

# Coronavirus and homelessness – Part 1

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The recording may be accessed [here](#).

## Before we begin...

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# Introduction

Who are we?

What is this about?

Part 1 and Part 2

Questions and engagement

## Overview

- Letter from Minister on 26 March 2020:
  - “It is our joint responsibility to safeguard...”
  - “Our strategy must be to bring in those on the streets...”
  - “Utilise alternative powers and funding to assist those with [NRtPF] who require shelter and forms of support...”
  - “Urgently procuring accommodation for people on the streets...”
  - “...utilise your commissioned homeless services...”
  - “In the longer term...necessary to identifying [sic] step-down arrangements...including...re-opening of shelter-type accommodation.”
  - “...by the end of next week.”
  - “...grant will cover all costs incurred in the first phase...”

## Overview (2)

- Funding.
- Lack of statutory guidance.
- Part 7 of Housing Act 1996 not amended.
- Paperwork lag.
  - Applicants not notified or informed on basis upon which accommodated.
  - LAs playing 'catch up'.
  - LAs themselves not taken view on how basis upon which actions should be interpreted.

## Overview (3)

- Historic opportunity.
- But uncertainty:
  - Future funding.
  - Possession notices & claims.
  - Stay on proceedings ending on 23 August 2020?
  - Temporary accommodation.
- Scope for contentious arguments?

## Applications

What is an application? S.183(1) and 184(1)

- No form to complete
- No need to say “I am homeless” – question is whether they have applied for assistance and authority has reason to believe that they are homeless or threatened with homelessness
- What about immigration offenders?
- What about capacity?
- Factually, was an application made? Is picking someone up off the streets enough?

## Eligibility

s.185 and regulations thereunder

How do you house an ineligible person?

- s.185 is a bar – no “human rights” exception
- Localism Act 2011? But cannot be used to bypass another statute
  - *R (GS) v Camden LBC* [2016] EWHC 1762 (Admin) provides support for the alternative view, the correctness of that decision has twice been doubted: *R (Aburas) v Southwark LBC* [2019] EWHC 2754 (Admin) and *R (AR) v Hammersmith & Fulham LBC* [2018] EWHC 3453 (Admin).
- Letter 28 May 2020 from Luke Hall MP
- Care Act 2014? But two tier areas? And housing is not itself a Care Act service

## Asking the wrong question?

- Provision of accommodation in national emergency purpose of Part 7?
- Acting not as LA but assisting HM Govt deliver emergency response to national emergency?
- LA should seek legal advice.
- In absence of guidance and with position unclear:
  - 'Hedge bets' when explaining basis of provision to ineligible/non-PN?

## Are you homeless?

- **No accommodation** which individual has a right to occupy because of:
  - legal interest (e.g. ownership or tenancy)
  - licence (permission)
- **Accommodation** – but **not available**
  - cannot secure entry (physical availability)
  - not available for all household members (legal availability)
- **Not reasonable to continue to occupy** accommodation
  - unaffordable
  - occupation will lead to domestic abuse or violence / threats of violence which are likely to be carried out
  - other reason

## Reasonable to continue to occupy

- Open ended category:
  - Risk to health.
  - Power to compare applicant's circumstances with housing conditions prevailing in LA's district (s.177(2)).

## Affordability

- Open ended category:
- Inability to meet housing costs + necessities of life + reasonable living expenses.
- Requires objective assessment (*Samuels v Birmingham CC* [2019] UKSC 28 at [34])).
- Affordability must be judged on basis that accommodation available indefinitely, (*Samuels* at [34] applying *Birmingham CC v Ali* [2009] UKHL 36).

## Compare within the district

Power to compare applicant's circumstances with housing conditions prevailing in LA's district (s.177(2)).

## Q&A

**We will now answer as many questions as possible.**

**Please feel free to continue sending any questions you may have via the chat section which can be found along the top or bottom of your screen.**

# Thank you for listening

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