applicant of the decision that the referral conditions are met (s.82(4), s.83(2))

OR

(3) (a) The authority has referred the case to another local housing authority under section 80 on grounds of local connection

BUT

(b) It is subsequently decided that the referral conditions (see [page 39](#)) are *not* met (s.82(3))

OR

(4) It is decided on review or ordered on appeal that reasonable steps were not taken by the authority during the period in which the section 73 duty was owed (s.87).





Performing the duty (what must the council do?)

The authority must

- take reasonable steps to help to secure that suitable accommodation is available for occupation by the applicant, having regard (among other things) to the need to make the best use of the authority's resources (s.73(1), s.65).

Note:

The s.73 'help to secure' duty does not require the authority to secure or otherwise provide accommodation (s.65). However, the authority may owe an interim duty to secure accommodation if the conditions in s.68 are met (see [Chapter 3](#)).

When does the duty end?

(1) *[The factual requirements – one of (a) to (h) must apply]*

(a) 56 days have passed

A period of 56 days (beginning on the day the s.63 notification of acceptance of the s.73 duty was sent or first made available for collection*) has ended (s.74(2),(6))

OR

(b) Reasonable steps taken within 56 days

Before the end of a period of 56 days (beginning on the day the s.63 notification of acceptance of the s.73 duty was sent or first made available for collection*) the authority is satisfied that reasonable steps have been taken to help to secure that suitable accommodation is available for the applicant's occupation (s.74(3)(6))

OR

(c) Accommodation available for six months

The authority is satisfied (whether as a result of the steps it has taken or not) that:

- (i) the applicant has suitable accommodation available for occupation, *AND*
- (ii) the accommodation is likely to be available for occupation by the applicant for a period of at least six





months** (s.74(4),(7))

OR

- (d) Offer of accommodation refused
 - (i) The applicant refuses an offer of accommodation, *AND*
 - (ii) the applicant was notified of the possible consequences of refusal or acceptance of the offer before they refused the offer, *AND*
 - (iii) the authority is satisfied that the accommodation is suitable for the applicant (s.74(5)(a)), *AND*
 - (iv) the authority is satisfied that the accommodation offered is likely to be available for occupation by the applicant for at least six months** (s.74(5)(b),(7))

OR

- (e) No longer eligible
The authority is no longer satisfied that the applicant is eligible for help (s.79(2))

OR

- (f) Mistaken acceptance of duty
The authority is satisfied that a mistake of fact led to the applicant being notified under section 63 that they were owed the section 73 duty (s.79(3))

OR

- (g) Withdrawn application
The authority is satisfied that the applicant has withdrawn their application (s.79(4))

OR

- (h) Unreasonably failing to cooperate
The authority is satisfied that the applicant is unreasonably failing to co-operate with the authority in connection with the exercise of its functions under Part 2 Chapter 2 of the Housing (Wales) Act 2014 as they apply to the applicant (s.79(5)).

AND



(2) *[The notification requirements]*

The authority has notified the applicant in writing:

- (a) that it no longer regards itself as being subject to the section 73 duty (s.84(1)(a)), *AND*
- (b) of the reasons why it considers the section 73 duty has ended (s.84(1)(b)), *AND*
- (c) of their right to request a review (s.84(1)(c)), *AND*
- (d) of the time within which a review must be requested (s.84(1)(d)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5)), *AND*
- (e) (*IF* the notice relates to the duty ending under (1)(a) or (1)(b), i.e. because a period of 56 days has ended or because reasonable steps have been taken before 56 days have passed) of the steps the authority has taken to help to secure that suitable accommodation would be available for the applicant's occupation (s.84(2)).

Notes:

- I. Both the factual (1) and notification (2) requirements must be satisfied for the duty to end (s.74(1)).

**Start of the 56-day period*

- II. The 56-day period usually begins on the day that the notice accepting the section 73 duty was sent to the applicant, or first made available for collection (s.74(6); see 1(a) and 1(b) above).

However, there are two exceptions:

- i If the section 73 duty is reinstated because the applicant successfully challenges on review a failure to take reasonable steps when the s.73 duty was owed. In these circumstances the 56-day period begins on the day the review decision is notified to the applicant (s.87(2)).
- ii If the section 73 duty is reinstated because the applicant successfully challenges on appeal a failure to take reasonable steps when the s.73 duty was owed. In these circumstances the

56-day period begins on the day ordered by the county court (s.87(2)).

***Start of the six-month period*

- III. The six-month period (see (1)(c)(ii) and (1)(d)(iv)) above) starts on the day the end of duty notice is sent or first made available for collection (s.74(7)).

Letters & documents

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Accepting the section 73 homeless 'relief' duty – when notifying the initial homelessness assessment

- ✉ Homeless assessment – homeless but no reason to believe applicant may have a priority need
- ✉ Homeless assessment – homeless and reason to believe applicant may be in priority need
- ✉ Covering letter for notifying initial s.62 homelessness assessment and housing plan

Accepting the section 73 homeless 'relief' duty – when reviewing the assessment

- ✉ Ending the s.66 prevention duty / accepting the s.73 homeless relief duty / not accepting the s.68 interim temporary accommodation duty
- ✉ Ending the s.66 prevention duty / accepting the s.73 homeless relief duty and s.68 interim temporary accommodation duty (applicant already in temporary accommodation)
- ✉ Ending the s.66 prevention duty / accepting the s.73 homeless relief duty and s.68 interim temporary accommodation duty (applicant not already in TA)

Accepting the section 73 homeless 'relief' duty – after a unsuccessful local connection referral request

- ✉ Notifying applicant local connection referral not being pursued / section 73 duty now owed (2nd local connection notification)



Offer of waiting list accommodation to end the section 73 homeless 'relief' duty

- ☒ Offer of waiting list accommodation to end the s.73 homeless duty
- ☒ Offer of waiting list accommodation to end the s.73 homeless duty AND s.68 interim accommodation duty

Offer of private accommodation to end the section 73 homeless 'relief' duty

- ☒ Offer of private rented accommodation to end the s.73 homeless duty
- ☒ Offer of private rented accommodation to end the s.73 homeless duty AND s.68 interim accommodation duty

Ending the section 73 homeless 'relief' duty where:

- *the applicant is NOT occupying interim temporary accommodation, and*
- *you're NOT accepting the 'full' section 75 duty to secure ongoing accommodation*

- ☒ Ending s.73 homeless duty because 56 days ended and applicant not in priority need
- ☒ Ending s.73 homeless duty because 56 days ended, applicant has a priority need but is intentionally homeless
- ☒ Ending s.73 homeless duty because reasonable steps taken within 56 days and applicant does not have a priority need
- ☒ Ending s.73 homeless duty because reasonable steps taken within 56 days, applicant has a priority need but is intentionally homeless
- ☒ Ending s.73 homeless duty because suitable accommodation likely to be available for 6 months
- ☒ Ending s.73 homeless duty because the applicant has refused suitable accommodation
- ☒ Ending s.73 homeless duty because the applicant is no longer eligible for help
- ☒ Ending s.73 homeless duty because of a mistake of fact
- ☒ Ending s.73 homeless duty because application withdrawn





- ✉ Ending s.73 homeless duty because applicant unreasonably failing to cooperate

Ending the section 73 homeless 'relief' duty where:

- *the applicant IS occupying interim temporary accommodation, and*
- *you're NOT accepting the 'full' section 75 duty to secure ongoing accommodation*

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because 56-day period has ended and applicant not in priority need

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because 56 days ended. Applicant in priority need but intentionally homeless

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because reasonable steps taken within 56 days and applicant does not have a priority need

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because reasonable steps taken within 56 days. Applicant in priority need but intentionally homeless

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because suitable accommodation likely to be available for 6 months

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because the applicant has refused suitable accommodation

- ✉ Ending s.73 homelessness duty AND s.68 interim TA duty because the applicant is no longer eligible for help

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because of a mistake of fact

- ✉ Ending s.73 homeless duty AND s.68 interim TA duty because application withdrawn

- ✉ Ending s.73 homeless duty AND s.68 duty because applicant unreasonably failing to cooperate

Ending the section 73 homeless 'relief' duty and accepting the 'full' section 75 duty to secure ongoing accommodation

- ✉ Accepting full s.75 duty / applicant in interim accommodation
- ✉ Accepting full s.75 duty / applicant not in interim accommodation





7. THE ONGOING 'FULL' DUTY TO SECURE ACCOMMODATION FOR PRIORITY NEED APPLICANTS (s.75)

When is the duty owed?

- (1) The applicant was homeless and owed the section 73 duty (to help to secure accommodation – see [Chapter 6](#)) (s.75(1))

AND

- (2) The section 73 duty to help has ended because either:
- (a) a period of 56 days has ended (beginning on the day the s.63 notification of acceptance of the s.73 duty was sent or first made available for collection*) (s.75(1), s.74(2),(6))

OR

- (b) before a period of 56 days has ended (beginning on the day the s.63 notification of acceptance of the s.73 duty was sent or first made available for collection*) the authority is satisfied that reasonable steps have been taken to help to secure that suitable accommodation is available for the applicant's occupation (s.75(1), s.74(3),(6))

AND

- (3) The authority is satisfied that the applicant either:
- (a) does not have suitable accommodation available for occupation

OR

- (b) has suitable accommodation, but it is not likely that the accommodation will be available for occupation by the applicant for a period of at least six months (starting on the day the applicant is notified under section 84 that the section 73 duty has ended) (s.75(2))

AND

- (4) The authority is satisfied the applicant is eligible for help (s.75(2)(b))

AND



(5) The authority is satisfied the applicant has a priority need (s.75(2)(c))

AND

(6) (*IF:*

(a) the authority has formally decided to have regard to intentionality for applicants belonging to the priority need category to which the applicant belongs (s.78, SI 2015 No 1265, Reg. 2)

AND

(b) the authority has complied with the procedural requirements that apply in relation to having regard to intentionality**)

the authority is satisfied the applicant did not become homeless intentionally in the circumstances that gave rise to the application (s.75(2)(d)).

Notes:

Limited gateway to the full duty

The only circumstances in which the authority must decide whether an applicant owed the s.73 homeless relief duty is owed the section 75 duty is when either:

- (a) a period of 56 days has passed (s.75(1), s.74(2); see (2)(a) above), *OR*
- (b) the authority is satisfied, before 56 days have passed, that reasonable steps have been taken (s.75(1), s.74(3); see (2)(b) above).

The ongoing s.75 duty to secure accommodation does not arise if the s.73 homeless relief duty is ended early on one of the other statutory grounds (see (1)(c) to (1)(h) on [page 24](#) and 25).

**Start of the 56-day period*

The 56-day period (see (2) above) usually begins on the day that the notice accepting the section 73 duty is sent to the applicant, or first made available for collection (s.74(6)).

However, there are two exceptions:

- I. If the section 73 duty is reinstated because the applicant successfully challenges on review a failure to take reasonable steps when the s.73 duty was owed. In these circumstances the 56-day period begins on



the day the review decision is notified to the applicant (s.87(2)).

- II. If the section 73 duty is reinstated because the applicant successfully challenges on appeal a failure to take reasonable steps when the s.73 duty was owed. In these circumstances the 56-day period begins on the day ordered by the county court (s.87(2)).

***Deciding to have regard to intentionality*

The various procedural requirements with which the authority must comply in order to have regard to whether an applicant has become homeless intentionally are contained in:

- [HWA 2014, s.78](#), and
- [The Homelessness \(Intentionality\) \(Specified Categories\) \(Wales\) Regulations 2015, SI No. 1265 \(W.85\)](#).

Performing the duty (what must the council do?)

The authority must secure that suitable accommodation is available for occupation by:

- (1) the applicant (s.75(1)), *AND*
- (2) any other person who resides with the applicant as a member of their family (s.75(1), s.56), *AND*
- (3) any other person who might reasonably be expected to reside with the applicant (s.75(1), s.56).

When does the duty end?

- (1) *[The factual requirements – one of (a) to (h) must apply]*

- (a) Offer of accommodation accepted

The applicant accepts either:

- (i) an offer of suitable accommodation under Part 6 of the Housing Act 1996 (allocation of housing) (s.76(2)(a))

OR

- (ii) an offer of suitable accommodation under an assured or assured shorthold tenancy (s.76(2)(b))

OR

- (b) Offer of accommodation refused

The applicant has been given written notice of the possible



consequences of refusing or accepting an offer of accommodation

AND

subsequently either:

- (i) refuses an offer of suitable interim accommodation made under section 75 (s.76(3)(a))

OR

- (ii) refuses a suitable private rented sector offer (s.76(3)(b))
[see 'Notes' below for what constitutes a 'private rented sector offer']

OR

- (iii) refuses an offer of suitable accommodation under Part 6 of the Housing Act 1996 (allocation of housing) (s.76(3)(c))

OR

- (c) Intentionally homeless from interim accommodation

- (i) The authority has formally decided to have regard to intentionality for applicants belonging to the priority need category to which the applicant belongs (s.78, SI 2015 No 1265, Reg. 2)

AND

- (ii) the authority has complied with the procedural requirements that apply in relation to having regard to intentionality (see ** above)

AND

- (iii) the authority is satisfied that the applicant has become homeless intentionally from suitable interim accommodation made available for the applicant's occupation either

- I. under section 68, and which continued to be made available under section 75

OR

- II. under section 75 (s.76(6)).



OR

- (d) Voluntarily ceased to occupy interim accommodation
The authority is satisfied that the applicant has voluntarily ceased to occupy as their only principal home, suitable interim accommodation made available for the applicant's occupation either:

(i) under section 68, and which continues to be made available under section 75

OR

(ii) under section 75 (s.76(7)).

OR

- (e) No longer eligible
The authority is no longer satisfied that the applicant is eligible for help (s.79(2))

OR

- (f) Mistaken acceptance of duty
The authority is satisfied that a mistake of fact led to the applicant being notified under section 63 that they were owed the section 75 duty (s.79(3))

OR

- (g) Withdrawn application
The authority is satisfied that the applicant has withdrawn their application (s.79(4))

OR

- (h) Unreasonably failing to cooperate
The authority is satisfied that the applicant is unreasonably failing to co-operate with the authority in connection with the exercise of its functions under Part 2 Chapter 2 of the Housing (Wales) Act 2014 as they apply to the applicant (s.79(5)).

AND

(2) *[The notification requirements]*

The authority has notified the applicant in writing:

- (a) that it no longer regards itself as being subject to the section



75 duty (s.84(1)(a)), *AND*

- (b) of the reasons why it considers that the section 75 duty has ended (s.84(1)(b)), *AND*
- (c) of their right to request a review (s.84(1)(c)), *AND*
- (d) of the time within which a review must be requested (s.84(1)(d)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5))).

Notes:

"Private rented sector offer"

An offer is a private rented sector offer if:

- it is offer of an assured shorthold tenancy, *AND*
- the tenancy is a fixed term tenancy for a period of at least six months, *AND*
- the tenancy is offered to the applicant by a private landlord, *AND*
- the accommodation is available for the applicant's occupation, *AND*
- the offer is made with the approval of the authority, *AND*
- the offer is made in pursuance of arrangements made by the authority with the landlord, with a view to bringing the authority's duty under section 75 to an end (s.76(4)).

Additional duty in restricted cases

The authority must, so far as reasonably practicable, bring its duty to an end by securing a private rented sector offer *IF* the s.75 duty would not have been owed were it not for the household containing a restricted person (s.76(5)).



Letters

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Accepting the 'full' section 75 duty to secure accommodation

- Accepting the full s.75 duty
- Accepting the full s.75 duty (where applicant is not currently occupying temporary accommodation)

Offer of accommodation to end the 'full' section 75 duty to secure accommodation

- Offer of waiting list accommodation to end the full section 75 duty
- Offer of private rented accommodation to end the full s.75 duty

Ending the 'full' section 75 duty to secure accommodation

- Ending full s.75 duty because accepted waiting list offer
- Ending full s.75 duty because accepted assured or assured shorthold tenancy
- Ending full s.75 duty because refused temporary s.75 accommodation
- Ending full s.75 duty because refused private rented tenancy
- Ending full s.75 duty because refused waiting list offer
- Ending full s.75 duty because applicant has become homeless intentionally from s.75 temporary accommodation
- Ending full s.75 duty because voluntarily ceased to occupy s.75 temporary accommodation
- Ending full s.75 duty because no longer eligible for help
- Ending full s.75 duty because of mistake of fact
- Ending full s.75 duty because application withdrawn
- Ending full s.75 duty because applicant unreasonably failing to co-operate



8. NOTIFICATION DUTIES WHEN ENDING ONE OF THE FOUR MAIN DUTIES (s.84)

When is the duty owed?

The authority concludes that one of the following duties has ended:

- section 66 (to help to prevent homelessness) (see [Chapter 4](#)); *OR*
- section 68 (to secure interim accommodation for an applicant who the authority has reason to believe may be eligible, may be homeless, and may have a priority need) (see [Chapter 3](#)); *OR*
- section 73 (to help to secure accommodation for an applicant who is homeless) (see [Chapter 6](#)); *OR*
- section 75 (to secure that suitable accommodation is available for an applicant who is homeless and in priority need) (see [Chapter 7](#)).

Performing the duty (what must the council do?)

The authority must notify the applicant in writing:

- (1) that it no longer regards itself as being subject to the relevant duty (s.84(1)(a)), *AND*
- (2) of the reasons why it considers the duty has come to an end (s.84(1)(b)), *AND*
- (3) of the right to request a review (s.84(1)(c)), *AND*
- (4) of the time within which a review must be requested (s.84(1)(d)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may in writing allow (s.85(5)).

Where the notice relates to the section 73 duty coming to an end because:

- a period of 56 days has ended (beginning on the day the s.63 notification of acceptance of the s.73 duty was sent or first made available for collection); *OR*
- before the end of the 56-day period the authority is satisfied that reasonable steps have been taken to help to secure that suitable accommodation is available for the applicant's occupation,

the decision notification must also include:



- (5) notice of the steps the authority has taken to help to secure that suitable accommodation would be available for the applicant (s.84(2)).

Power to make the notice available to collect

The authority may:

- make the end of duty notice available at the authority's office for the applicant (or someone on the applicant's behalf) to collect (s.84(4)).

If this power is exercised the authority may treat the applicant as having been notified, if the applicant does not receive the notice (s.84(4)).

Letters

There are two ways you can find letters to end a homelessness duty. See options (1) and (2) below:

- (1) Refer to another chapter
- (a) If you want to end the s.66 prevention duty – go to Chapter 4. The discharge of duty letters are on [page 19](#).
 - (b) If you want to end the s.68 interim accommodation duty – go to Chapter 3. The discharge of duty letters are on [page 15](#).
 - (c) If you want to end the section 73 homeless 'relief' duty – go to Chapter 6. The discharge of duty letters are on [page 28](#) and 29.
 - (d) If you want to end the 'full' section 75 duty to secure accommodation for priority need applicants – go to Chapter 7. The discharge of duty letters are on [page 36](#).

OR

- (2) Search markprichard.co.uk/resources
- (a) Go to markprichard.co.uk/resources
 - (b) Enter the following words in the free-text search box:
 - (i) "end duty"
 - AND*
 - (ii) a relevant term e.g. "section 66"if you want letters confirming that you've ended the prevention duty.
 - (c) Click on "Search" or press "Enter".





9. POWER TO REFER APPLICANTS TO ANOTHER LOCAL AUTHORITY BECAUSE OF LOCAL CONNECTION (s.80)

When can the power to seek a referral be exercised?

(1) The authority considers that the conditions for referral to another local housing authority (in Wales or England) are met (s.80(1)(a)), namely:

(a) neither the applicant nor any person who might reasonably be expected to reside with the applicant has a local connection with the area of the authority to which the application was made (s.80(3)(a))

AND

(b) the applicant, or a person who might reasonably be expected to reside with the applicant, has a local connection with the area of the other authority (to which the authority proposes to refer the case) (s.80(3)(b))

AND

(c) neither the applicant nor any person who might reasonably be expected to reside with the applicant will run the risk of domestic abuse in the other's authority's area (s.80(3)(c))

AND

(d) (i) neither the applicant nor any person who might reasonably be expected to reside with the applicant has suffered abuse (other than domestic abuse) in the other authority's area (s.80(4)(a))

AND

(ii) (*IF* the applicant or any person who might reasonably be expected to reside with them has suffered such abuse) it is not probable that the return of the victim to the other authority's area will lead to further abuse of a similar kind against that person (s.80(4)(b)).

AND

(2) the authority would, if the case is not referred, be subject to the duty



in section 73 (s.80(1)(b))

AND

(3) the applicant is in priority need (s.80(1)(b))

AND

(4) the applicant is unintentionally homeless (s.80(1)(b)).

How applicants obtain a local connection

Please refer to [section 81](#) of the Housing (Wales) Act 2014. Guidance is contained in Chapter 18 of the [Welsh Code of Guidance](#) and the Local Authority Agreement, which is reproduced at Annex 18 of the [English Code](#).

Exercising the power to seek a referral

The authority may:

- notify the other authority of its opinion that the referral conditions are met in respect of the applicant (s.80(2)).

Duties if the power to seek a referral is exercised (what must the council do?)

The authority must:

- (1) notify the applicant in writing of its decision that it intends to notify (or has notified) the other local authority of its opinion that the local connection referral conditions are met (s.63(3)), *AND*
- (2) inform the applicant of the reasons for its decision that the referral conditions are met and that the s.68 interim accommodation duty has ended (s.63(1), s.84(1)(a)), *AND*
- (3) inform the applicant of their right to request a review of the decision, and of the time within which such a request must be made (s.63(4))(a), s.84(1)(c),(d)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5)), *AND*
- (4) secure that suitable accommodation is available for occupation by:
 - (a) the applicant (s.82(1)), *AND*
 - (b) any other person who resides with the applicant as a member of their family (s.82(1), s.56); *AND*

- (c) any other person who might reasonably be expected to reside with the applicant (s.82(1), s.56).

until the applicant is notified of the decision of whether the referral conditions are met in their case (s.82(1)).

When does the duty to secure accommodation (pending the outcome of a referral request) end?

- (1) *Referral conditions (to Welsh LA) met*

The (referring) authority notifies the applicant of a decision that the conditions for referral of their case to another local authority in Wales are met. (The receiving authority is then subject to the section 73 'relief' duty, to help secure accommodation for the applicant (s.82(4)) and the s.68 interim accommodation duty (see ** on [page 44](#)));

OR

- (2) *Referral conditions (to English LA) met*

The applicant is notified of a decision that the conditions for referral of their case to a local authority in England are met. (The receiving authority is subject to the main homelessness duty under section 193 of the Housing Act 1996) (HA 1996, s.201A).

OR

- (3) *Referral request withdrawn*

It is decided that the referral conditions are *not* met. (The referring authority becomes subject to the section 73 'relief' duty, to help to secure that accommodation is available for the applicant – see [Chapter 6](#)) (s.82(3)).



Letters

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Outgoing referral – referral request to other authority

- ✉ Notifying another local authority (the 'receiving' authority) that the section 80 local connection referral conditions are met (referral request)

Outgoing referral – first notification to applicant

- ✉ Homeless assessment – homeless but local connection referral conditions met
- ✉ Covering letter for notifying initial s.62 homelessness assessment and housing plan

Outgoing referral – second notification to applicant

- ✉ Ending the section 82 interim accommodation duty because a notified council has agreed that the local connection referral conditions are met (2nd local connection notification to applicant)

Outgoing referral – asking other authority to pay TA costs

- ✉ Requesting reimbursement of temporary accommodation costs from receiving authority

Outgoing referral – cancelling the referral request & accepting the s.73 homeless 'relief' duty

- ✉ Notifying applicant local connection referral not being pursued / section 73 duty now owed (2nd local connection notification)

Incoming referral – refusing to accept a referral

- ✉ Refusing a local connection referral request – notifying the referring authority

Incoming referral – accepting the referral

- ✉ Accepting a local connection referral – notifying the referring authority





10. DUTIES OWED TO APPLICANTS SUCCESSFULLY REFERRED FROM ANOTHER LOCAL AUTHORITY BECAUSE OF LOCAL CONNECTION (ss.82, 83)

When is the duty owed?

- (1) (a) An application is referred to the authority by another local authority in Wales under section 80(2) of the Housing (Wales) Act 2014

OR

- (b) An application is referred to the authority by a local authority in England under section 198(1) of the Housing Act 1996

AND

- (2) The (receiving) authority accepts that the referral conditions* are met

AND

- (3) The other (referring) authority has notified the applicant of the decision that the referral conditions* are met (s.82(2) [Wales], HA 1996, s.200(2) [England]).

***The referral conditions**

See [Chapter 9](#) for the referral conditions when the referral is being made by a Welsh authority. See HA 1996 [s.198](#)(2) to (4) where the referral is made by an English authority.

Performing the duty (what must the council do?)

If the applicant has been referred from a Welsh local authority:

The authority must:

- (1) take reasonable steps to help to secure that suitable accommodation is available for occupation by the applicant, having regard (among other things) to the need to make the best use of the authority's resources (s.82(4), s.73(1), s.65)
(the homeless 'relief' duty under section 73; see [Chapter 6](#)).

AND





If the authority has reason to believe that the applicant may be homeless, may be eligible for help and may have a priority need for accommodation (s.68(2)**):

(2) secure that suitable interim accommodation is available for occupation by:

- (a) the applicant, *AND*
- (b) any other person who resides with the applicant as a member of their family, *AND*
- (c) any other person who might reasonably be expected to reside with the applicant (s.68(1), s.56)

(the interim accommodation duty under section 68; see [Chapter 3](#)).

If the applicant has been referred from an English authority:

The authority must:

(1) take reasonable steps to help to secure that suitable accommodation is available for occupation by the applicant, having regard (among other things) to the need to make the best use of the authority's resources (s.83(2)(b), s.73(1), s.65)

(the homeless 'relief' duty under section 73; see [Chapter 6](#))

AND

(2) secure that suitable interim accommodation is available for occupation by:

- (a) the applicant, *AND*
- (b) any other person who resides with the applicant as a member of their family, *AND*
- (c) any other person who might reasonably be expected to reside with the applicant (s.68(1),(3)(a), s.56, s.83(2)(a))

(the interim accommodation duty under section 68; see [Chapter 3](#)).

****Note**

Curiously the Act does not explicitly state that, upon accepting a referral from another Welsh authority, the authority will always owe the s.68 interim accommodation duty. However, presumably the s.68(2) test will always be satisfied. The receiving authority will have reason to believe the applicant may be eligible, may be homeless and may have a priority need, since this is (in part) the basis upon which they will have accepted that the





referral conditions are met. See also the statutory guidance (to which authorities must have regard under section 98) which states:

“If the referral is accepted by the other Local Authority, they will be under a duty...under S.73 and the provision of interim accommodation for the applicant under S.68. It is not open to a receiving Authority to re-assess whether the applicant is homeless, unintentionally homeless and in priority need, unless the Authority is reviewing the decision at the end of the S.73 duty to establish if S.75 applies” (para 18.23).

When do the duties end?

Please refer to the relevant chapter:

- For the circumstances in which the s.68 interim accommodation duty ends go to [When does the duty end? on page 11](#) to 14.
- For the circumstances in which the section 73 homeless 'relief' duty ends go to [When does the duty end? on page 24](#) to 28.





Letters

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Incoming referral – refusing to accept the referral

 [Refusing a local connection referral request – notifying the referring authority](#)

Incoming referral – accepting the referral

 [Accepting a local connection referral – notifying the referring authority](#)

Ending the s.68 interim accommodation duty

(1) Refer to the end of duty letters on [page 15](#).

OR

- (2) (a) Go to markprichard.co.uk/resources
(b) Enter "end section 68 duty" in the free-text search box, and
(c) Click on "Search" or press "Enter".

Ending the s.73 homeless 'relief' duty to help the applicant secure accommodation

(1) Refer to the end of duty letters on [page 28](#) and 29.

OR

- (2) (a) Go to markprichard.co.uk/resources
(b) Enter "end section 73 duty" in the free-text search box, and
(c) Click on "Search" or press "Enter".





11. DUTY TO NOTIFY ANOTHER LOCAL AUTHORITY WHEN ACCOMMODATION IS SECURED OUTSIDE THE DISTRICT (s.91)

When is the duty owed?

If the local housing authority, when discharging its functions under Part 2, Chapter 2 of the Housing (Wales) Act 2014:

- secures that accommodation is available for a homeless applicant outside its area in Wales or England (s.91(1),(2)).

Performing the duty (what must the council do?)

- (1) The authority must give notice in writing to the authority in whose area the accommodation is situated within 14 days of the day on which accommodation was made available for the applicant (s.91(2),(4))

AND

- (2) The notice must state:
 - (a) the name of the applicant (s.91(3)(a)); *AND*
 - (b) the number and a description of other persons who normally reside with the applicant as a member of his or her family, or who might reasonably be expected to reside with the applicant (s.91(3)(b)); *AND*
 - (c) the address of the accommodation that has been secured for the applicant (s.91(3)(c)); *AND*
 - (d) the date on which the accommodation was made available to the applicant (s.91(3)(d)); *AND*
 - (e) which function under Part 2 Chapter 2 of the Housing (Wales) Act 2014 the authority was discharging in securing that the accommodation is available for the applicant's occupation (s.91(3)(e)).





Note:

When securing accommodation in discharge of its homelessness functions under Part 2, Chapter 2 of the Housing (Wales) Act 2014, the authority must secure that the accommodation is situated in its own area, so far as reasonably practicable (s.91(1)).

Letter

Go to markprichard.co.uk/resources and search for the following letter (or click on the link if you're using the pdf version of this document):

-  [Notifying another council that a homeless applicant has been placed in their area](#)





12. DUTY TO PROTECT THE APPLICANT'S PERSONAL PROPERTY (ss.93,94)

When is the duty owed?

(1) The authority has become subject to the duty under:

(a) section 66 (duty to help prevent homelessness – see [Chapter 4](#))

AND

the applicant has a priority need

OR

(b) section 68 (interim duty to secure accommodation – see [Chapter 3](#))

OR

(c) section 75 (duty to secure accommodation for applicants in priority need when the section 73 duty ends – see [Chapter 6](#))

OR

(d) section 82 (duties to applicants whose case is referred or considered for referral – see [Chapter 9](#))

AND

the applicant has a priority need (s.93(1),(2))

AND

(2) The authority has reason to believe there is a danger of:

(a) loss of personal property of the applicant

OR

(b) damage to personal property of the applicant (s.93(1)(a))

AND

(3) The danger of damage or loss results from an inability by the applicant to:

(a) protect it

OR

(b) deal with it (s93(1)(a))

AND



- (4) no other suitable arrangements are being made or have been made (s.93(b)).

Performing the duty (what must the council do?)

The authority must:

- take reasonable steps to prevent the loss of the applicant's* personal property, or prevent or mitigate damage to it (s.93(1)).

*Note:

The duty extends to personal property of any person who might reasonably be expected to reside with the applicant (s.93(6)).

Powers

The authority may:

- (1) enter, at all reasonable times, any premises which:
 - (a) are the usual place of residence of the applicant, or
 - (b) were the applicant's last place of residencefor the purposes of performing the duty to protect the applicant's personal property (s.94(1)(a));
- (2) deal with any personal property of the applicant in any way that is reasonably necessary, in particular by storing it or arranging for its storage, for the purpose of performing the duty to protect the applicant's personal property (s.94(1)(b));
- (3) take any steps it considers reasonable for the purpose of protecting the personal property or to prevent or mitigate damage to it (s.93(5));
- (4) impose conditions on the duty which the authority considers are appropriate in the particular case (s.93(4)), which may include conditions as to:
 - (a) the making and recovery by the authority of reasonable charges for the action taken (s.93(4)(a)); or
 - (b) disposal by the authority, in such circumstances as may be specified, of property in relation to which it has taken action (s.93(4)(b));
- (5) comply with a request by the applicant to move his or her property to a particular location, if it appears to the authority that the request is

reasonable (s.94(a)).

When does the duty end?

(1) *Property moved to location nominated by applicant*

- (a) The applicant asks the authority to move his or her property to a particular location that he or she has nominated (s.94(4));

AND

- (b) The authority informs the applicant of the consequences of it complying with his or her request before complying with the request (s.94(5))

AND

- (c) The authority moves the property to the location nominated by the applicant (s.94(4)).

OR

(2) *No longer danger of damage or loss*

- (a) (i) The applicant has not asked the authority to move his or her property to a particular location

OR

- (ii) The applicant has asked the authority to move his or her property to a particular location, but the authority has not acted upon the request

AND

- (b) The authority is of the opinion that there is no longer any reason to believe that there is a danger of loss or damage to the person's personal belongings by reason of his or her inability to protect it or deal with it (s.94(6)).

Duty to notify applicant when the duty (or power) ends

Where:

- (1) the authority ceases to be subject to the section 93 duty to protect property

OR

- (2) the authority ceases to have power to protect property, having previously exercised the power,



the authority must notify the applicant:

- (1) of that fact, *AND*
- (2) the reason for it (s.94(8)),

by giving the notification to the applicant by:

- (1) delivering it to the applicant, *OR*
- (2) leaving it at, or sending it to, the applicant's last known address (s.94(9)).

Notes:

- I In the absence of the discharge criteria being satisfied, the authority continues to be subject to the duty, even if the relevant accommodation or assistance duty (ss.66, 68, 75, or 82) has ended (s.93(3)).
- II The duty is subject to any conditions the authority considers appropriate in the particular case, which may include conditions as to:
 - i The making and recovery of reasonable charges (s.93(4)(a)); and
 - ii The disposal by the authority, in such circumstances as may be specified, of the property (s.93(4)(b)).
- III The power to exercise entry into the applicant's current or last place of residence (under s.94(1)(a)) is subject to a duty for the officer to produce, upon request, valid documentation setting out the authorisation to enter the premises (s.94(2)).





Letters & documents

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

Refusing to protect belongings

- ✘ Decision that there's no duty to protect a homeless applicant's personal belongings under section 93

Agreement with applicant

- ✘ Protection of belongings – contract with homeless applicant
- ✘ Letter to homeless applicant enclosing protection of belongings contract & confirming payments due

Warning applicant about end of belongings duty

- ✘ Minded to end the section 93 protection of belongings duty because there's no longer danger of loss or damage to the homeless applicant's property
- ✘ Minded to end the section 93 protection of belongings duty because the homeless applicant has failed to make payments
- ✘ Warning a homeless applicant who's asked for stored property to be moved to a specific location that the section 93 protection of belongings duty will end

Ending the belongings duty

- ✘ Ending the section 93 protection of property duty because there's no longer danger of loss or damage to the applicant's property
- ✘ Ending the section 93 protection of property duty because the homeless applicant has failed to make payments
- ✘ Ending the section 93 protection of property duty because the property has been moved as per the homeless applicant's request



13. DUTY TO INVITE THE APPLICANT TO CONSENT TO A REFERRAL TO SOCIAL SERVICES (s.96)

When is the duty owed?

- (1) The authority has reason to believe a person under the age of 18 normally resides, or might reasonably be expected to reside, with an applicant (s.96(1))

AND

- (2) The authority has reason to believe that the applicant may be:

- (a) ineligible for help (s.96(1)(a))

OR

- (b) homeless, and that a duty under section 68, 73, or 75 is unlikely to apply to the applicant (s.96(1)(b))

OR

- (c) threatened with homelessness, and that a duty under section 66 is unlikely to apply to the applicant (s.96(1)(c)).

Performing the duty (what must the council do?)

The authority must make arrangements for ensuring that:

- (1) the applicant is invited to consent to the referral of the essential facts of his or her case to the social services department (s.96(2)(a))

AND

- (2) if the applicant has given that consent, the social services department is made aware of:

- (a) those facts



AND

- (b) the subsequent decision of the authority in respect of his or her case (s.96(2)(b)).



Letters

Go to markprichard.co.uk/resources and search for the following (or click on the links if you're using the pdf version of this document):

-  [Inviting homeless applicant to consent to their case being referred to social services, because they have children but they may be ineligible or not owed a housing duty \(section 96 referral duty\)](#)
-  [Referral to social services under section 96\(2\) with applicant's consent \(reason to believe applicant with children may not be owed a duty\)](#)





14. REVIEWING HOMELESSNESS DECISIONS

Decisions giving rise to the right to request a review

- (1) *A decision about eligibility*
A decision about the applicant's eligibility for help (s.85(1)(a)).
- (2) *A decision that a duty is not owed*
A decision that the applicant is not owed a duty under:
 - (a) section 66 (duty to help prevent homelessness – see [Chapter 4](#))
 - (b) section 68 (duty to secure interim temporary accommodation – see [Chapter 3](#))
 - (c) section 73 (duty to take reasonable steps to relieve homelessness – see [Chapter 6](#)), or
 - (d) section 75 (ongoing duty to secure temporary accommodation – see [Chapter 7](#)) (s.85(1)(b)).
- (3) *A decision that a duty has ended*
A decision that a duty owed to the applicant under section 66, 68, 73 or 75 has ended (s.85(1)(c)).
- (4) *A decision that reasonable steps were taken*
A decision that reasonable steps were taken during the period in which the section 73 duty was owed,
IF the section 73 duty has ended either because:
 - (a) a period of 56 days has ended (see [\(1\)\(a\) on page 24](#)), *OR*
 - (b) because reasonable steps have been taken before the end of 56 days (see [1\(b\) on page 24](#)) (s.85(2)).
- (5) *A decision that accommodation is suitable*
A decision that accommodation offered in connection with the discharge of any homelessness duty (under HWA 2014 Part 2, Chapter 2) is suitable for the applicant (s.85(3)).





Circumstances in which the authority must inform the applicant of their right to request a review

- (1) The applicant is notified of the outcome of a section 62 assessment (s.63(4)).
- (2) The applicant is notified of the outcome of a review of a section 62 assessment (s.63(4)).
- (3) The applicant is notified that the authority has notified or intends to notify another authority under section 80 of its opinion that the conditions for referral of the applicant's case to that other authority (because of local connection) are met (s.63(4)).
- (4) The applicant is notified that one of the following duties has ended:
 - (a) the section 66 duty
(to help prevent homelessness – see [page 16](#) to 18 for when this duty ends) (s.84(1))
 - (b) the section 68 duty
(to secure interim accommodation for an applicant who may be eligible, homeless and in priority need – see [page 11](#) for when this duty ends) (s.84(1))
 - (c) the section 73 duty
(to help the applicant to secure accommodation – see [page 24](#) to 26 for when this duty ends) (s.84(1))
 - (d) the section 75 duty
(the 'full' duty to secure ongoing accommodation to priority need applicants – see [page 32](#) to 35 for when this duty ends) (s.84(1)).

Information that must be notified to the applicant about the right to request a review

The notice must:

- (1) inform the applicant of his right to request a review (s.63(4)(a), s.84(1)(c))

AND

- (2) notify the applicant of the time within which a review request must be made (s.63(4)(a), s.84(1)(d)) (i.e. before the end of the period of



21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.85(5)).

Effect of exercising the power to make the notice available for collection:

- (1) If a written notice to the applicant of
 - (a) the outcome of a section 62 assessment, *OR*
 - (b) a review of a section 62 assessment, *OR*
 - (c) notification of another local authority, or an intention to notify another authority under section 80 (i.e. intention to seek a local connection referral)

is not received by the applicant, it is treated as having been given
IF

it is made available at the authority's office for a reasonable period for collection by the applicant, or by someone on the applicant's behalf (s.63(4)(b)).

- (2) If the applicant does not receive a written notice that the
 - (a) section 66
 - (b) section 68
 - (c) section 73, or
 - (d) section 75

duty has come to an end, they may be treated as having been notified

IF

the notice is made available at the authority's office for a reasonable period for collection by the applicant, or by someone on the applicant's behalf (s.84(4)).

Duties once a review request has been received

Once a review request has been made to the authority:

- (1) the authority must, within five working days of receiving the review request:
 - (a) notify the applicant of the procedure to be followed in connection with the review (unless the applicant has already



been notified) ([Homelessness \(Review Procedure\) \(Wales\) Regulations 2015 SI No. 1266 \(W.86\)](#), Reg.2(2)(b))

AND

- (b) invite the applicant (and where relevant the applicant's representative) to make representations orally or in writing, or both orally and in writing (Reg.2(2)(a))

unless the case falls within Regulation 4, i.e. where the original decision under review was made under the [Homelessness \(Decision on Referrals\) Order 1998, SI No. 1578](#)

AND

- (2) if the reviewing officer considers there is a deficiency or irregularity in the original decision, or in the manner in which it was made, but nonetheless is minded to make a decision which is against the applicant's interests on one or more issues, he must notify the applicant:

- (a) that he is so minded (Reg.5(2)(a))
- (b) of the reasons he is so minded (Reg.5(2)(a)), and
- (c) that the applicant, or someone acting on his behalf, may make representations to the reviewer orally or in writing, or both orally and in writing (Reg.5(2)(b))

AND

- (3) the reviewer must consider any representations made by the applicant or the applicant's representative (Reg. 5(1)(a))

AND

- (4) the authority must review the decision (s.85(6))

AND

- (5) *IF*

- (a) the original decision under review was made by an officer of the authority, *AND*
- (b) an officer makes the decision on the review

the reviewing officer must be someone who was not involved in the original decision (Reg.3)

AND



- (6) the authority (or authorities where applicable) must notify the applicant of the decision on the review (s.86(3)) within;
- (a) eight weeks from the day on which the review request was made (unless the decision falls within either (b) or (c) below) (Reg.6(1)(a))

OR

- (b) ten weeks from the day on which the review request was made, where the original decision fell within section 80(5) (question of whether the conditions for referral to another authority are satisfied) and where the review is carried out by a person appointed by the notifying and notified authorities (Reg.6(1)(b))

OR

- (c) twelve weeks from the day on which the review request was made in a case falling within Reg.4 of the Review Procedure Regs (original decision made under the [Homelessness \(Decision on Referrals\) Order 1998, SI No. 1578](#)) (Homeless Review Regs, Reg. 6(1)(c)).

AND

When notifying the applicant of the review decision

- (7) inform the applicant of his right to appeal to the county court on a point of law (s.86(5)).

AND

- (8) notify the applicant of the reasons for the decision, if the decision:
- (a) confirms the original decision on any issue against the interests of the applicant (s.86(4)(a)), *OR*
- (b) confirms that reasonable steps were taken (s.86(4)(b))

AND

- (9) inform the applicant of the period within which an appeal must be made (s.86(5)) (i.e. within 21 days of him being notified of the decision or, as the case may be, the date on which the applicant should have been notified of the review decision (s.88(2)).



Notes:

(1) *Effect of failing to include information in the review decision notification*

Notice of the review decision is not treated as having been given unless and until:

- (a) the applicant is informed of his right to appeal to the county court on a point of law, *AND*
- (b) the applicant is informed of the period within which an appeal must be made, *AND*
- (c) the applicant is notified of the reasons for the decision, if the review decision:
 - (i) confirms the original decision on any issue against the interests of the applicant, or
 - (ii) confirms that reasonable steps were taken (s.86(4),(5) and (6)).

(2) *Agreeing an extension to the time limit for notifying a review decision*

The authority and the applicant may, in writing, agree a longer period for the authority notifying the applicant of the review decision (Reg.6(2)).

Letters & documents

There are two ways you can find letters to administer s.85 reviews. See options (1) and (2) below:

- (1) Search markprichard.co.uk/resources
 - (a) Go to markprichard.co.uk/resources
 - (b) Enter "s85 review" in free-text search box
 - (c) Click on "Search" or press "Enter".

OR

- (2) Go to markprichard.co.uk/resources and search for one of the documents below (or click on the links if you're using the pdf version of this document):





Requesting a homeless review

- ✉ Asking for a homelessness review (form)

Acknowledging review request

- ✉ Acknowledging a s.85 homeless review request, and confirming the review procedure & deadline for submissions

Out of time review request

- ✉ Refusing an out of time s.85 homeless review request

Request for temporary accommodation pending review

- ✉ Refusing a request for temporary accommodation pending the outcome of a s.85 homelessness review
- ✉ Approving temporary accommodation pending the outcome of a s.85 homelessness review

Quashing the initial homelessness decision

- ✉ Quashing a homelessness decision & passing the decision back to the original decision-maker

Minded to letter & regulation 5(2) requirements

- ✉ 'Minded to' letter notifying deficiencies and offering oral submissions

Extension of decision deadline

- ✉ Asking homeless applicant to agree to an extension of the deadline for completing the s.85 review

Review decision

- ✉ Adverse review decision notification letter





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