



Housing Act 1996

1996 CHAPTER 52

PART VII

HOMELESSNESS^[F1]: ENGLAND]

Referral to another local housing authority

198 Referral of case to another local housing authority.

[^{F1}(A1) If the local housing authority would be subject to the duty under section 189B (initial duty owed to all eligible persons who are homeless) but consider that the conditions are met for referral of the case to another local housing authority in England, they may notify that other authority of their opinion.]

(1) If the local housing authority would be subject to the duty under section 193 (accommodation for those with priority need who are not homeless intentionally) but consider that the conditions are met for referral of the case to another local housing authority, they may notify that other authority of their opinion.

^{F2} ...

(2) The conditions for referral of the case to another authority are met if—

- (a) neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,
- (b) the applicant or a person who might reasonably be expected to reside with him has a local connection with the district of that other authority, and
- (c) neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that other district.

[^{F3}(2ZA) The conditions for referral of the case to another authority are also met if—

- (a) the application is made within the period of two years beginning with the date on which the applicant accepted an offer from the other authority under section 193(7AA) (private rented sector offer), and

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- (b) neither the applicant nor any person who might reasonably be expected to reside with the applicant will run the risk of domestic violence in the district of the other authority.]
- [^{F4}(2A) But the conditions for referral mentioned in subsection (2) [^{F5}or (2ZA)] are not met if—
- (a) the applicant or any person who might reasonably be expected to reside with him has suffered violence (other than domestic violence) in the district of the other authority; and
- (b) it is probable that the return to that district of the victim will lead to further violence of a similar kind against him.
- (3) For the purposes of subsections (2) [^{F6}, (2ZA)] and (2A) “violence” means—
- (a) violence from another person; or
- (b) threats of violence from another person which are likely to be carried out; and violence is “domestic violence” if it is from a person who is associated with the victim.]
- (4) The conditions for referral of the case to another authority are also met if—
- (a) the applicant was on a previous application made to that other authority placed (in pursuance of their functions under this Part) in accommodation in the district of the authority to whom his application is now made, and
- (b) the previous application was within such period as may be prescribed of the present application.
- [^{F7}(4A) Subsection (4) is to be construed, in a case where the other authority is an authority in Wales, as if the reference to “this Part” were a reference to Part 2 of the Housing (Wales) Act 2014.]
- (5) The question whether the conditions for referral of a case [^{F8}which does not involve a referral to a local housing authority in Wales] are satisfied shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order.
- [^{F9}(5A) The question whether the conditions for referral of a case involving a referral to a local housing authority in Wales shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State and the Welsh Ministers may jointly direct by order.]
- (6) An order may direct that the arrangements shall be—
- (a) those agreed by any relevant authorities or associations of relevant authorities, or
- (b) in default of such agreement, such arrangements as appear to the Secretary of State [^{F10}or, in the case of an order under subsection (5A), to the Secretary of State and the Welsh Ministers] to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as he thinks appropriate.
- (7) [^{F11}An order under this section shall not] be made unless a draft of the order has been approved by a resolution of each House of Parliament [^{F12}and, in the case of a joint order, a resolution of the National Assembly for Wales] .

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Textual Amendments

- F1** S. 198(A1) inserted (3.4.2018) by [Homelessness Reduction Act 2017 \(c. 13\)](#), **ss. 5(8)**, 13(3); S.I. 2018/167, **reg. 3(e)** (with **reg. 4(1)**)
- F2** Words in s. 198(1) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F3** S. 198(2ZA) inserted (9.11.2012 for E.) by [Localism Act 2011 \(c. 20\)](#), **ss., 149(6)**, 240(3)(f); S.I. 2012/2599, **arts. 1(2), 2** (with **art. 3**)
- F4** S. 198(2A)(3) substituted for s. 198(3) (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, **s. 10(2)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F5** Words in s. 198(2A) inserted (9.11.2012 for E.) by [Localism Act 2011 \(c. 20\)](#), **ss., 149(7)**, 240(3)(f); S.I. 2012/2599, **arts. 1(2), 2** (with **art. 3**)
- F6** Word in s. 198(3) inserted (9.11.2012 for E.) by [Localism Act 2011 \(c. 20\)](#), **ss., 149(8)**, 240(3)(f); S.I. 2012/2599, **arts. 1(2), 2** (with **art. 3**)
- F7** S. 198(4A) inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 11(a)**; S.I. 2015/1272, **art. 2, Sch. para. 53** (with **art. 7**)
- F8** Words in s. 198(5) inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 11(b)**; S.I. 2015/1272, **art. 2, Sch. para. 53** (with **art. 7**)
- F9** S. 198(5A) inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 11(c)**; S.I. 2015/1272, **art. 2, Sch. para. 53** (with **art. 7**)
- F10** Words in s. 198(6)(b) inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 11(d)**; S.I. 2015/1272, **art. 2, Sch. para. 53** (with **art. 7**)
- F11** Words in s. 198(7) substituted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 11(e)(i)**; S.I. 2015/1272, **art. 2, Sch. para. 53** (with **art. 7**)
- F12** Words in s. 198(7) inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 11(e)(ii)**; S.I. 2015/1272, **art. 2, Sch. para. 53** (with **art. 7**)

Modifications etc. (not altering text)

- C1** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**
- C2** S. 198 modified (*temp.*) (6.12.1999) by S.I. 1999/3126, **arts. 3, 7**

Commencement Information

- I1** S. 198 wholly in force 20.1.1997: s. 198 not in force at Royal Assent, see s. 232(1)-(3); s. 198(4)-(7) in force for certain purposes at 1.10.1996 by S.I. 1996/2402, **art. 4**; s. 198 in force at 20.1.1997 to the extent it is not already in force by S.I. 1996/2959, **art. 2**

199 Local connection.

- (1) A person has a local connection with the district of a local housing authority if he has a connection with it—
- because he is, or in the past was, normally resident there, and that residence is or was of his own choice,
 - because he is employed there,
 - because of family associations, or
 - because of special circumstances.

^{F13}(2)

- (3) Residence in a district is not of a person's own choice if—

^{F14}(a)

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- (b) he, or a person who might reasonably be expected to reside with him, becomes resident there because he is detained under the authority of an Act of Parliament.
- ^{F15}(4)
- (5) The Secretary of State may by order specify ^{F16}... circumstances in which—
- (a) a person is not to be treated as employed in a district, or
 - (b) residence in a district is not to be treated as of a person’s own choice.
- [^{F17}(6) A person has a local connection with the district of a local housing authority if he was (at any time) provided with accommodation in that district under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers).
- (7) But subsection (6) does not apply—
- (a) to the provision of accommodation for a person in a district of a local housing authority if he was subsequently provided with accommodation in the district of another local housing authority under section 95 of that Act, or
 - (b) to the provision of accommodation in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (use of accommodation centres for section 95 support).]

[^{F18}(8) While a local authority in England have a duty towards a person under section 23C of the Children Act 1989 (continuing functions in respect of former relevant children)—

 - (a) if the local authority is a local housing authority, the person has a local connection with their district, and
 - (b) otherwise, the person has a local connection with every district of a local housing authority that falls within the area of the local authority.

(9) In subsection (8), “local authority” has the same meaning as in the Children Act 1989 (see section 105 of that Act).

(10) Where, by virtue of being provided with accommodation under section 22A of the Children Act 1989 (provision of accommodation for children in care), a person is normally resident in the district of a local housing authority in England for a continuous period of at least two years, some or all of which falls before the person attains the age of 16, the person has a local connection with that district.

(11) A person ceases to have a local connection with a district under subsection (10) upon attaining the age of 21 (but this does not affect whether the person has a local connection with that district under any other provision of this section).]

Textual Amendments

- F13** S. 199(2) repealed (1.12.2008 for E., 30.3.2009 for W. for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 315(a), 325(1), **Sch. 16**; S.I. 2008/3068, arts. 4(10), 5, Sch. (with arts. 6-13); S.I. 2009/773, art. 2
- F14** S. 199(3)(a) repealed (1.12.2008 for E., 30.3.2009 for W. for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 315(b), 325(1), **Sch. 16**; S.I. 2008/3068, arts. 4(10), 5, Sch. (with arts. 6-13); S.I. 2009/773, art. 2
- F15** S. 199(4) repealed (1.12.2008 for E., 30.3.2009 for W. for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 315(c), 325(1), **Sch. 16**; S.I. 2008/3068, arts. 4(10), 5, Sch. (with arts. 6-13); S.I. 2009/773, art. 2; and words in s. 199(4) substituted (28.3.2009 for specified purposes)

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by Armed Forces Act 2006 (c. 52), Sch. 16 para. 139; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

F16 Word in s. 199(5) repealed (1.12.2008 for E., 30.3.2009 for W. for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 315(d), 325(1), [Sch. 16](#); S.I. 2008/3068, arts. 4(10), 5, Sch. (with arts. 6-13); S.I. 2009/773, art. 2

F17 S. 199(6)(7) added (4.1.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 11(1), 48(3); S.I. 2004/2999, art. 2, Sch.

F18 S. 199(8)-(11) inserted (3.4.2018) by [Homelessness Reduction Act 2017 \(c. 13\)](#), ss. 8, 13(3); S.I. 2018/167, reg. 3(h)

Modifications etc. (not altering text)

C3 S. 199 excluded (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)\(3\)\(b\)](#)

S. 199 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

Commencement Information

I2 S. 199 in force 20.1.1997: s. 199 not in force at Royal Assent, see s. 232(1)-(3); s. 199(5) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 199 in force at 20.1.1997 to the extent it is not already in force by [S.I. 1996/2959](#), [art. 2](#)

[^{F19}199A Duties to the applicant whose case is considered for referral or referred under section 198(A1)]

- (1) Where a local housing authority (“the notifying authority”) notify an applicant that they intend to notify or have notified another local housing authority in England (“the notified authority”) under section 198(A1) of their opinion that the conditions are met for referral of the applicant's case to the notified authority, the notifying authority—
 - (a) cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), and
 - (b) are not subject to the duty under section 189B (initial duty owed to all eligible persons who are homeless).
- (2) But, if the notifying authority have reason to believe that the applicant may have a priority need, they must secure that accommodation is available for occupation by the applicant until the applicant is notified of the decision as to whether the conditions for referral of the applicant's case are met.
- (3) When it has been decided whether the conditions for referral are met, the notifying authority must give notice of the decision and the reasons for it to the applicant.

The notice must also inform the applicant of the applicant's right to request a review of the decision and of the time within which such a request must be made.

- (4) If it is decided that the conditions for referral are not met—
 - (a) the notifying authority are subject to the duty under section 189B,
 - (b) the references in subsections (4) and (7)(b) of that section to the day that the notifying authority are first satisfied as mentioned in subsection (1) of that section are to be read as references to the day on which notice is given under subsection (3) of this section, and
 - (c) if the notifying authority have reason to believe that the applicant may have a priority need, they must secure that accommodation is available for occupation by the applicant until the later of—

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- (i) the duty owed to the applicant under section 189B coming to an end, and
 - (ii) the authority deciding what other duty (if any) they owe to the applicant under this Part after the duty under section 189B comes to an end.
- (5) If it is decided that the conditions for referral are met—
- (a) for the purposes of this Part, the applicant is to be treated as having made an application of the kind mentioned in section 183(1) to the notified authority on the date on which notice is given under subsection (3),
 - (b) from that date, the notifying authority owes no duties to the applicant under this Part,
 - (c) where the notifying authority have made a decision as to whether the applicant is eligible for assistance, is homeless or became homeless intentionally, the notified authority may only come to a different decision if they are satisfied that—
 - (i) the applicant's circumstances have changed, or further information has come to light, since the notifying authority made their decision, and
 - (ii) that change in circumstances, or further information, justifies the notified authority coming to a different decision to the notifying authority, and
 - (d) the notifying authority must give to the notified authority copies of any notifications that the notifying authority have given to the applicant under section 189A(3) or (10) (notifications of the notifying authority's assessments of the applicant's case).
- (6) A duty under subsection (2) or paragraph (c) of subsection (4) ceases as provided in the subsection or paragraph concerned even if the applicant requests a review of the authority's decision upon which the duty ceases.

The authority may secure that accommodation is available for the applicant's occupation pending the decision on review.

- (7) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.]

Textual Amendments

F19 S. 199A inserted (3.4.2018) by [Homelessness Reduction Act 2017 \(c. 13\)](#), **ss. 5(9)**, 13(3); S.I. 2018/167, reg. 3(e) (with reg. 4(1))

200 Duties to applicant whose case is considered for referral or referred [^{F20}under section 198(1)].

- (1) Where a local housing authority notify an applicant that they intend to notify or have notified another local housing authority [^{F21}under section 198(1)] of their opinion that the conditions are met for the referral of his case to that other authority—
- (a) they cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), and

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(b) they are not subject to any duty under section 193 (the main housing duty), but they shall secure that accommodation is available for occupation by the applicant until he is notified of the decision whether the conditions for referral of his case are met.

[^{F22}(1A) A local housing authority in England may not notify an applicant as mentioned in subsection (1) until the authority's duty to the applicant under section 189B(2) (initial duty owed to all eligible persons who are homeless) has come to an end.]

(2) When it has been decided whether the conditions for referral are met, the notifying authority shall notify the applicant of the decision and inform him of the reasons for it.

The notice shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made.

[^{F23}(3) If it is decided that the conditions for referral are not met, the notifying authority are subject to the duty under section 193 (the main housing duty).

^{F23}(4) If it is decided that those conditions are met [^{F24}and the notified authority is not an authority in Wales], the notified authority are subject to the duty under section 193 (the main housing duty) [^{F25}; for provision about cases where it is decided that those conditions are met and the notified authority is an authority in Wales, see section 83 of the Housing (Wales) Act 2014 (cases referred from a local housing authority in England)].]

(5) The duty under subsection (1), ^{F26}... ceases as provided in that subsection even if the applicant requests a review of the authority's decision (see section 202).

The authority may [^{F27}secure] that accommodation is available for the applicant's occupation pending the decision on a review.

(6) Notice ^{F28}... given to an applicant under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

Textual Amendments

- F20** Words in s. 200 heading inserted (3.4.2018) by [Homelessness Reduction Act 2017 \(c. 13\)](#), **ss. 5(10)(a)**, 13(3); S.I. 2018/167, **reg. 3(e)** (with **reg. 4(1)**)
- F21** Words in s. 200(1) inserted (3.4.2018) by [Homelessness Reduction Act 2017 \(c. 13\)](#), **ss. 5(10)(b)**, 13(3); S.I. 2018/167, **reg. 3(e)** (with **reg. 4(1)**)
- F22** S. 200(1A) inserted (3.4.2018) by [Homelessness Reduction Act 2017 \(c. 13\)](#), **ss. 5(10)(c)**, 13(3); S.I. 2018/167, **reg. 3(e)** (with **reg. 4(1)**)
- F23** S. 200(3)(4) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 15(a)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F24** Words in s. 200(4) inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 12(a)**; S.I. 2015/1272, **art. 2**, **Sch. para. 53** (with **art. 7**)
- F25** Words in s. 200(4) inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 12(b)**; S.I. 2015/1272, **art. 2**, **Sch. para. 53** (with **art. 7**)
- F26** Words in s. 200(5) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F27** Word in s. 200(5) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 15(b)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F28** Words in s. 200(6) omitted (3.4.2018) by virtue of [Homelessness Reduction Act 2017 \(c. 13\)](#), **ss. 5(10)(d)**, 13(3); S.I. 2018/167, **reg. 3(e)** (with **reg. 4(1)**)

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Modifications etc. (not altering text)

C4 Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

201 Application of referral provisions to cases arising in Scotland.

Sections 198 and 200 (referral of application to another local housing authority and duties to applicant whose case is considered for referral or referred) apply—

- (a) to applications referred by a local authority in Scotland in pursuance of sections 33 and 34 of the ^{M1}Housing (Scotland) Act 1987, and
- (b) to persons whose applications are so transferred,

as they apply to cases arising under this Part (the reference in section 198 to this Part being construed as a reference to Part II of that Act).

Modifications etc. (not altering text)

C5 Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art.2\(1\)](#)

Marginal Citations

M1 [1987 c. 26.](#)

[^{F29}201A Cases referred from a local housing authority in Wales

- (1) This section applies where an application has been referred by a local housing authority in Wales to a local housing authority in England under section 80 of the Housing (Wales) Act 2014 (referral of case to another local housing authority).
- (2) If it is decided that the conditions in that section for referral of the case are met, the notified authority are subject to the duty under section 193 of this Act in respect of the person whose case is referred (the main housing duty); for provision about cases where it is decided that the conditions for referral are not met, see section 82 of the Housing (Wales) Act 2014 (duties to applicant whose case is considered for referral or referred).
- (3) References in this Part to an applicant include a reference to a person to whom a duty is owed by virtue of subsection (2).]

Textual Amendments

F29 S. 201A inserted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), [Sch. 3 para. 13](#); [S.I. 2015/1272](#), [art. 2](#), [Sch. para. 53](#) (with [art. 7](#))

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