



Housing ex-offenders

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This note outlines the duties of local authorities to house ex-offenders. It does not deal specifically with issues surrounding the re-housing of sex offenders.

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1 Housing and the prevention of re-offending

Research carried out by the Centre of Housing Policy at York University on behalf of the Joseph Rowntree Foundation in 1996 concluded that ex-prisoners were more likely to re-offend if they did not find satisfactory accommodation on release. Evidence at that time suggested that the general level of housing assistance prisoners received was 'inadequate.' The research found:

Although many prisoners had been inadequately housed before going to prison, the great majority wanted to retain their original homes. On release, however, less than half were able to return to their previous home.

Three factors were instrumental in determining whether ex-prisoners succeeded in retaining their homes: the quality of family relationships, the availability of housing benefit, and their financial status.

Housing information in prisons was designed both to help prisoners retain their previous accommodation and enable them to find new accommodation where necessary. However, the provision of information varied widely in the four prisons studied. Many prisoners were disinclined to ask for help and there was confusion about responsibilities among staff. No written guidance or procedures relating to housing advice were located.

Problems faced in re-housing prisoners include:

- Access to independent, mainstream accommodation is increasingly difficult.
- Arranging accommodation other than in hostels prior to release is very difficult.
- Very few ex-prisoners agree to live in a hostel; they are concerned at being drawn into re-offending by contact with other ex-offenders.¹

The 2002 Social Exclusion Unit (SEU) Report, *Reducing Re-offending by Ex-prisoners*, found that stable accommodation reduced the risk of re-offending by around 20 per cent while the Rough Sleepers Unit report, *Helping Rough Sleepers off the Street* (June 2002), found that housing and employment were fundamental to re-establishing a life in the community, addressing specific problems and avoiding re-offending.

In January 2008 the Ministry of Justice published, *Reducing Re-offending: Housing and Housing Support Resource Pack*, which provides a framework for all stakeholders involved in

¹ *The Housing Needs of Ex-prisoners*, JRF Housing Findings 178, April 1996

the offender housing world. Chapter 5 of this document considers the importance of settled housing in reducing re-offending.

The Government's Public Service Agreement 16 (PSA16) covers socially excluded adults. This PSA aims to ensure that the most socially excluded adults are offered the chance to get back on a path to a more successful life, by increasing the proportion of at-risk individuals in:

- settled accommodation; and
- employment, education or training.

Offenders under probation supervision form one of the four groups covered by PSA16.

A home and a job are the core foundations of normal, everyday life which the majority of people take for granted. The Government wants to extend this expectation and aspiration to the most excluded, for whom a settled home and the opportunity to work can often seem out of reach.²

2 Homeless ex-offenders: local authorities' duties

Authorities' duties towards homeless people are contained in Part 7 of the *1996 Housing Act*, as amended by the *Homelessness Act 2002*.³

Authorities do not have a duty to secure accommodation for all homeless people. If an applicant has become homeless unintentionally the authority must assess whether they, or a member of their household, falls into a 'priority need' category.

A key change that the Government has made in terms of local authorities' duties towards ex-offenders has been to amend the categories of people that they have a duty to house under the homelessness legislation to include certain vulnerable ex-offenders. *The Homelessness (Priority Need for Accommodation) (England) Order 2002* (SI 2002/2051), which came into force on 31 July 2002, extended section 189 of the *1996 Housing Act* to include the following categories of people:

- a) a person aged sixteen or seventeen who is not a *relevant child* or a child in need to whom a local authority owes a duty under section 20 of the Children Act 1989;
- b) a person under 21 who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a *relevant student*);
- c) a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a *relevant student*);
- d) a person who is vulnerable as a result of having been a member of Her Majesty's regular naval, military or air forces;
- e) **a person who is vulnerable as a result of:**
 - i) having served a custodial sentence,**
 - ii) having been committed for contempt of court or any other kindred offence,****or**
 - iii) having been remanded in custody;**⁴

² Cabinet Office, *Socially Excluded Adults – PSA 16*, 2008

³ More information on this Act is contained in Library Research Paper 01/58.

⁴ Emphasis added

- f) a person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out.

Sally Keeble, then Minister for Housing, responded to questions on the extension of the priority need categories to include vulnerable ex-offenders during the passage of the *Homelessness Bill* through Parliament. Concern had been expressed that the extension would give vulnerable ex-offenders priority for housing over more 'worthy' households in need of housing:

To an extent, I understand the intention behind the new clause, and sympathise with the constituency interests that it seeks to protect. I think that they apply to one I sense that, behind the new clause, there is concern that the draft order that the Government propose to make under section 189 of the Housing Act 1996, to extend the categories of applicant who have a priority need for accommodation, may lead to a significant increase in the number of ex-prisoners who will be entitled to temporary accommodation under the homelessness legislation.

Let me make clear that there is no reason to expect that the order would have the result predicted. First, the order would provide that there was priority need only where the housing authority was satisfied that the individual was vulnerable. Secondly, authorities should already accept that applicants who are vulnerable for that reason—or any other—have a priority need by virtue of the current provisions in section 189 of the 1996 Act. These provide that a person has a priority need if he is vulnerable not only as a result of factors such as old age and mental illness, but as a result of another special reason.

There has been a lot of nonsense—some of it shameful—talked about the provisions in the draft order which bear on those who are vulnerable as a result of having served a custodial sentence. It has been suggested that the order would allow ex-prisoners to jump the housing queue ahead of families. This is nonsense, and it confuses priority need for short-term assistance under the homelessness legislation with priority for an allocation of long-term housing through the housing register. The order bears on applications for assistance under the homelessness legislation. It puts ex-prisoners who are homeless and genuinely vulnerable on the same footing as other vulnerable homeless people who need short-term assistance with accommodation until a settled housing solution can be found.⁵

And:

The order, which has been discussed, extends protection to several new groups: 16 and 17-year-olds; 18 to 21-year-olds who were formerly in care; other vulnerable care leavers; those who are vulnerable as a result of institutionalisation, serving in the armed forces or being in custody; and those who are vulnerable as a result of fleeing harassment or domestic violence. That is a long list; it is not simply a question of ex-offenders.

The common strand of vulnerability—not whether someone has been in prison—is what local housing authorities need to consider when assessing whether someone is a priority need for accommodation. Not all ex-offenders will be vulnerable. The order will emphasise the importance of authorities assessing whether ex-offenders are vulnerable as a result of a period in prison.⁶

⁵ HC Deb 22 October 2001 cc46-7

⁶ HC Deb 22 October 2001 c64

The [Homelessness Code of Guidance for Local Authorities](#), to which authorities must have regard in making decisions when people apply for assistance as homeless, provides advice for on how local authorities should assess the vulnerability of ex-offenders:

A person who is vulnerable as a result of having served a custodial sentence, been committed for contempt of court or remanded in custody has a priority need for accommodation. This category applies to applicants who have:

- i) served a custodial sentence within the meaning of the Powers of Criminal Courts (Sentences) Act 2000, s.76. (This includes sentences of imprisonment for those aged 21 or over and detention for those aged under 21, including children.);
- ii) been committed for contempt of court or any other kindred offence (kindred offence refers to statutory provisions for contempt as opposed to the inherent jurisdiction of the court, e.g. under the Contempt of Court Act 1981, s.12 (magistrates. court) and County Court Act 1984, s.118 (county court)). (Committal may arise e.g. where an applicant has breached a civil injunction.);
- iii) been remanded in custody within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000, s.88(1)(b), (c) or (d), i.e. remanded in or committed to custody by an order of a court; remanded or committed to housing authority accommodation under the Children and Young Persons Act 1969 and placed and kept in secure accommodation; or, remanded, admitted or removed to hospital under the Mental Health Act 1983, ss 35, 36, 38 or 48.

Applicants have a priority need for accommodation only if they are vulnerable as a result of having been in custody or detention. In determining whether applicants who fall within one of the descriptions in paragraph 10.24 are vulnerable as a result of their period in custody or detention, a housing authority may wish to take into account the following factors:

- i) the length of time the applicant served in custody or detention (although authorities should not assume that vulnerability could not occur as a result of a short period in custody or detention);
- ii) whether the applicant is receiving supervision from a criminal justice agency e.g. the Probation Service, Youth Offending Team or Drug Intervention Programme. Housing authorities should have regard to any advice from criminal justice agency staff regarding their view of the applicant's general vulnerability, but the final decision on the question of vulnerability for the purposes of the homelessness legislation will rest with the housing authority;
- iii) the length of time since the applicant was released from custody or detention, and the extent to which the applicant had been able to obtain and/or maintain accommodation during that time;
- iv) whether the applicant has any existing support networks, for example family or friends, and how much of a positive influence these networks are likely to be in the applicant's life.

In many cases a housing needs assessment may have been completed in respect of offenders by the Probation Service, Prison Services, Youth Offending Team, Criminal Justice Intervention Team or a voluntary organisation acting on behalf of one of these agencies. Where such an assessment identifies an individual as needing help in

finding accommodation and judges the individual to be particularly vulnerable and the applicant makes an application for housing assistance, this information will be made available to the relevant housing authority.⁷

The Code also provides guidance on the question of assessing whether ex-offenders are intentionally homeless; there is no duty on authorities to secure permanent accommodation for households who are deemed to have made themselves intentionally homeless:

In addition to the question of priority need, when assessing applicants in this client group difficult issues may arise as to whether the applicant has become homeless intentionally. Housing authorities must consider each case in the light of all the facts and circumstances. **Housing authorities are reminded that they cannot adopt a blanket policy of assuming that homelessness will be intentional or unintentional in any given circumstances.**⁸

Some ex-offenders may apply for accommodation or assistance in obtaining accommodation following a period in custody or detention because they have been unable to retain their previous accommodation, due to that period in custody or detention. In considering whether such an applicant is homeless intentionally, the housing authority will have to decide whether, taking into account all the circumstances, there was a likelihood that ceasing to occupy the accommodation could reasonably have been regarded at the time as a likely consequence of committing the offence.⁹

In 2003 reports in the housing press indicated that local authorities were struggling to meet the demands placed on them as a result of the extension of the priority need categories. It was also acknowledged that the need for ex-offenders to 'prove' that they are vulnerable as a result of institutionalisation might act as a barrier to them actually achieving priority need status under the homelessness legislation.

The ODPM: Housing, Planning, Local Government and the Regions Select Committee conducted an inquiry into homelessness over 2004-05. During this inquiry the Committee received evidence from organisations claiming that ex-offenders were still struggling to get their housing needs met:

61. Those leaving offender institutions appear to have a particular problem. Although those vulnerable due to leaving prison were added to the priority needs categories in 2002, it seems that not only do they not gain access to the right services in sufficient quantities, but they are ruled intentionally homeless for committing crime in the first place. The Revolving Doors Agency told us that only 250 people had been re-housed as priority need under the new category since 2002. The Youth Justice Board for England and Wales told us that young offenders were being ruled to be intentionally homeless, regardless of the offence, by some local authorities. Citizens Advice also told us:

"bureaux are reporting that they are seeing an increasing number of clients who are being judged intentionally homeless when released from prison. There seems to be no consistency in determining whether someone who has lost their home due to committing an offence which led to a prison sentence is intentionally homeless, but many bureau advisers feel that the obligation to house those considered vulnerable

⁷ [The Homelessness Code of Guidance for Local Authorities](#), July 2006 (updated version), paras 10.24-10.26

⁸ *ibid* para 10.27

⁹ *ibid* para 11.14

means that some councils will use 'intentionality' to avoid re-housing ex-prisoners if resources are tight".¹⁰

The Committee recommended that guidance on the interpretation of intentional homelessness should include an explicit explanation of its application to ex-offenders. The Government responded to the Committee's findings in March 2005; a specific response to this point was included:

Broadly speaking, the Homelessness Act 2002 did not amend the provisions on intentional homelessness. Statutory guidance issued to local housing authorities following the implementation of the 2002 Act already includes guidance on 'intentionality' and the circumstances when applicants may and may not be found to be 'intentionally homeless' (chapter 7 of the Code of Guidance). The guidance is clear in its message that each case must be decided on its merits. A local authority must be able to satisfy itself whether an applicant meets certain criteria and must not take a blanket approach towards any particular groups. The Government will be revising the Code in 2005 and will consider the Committee's recommendation. We will also consider issuing good practice guidance to local authorities and agencies working with ex-offenders to encourage the development of protocols which meet the housing needs of ex-offenders and prevent homelessness.¹¹

The revised Code of Guidance was published in July 2006. In June 2006 Communities and Local Government (CLG)¹² published a [new good practice guide](#) on homelessness prevention services, chapter 7 of which is entitled *Assisting Ex-Offenders: Prison Based Housing Advice and Support Initiatives*.

Research commissioned by the Department of Work and Pensions (published in 2009) into the delivery of PSA16 in respect of offenders found:

Service providers did not regard the homelessness legislation as often providing a route by which homeless offenders on probation could secure accommodation. Research specifically on offenders' experience of homelessness has reported a very similar picture for over a decade. While some other recent research has also suggested that the imperative to 'prevent' homelessness also makes authorities generally less likely to accept applicants as being owed the main duty, this was not reported.¹³

3 Homelessness strategies

The *2002 Homelessness Act* placed a duty on local authorities to produce homelessness strategies.¹⁴ In fulfilling this duty they should include in their strategies action and objectives for securing the provision of support for people who may be at risk of homelessness, or have been homeless, and who need support to prevent them becoming homeless again. This includes action to prevent homelessness amongst ex-offenders. Early intervention is regarded as critical in preventing homelessness amongst ex-offenders. Good practice

¹⁰ HC 61-I, Third Report of Session 2004-05, [Homelessness](#), para 61

¹¹ [Cm 6490](#), p.5

¹² This Department took over responsibility for housing matters after the Office of the Deputy Prime Minister was disbanded earlier in 2006.

¹³ DWP, [Delivering better housing and employment outcomes for offenders on probation](#), 2009 – DWP Research Report 610

¹⁴ The *Local Authorities' Plans and Strategies (Disapplication) (England) (Amendment) Order 2009* provides that local authorities rated as 4 or 3 star authorities are exempt from, *inter alia*, the duty to compile a homelessness strategy.

suggests that intervention should take place when the person is in prison and immediately on release. Work carried out by Shelter, the homelessness charity, on ex-offenders indicates that authorities could prevent some people in custody from losing their homes and minimise levels of arrears, debt and loss of possessions by:

- Placing a requirement on prisons to ensure that all prisoners receive housing advice at reception stage.
- Requiring all prison and probation staff receive training on relevant housing issues.
- Prison resettlement services should include protocols with local authorities to accept homelessness applications as early as possible prior to release.
- Equivalent procedures should be in place for prisoners serving sentences of less than 12 months who are at risk of homelessness on release.
- The Home Office and DWP should consider allowing discretion for prisoners on short term sentences regarding the current 13 week rule of housing benefit. This approach could reduce the loss of tenancies due to rent arrears.

Development work with housing providers should include:

- Carrying out risk assessments on prisoners to enable risk management.
- Provision of appropriate accommodation in accordance with identified support needs and category type of previous offences, for example schedule 1 and violent offences
- Resettlement work with ex-prisoners on release and those on probation.

Housing advice:

- Housing Advisers should receive training on risk assessment issues related to offenders and the criminal justice system.
- Advisors need access to a wide geographical range of housing information, as prisoners are not always local to their area of release. This could include access to a second tier advice service.¹⁵

The ODPM Select Committee's 2004-05 inquiry into homelessness identified prevention of homelessness as a key issue for ex-offenders. The Committee recommended that all prisons should have a specialist housing advice centre, or, at the least, ready access to specialist housing advice, in order to reduce the number of prisoners who leave without settled accommodation and thereby reduce the rate of re-offending.¹⁶ The Government's response is reproduced below:

The Government agrees with the Select Committee about the importance of housing advice services and the role they can play in ensuring that ex-offenders have a settled home on leaving prison. All local prisons now have dedicated housing advisers and the number of housing advice centres in Category C establishments has increased significantly.

The Prison Service introduced a shadow Key Performance Indicator in April 2004 to increase the number of prisoners released with an address to go to – which will be formalised from April 2005. This is already delivering results: in December 2004, 81% of prisoners for whom records were held had accommodation arranged for their release (up 14% compared with December 2001).

From April 2005 all local prisons will be required to carry out housing needs assessments for every new prisoner, including remands and those serving short

¹⁵ Taken from Shelter's website in 2006

¹⁶ HC 61-I, Third Report of Session 2004-05, [Homelessness](#), para 91

sentences. This will identify those who require assistance closing down, sustaining, or transferring tenancies and Housing Benefits claims, and those who need help finding accommodation for release.¹⁷

The Homelessness Code of Guidance for Local Authorities acknowledges that ex-offenders are particularly at risk of becoming homeless; the guidance advises local authorities to take account of this in devising their homelessness strategies:

Early identification of people at risk will be crucial to preventing homelessness. Housing authorities should consider agreeing protocols for joint action with local agencies in order to assist with early identification and prevention measures.¹⁸

The Code contains detailed advice on action authorities might take to tackle homelessness at an early stage:

Around a third of prisoners lose their housing on imprisonment, so it is important that prisoners receive effective advice and assistance about housing options, either prior to or when being remanded or sentenced to custody. Assessing an offender's housing needs at this point will help to identify those prisoners who may require assistance to bring to an end, sustain or transfer an existing tenancy, make a claim for Housing Benefit to meet rent costs while in prison, or to help a prisoner transfer or close down an existing tenancy appropriately. Local authorities are advised to assist the Prison Service in providing advice to prisoners and taking action to ensure they can sustain their accommodation while in custody.

It is recommended that housing advice be made available to offenders throughout the period of custody or detention to ensure that any housing needs are addressed. It is important that early planning takes place between prison staff and housing providers to identify housing options on release, to prevent homelessness and enable them to make a smooth transition from prison, or remand, to independent living.

All prisoners in local prisons and Category C prisons have access to housing advice. And, from April 2005 all local prisons have been required to carry out a housing needs assessment for every new prisoner, including those serving short sentences. Local authorities are advised to assist the Prison Service in delivering these services.

All Youth Offending Teams (YOTs) now have named accommodation officers. YOTs can offer both practical support to children, young people and their families and can increasingly play a key strategic role in ensuring that young offenders are effectively resettled through accessing mainstream provision and services.

Joint working between the National Offender Management Service/Youth Offending Teams and their local housing authorities is essential to help prevent homelessness amongst offenders, ex-offenders and others who have experience of the criminal justice system. Options might include:

- having a single contact point within the housing authority to provide housing advice and assistance for those who have experience of the criminal justice system;
- Probation staff offering information on securing or terminating tenancies prior to custody;
- running housing advice sessions in local prisons to further enable prisoners to access advice on housing options prior to their release;

¹⁷ Cm 6490, p.7

¹⁸ CLG, July 2006, para 4.9

- prisons granting prisoners Release On Temporary Licence to attend housing interviews with landlords;
- developing tenancy support services for those who have experienced the criminal justice system.¹⁹

The Code also suggests some specific action in relation to the development of a homelessness strategy that might be expected to be taken by other organisations; for example:

National Offender Management Service

- complete a basic housing needs assessment on entry to custody in all local establishments;
- share information with other agencies on risk of harm, potential homelessness and vulnerability;
- develop local protocols regarding dealing with potentially homeless offenders and information sharing;

as part of the local Supporting People Commissioning bodies, provide specialist knowledge to help commission new services for vulnerable offender and victim groups.

Regional Offender Managers

- ensure regional strategic representation of the needs of offenders in custody and the community.

Youth Offending Team

- work with children and young people to prevent their offending, effectively integrate them and their families within the community and ultimately prevent evictions.²⁰

The 2009 research commissioned by the DWP in respect of PSA 16 made the following recommendations for improving the housing outcomes of offenders on probation:

- There is good practice in establishing networks of specialist housing support services that work closely with probation in most major cities. This is best pursued, as is currently the case, by probation working closely with local strategic partnerships to ensure the right service mix is developed.
- The development of networks of specialist housing support services for offenders is more difficult outside the cities. However, proper strategic planning can ensure that generalist homelessness and other services are at least broadly equipped to meet the needs of offenders. Local Strategic Partnerships should ensure probation services have a central role in housing support planning in any area in which this is not the case.
- There is existing good practice in recruiting private sector landlords through a combination of disclosure management processes and making a clear business case to landlords. There is a case for producing detailed guidance with good practice examples to these models.

¹⁹ *ibid*, Annex 7 paras 24-28

²⁰ *ibid*, Annex 6

- More generally, the imaginative and flexible responses of probation and specialist housing services to relative shortages of suitable affordable housing could be disseminated. A key message is the capacity to use multiple possible routes to house offenders in housing need.²¹

Also in 2009, Communities and Local Government published good practice guidance for local authorities on the prevention of homeless in respect of ex-offenders, *Homelessness Prevention and Meeting Ex-Offenders' Needs*.

4 Applying on the housing register

Another development that was beneficial to the housing prospects of ex-offenders is the removal by the 2002 Act of the imposition by local authorities of 'blanket bans' against certain people, including ex-offenders, from being able to apply for social housing via local authority housing registers. However, authorities may still prevent applicants from registering where they have exhibited past behaviour which, in the authority's view, is serious enough to make him or her unsuitable as a tenant.²² Each case must be judged on its merits.²³

5 Housing Benefit

In *Reducing Re-offending by Ex-prisoners* the Social Exclusion Unit recommended that the Government should consider 'enabling more prisoners to retain their housing or pay unavoidable arrears.' Prisoners serving a custodial sentence of longer than 13 weeks may not receive Housing Benefit. Thus, unless a family member can take over the claim this frequently results in the loss of the accommodation. The Government has amended the Housing Benefit regulations to allow prisoners to receive Housing Benefit for the period of notice on their former home for up to 4 weeks if the total absence is likely to exceed 13 weeks (i.e. those sentenced over 26 weeks). The aim of this change was to prevent prisoners from building up rent arrears whilst in prison which may then impede their ability to obtain accommodation on release.

The ODPM Select Committee hoped that the Government would consider covering tenancy notice periods of up to six weeks²⁴ but the Government's response said there were no plans to do so.²⁵

The home detention curfew scheme (tagging) can mean that it is possible for a prisoner serving a sentence of several months to be released within 13 weeks and hence to continue receiving Housing Benefit.

²¹ DWP, *Delivering better housing and employment outcomes for offenders on probation*, 2009 – DWP Research Report 610

²² Section 160A(7) of the *1996 Housing Act 1996*

²³ See Chapter 4 of the *Code of Guidance for Local Authorities on the Allocation of Accommodation* (section on unacceptable behaviour), 2002

²⁴ HC 61-I, Third Report of Session 2004/05, *Homelessness*, para 102

²⁵ Cm 6490 para 21