



Focus Ireland Information Guidebook

Working to end
homelessness

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Introduction

One of the most demanding situations which a front-line advice giver can face is to respond to a person or family at imminent risk of becoming homeless. The crisis they face is undoubtedly the result of a complex set of interacting factors, each of which might require specialist expertise. You have training and access to a wide range of experts to help you assist your client to unravel each element of their situation. But that will take time, and the person, or family, seeking advice has no place to stay for the coming night.

So, a different set of questions arises. What can I do this afternoon to get this person shelter and food? How can they pay for their accommodation? What reassurance can I give that services are available which can help them tackle their situation?

Due to high levels of long-term unemployment and unsustainable levels of personal debt, more people than ever are at risk of losing their homes. This means that, increasingly, front-line advice givers, be they volunteers or paid professionals, are having to deal with individuals and families in these crisis circumstances. But most towns or city suburbs do not have a specialist housing advice centre.

The guidebook is not designed for advice workers in these specialised housing advice centres. Instead, it is intended for the general advice workers based in information centres who do not regularly meet clients who are homeless or facing homelessness – but when they do come through your door they need immediate and detailed support.

The guidebook does not seek to help you to deal with problems of personal debt, access to unemployment payments or training – even though some of these are certainly among the issues your client will need assistance with in the longer term. There are many excellent sources of information on those issues already.

This guidebook attempts to give practical information specifically related to homelessness – how to prevent it and how to help people escape from it as quickly as possible. It focuses on the specific pieces of regulation and legislation which can assist particular categories of people facing homelessness but which are too infrequently used to be included in most guidebooks or training.

The guidebook is divided into sections following the pattern of the 'Pathway to Home' model along which homeless services operate. The section you need depends upon the current circumstances of your client: prevention, access to crisis homeless services, and exiting from homelessness. We also include a chapter on specific programmes which affect people who are homeless and the operation of the Habitual Residence Condition (HRC).

Perhaps most useful of all, there is an index at the back.

We have attempted to include only information which will have continued relevance, and the guidebook is backed up by the web-based Focus Ireland Homeless Prevention Hub (available at www.focusireland.ie/our-services/hub/guidebook), which contains support materials, useful contact numbers, information on circulars, a list of organisations that may assist and other relevant information.

The *Pathway to Home* model of service provision



Three insights have pushed Focus Ireland to produce this book:

- Our research shows that a high proportion of people who become homeless seek no advice about their situation before they actually come into contact with homeless services
- The experience of our outreach workers is that many people who sleep rough for one or two nights are doing so because they lack information about the services which exist
- International research shows that the longer a person is homeless the more support they need to return to mainstream living

If this guidebook can help you to get accurate information to people at the right time, together we can reduce the number of people who become homeless, bring people who do become homeless into earlier contact with services, and reduce the time any person will remain without a home.

Chapter 1

Prevention: Information for people at risk of homelessness

People can find themselves at risk of homelessness for a wide variety of reasons. It can happen to anyone: home owners, or people renting in the private or the social housing sector. Families become homeless as well as single people, children as well as adults.

There are a number of legal and procedural protections for people facing homelessness in all housing sectors, but often people who have become homeless will have never sought information about how to avail of these before they are in a crisis.

This section provides information for people who are at risk of losing their home. The issues that arise depend entirely on what type of accommodation the person is living in – that is, who owns the accommodation:

- Property owned and rented by a private landlord (privately rented accommodation)
- Property owned by a Voluntary Housing Body (Approved Housing Body Social Housing)
- Property owned by the Local Authority (Local Authority Social Housing)
- Property owned (or part-owned) by the client (owner occupied)

Money advice

Usually when someone is struggling to pay their rent or mortgage payments it is part of a broader picture of indebtedness. They should contact the Money Advice and Budgeting Service (MABS). MABS is the only free, confidential, independent service for people who are in debt, or in danger of getting into debt.

The MABS website provides a number of useful resources to help people manage their household budgets, such as a Budgeting Tool to help in managing to stay out of debt, and a Self-Help Guide for people who are already in arrears.

MABS also offers a service to support people in dealing with debt, which includes an assessment, setting realistic budgets and help with contacting and negotiating with creditors.

MABS, together with the Citizens Information Board, has also developed a website – www.keepingyourhome.ie – which includes a range of information specifically for people who may be at risk of becoming homeless.

1.1 Private rented tenancies

What sort of tenancy is in place?

If your client is living in private rented accommodation, you first need to check whether the tenancy is covered by a lease agreement and whether they are named in that agreement as the tenant.

A number of different situations may emerge from this:

- The client has a written, continuing tenancy agreement (sometimes referred to as a Part 4 Tenancy)
- The client has no written tenancy agreement but has occupancy on a continuing basis, paying rent as a 'tenant'
- The client is staying with friends and has no tenancy rights

Where the person is not the tenant (eg, has been staying with a friend or partner but is not mentioned on the agreement) s/he has no legal rights to remain in the dwelling. However, before moving on to Chapter 2 (how to find emergency accommodation), it might be worth exploring if there is any possibility to resolve the problems which have resulted in the termination of the current arrangement. Threshold, a national housing charity, may be able to provide further information and advice in relation to tenancies.

What does registration with the RTB/PRTB mean?

The Private Residential Tenancies Board (PRTB), renamed the Residential Tenancies Board (RTB) in 2014; the names refer to the same organisation.

All tenancies covered by the Residential Tenancies Act 2004 must be registered with the Residential Tenancies Board (RTB) by the landlord within one calendar month of their creation. If the client is unsure whether their tenancy is registered, you can check for it on the Residential Tenancies Board website (www.prtb.ie or www.rtb.ie).

Clicking on 'Is my tenancy registered' on the home page allows you to call down a list of registered tenancies county-by-county. These can be 'searched' to find the address of the property using the search tool on your browser. However, recently registered properties may not yet be on the list. Particularly in the case of multiple occupancy dwellings, this search may not reveal any useful information.

Even if the tenancy is not registered, this does not undermine your rights as a tenant.

Tenants can register their tenancy in the property themselves by downloading and completing the Registration Enforcement Referral form and either emailing it to enforcement@prtb.ie or posting it to Registrations Enforcement Section, Private Residential Tenancies Board, PO Box 11884, Dublin 2.

Eviction from secure or Part 4 tenancies

Where the tenancy is covered by a lease agreement, neither party can break the lease before the end of the term unless:

- There has been a breach of the lease terms
- The lease includes a break clause that covers early notice, or
- Landlord and tenant come to a mutual agreement to end the lease early

The Residential Tenancies Act 2004 provides for a number of important rights and responsibilities which must be adhered to for a tenancy to be terminated.

Security of tenure

Landlords can terminate tenancies within the first six months without giving specific grounds. However, once a tenancy has lasted at least six months, landlords can only terminate the tenancy if any of the following apply:

- The tenant doesn't comply with their tenancy obligations
- The property is no longer suited to the needs of the occupants, eg, it is overcrowded
- The landlord intends to sell the dwelling in the next three months
- The landlord requires the dwelling for a family member
- The landlord intends to refurbish the dwelling
- The landlord intends to change the business use of the dwelling

Has the landlord issued correct notice for terminating a secure tenancy?

Even where the landlord has the right to terminate the tenancy on one of the grounds above, they must go through a specific legal process before the tenant is required to leave the premises. Landlords sometimes fail to follow the correct procedure for eviction, so it is well worth checking in some detail what has happened. If the legal procedure has not been followed correctly, any eviction is an illegal eviction (see page 10).

1 Has the landlord issued a written Notice of Termination?

A tenancy can only be terminated by means of a written Notice of Termination – regardless of the reason for the termination. Has your client received such a letter?

2 Does the Notice of Termination contain the correct information?

As noted above, landlords do not have to provide a reason for terminating a tenancy in the first six months, but must provide one of the reasons listed above after that. The Notice of Termination must, by law, include the following:

- Be in writing
- Be signed by the landlord or their authorised agent
- Specify the date of service (ie, the date on which it was given to the tenant)
- State the reason for termination (where the tenancy has lasted for more than six months or is a fixed-term tenancy – see Security of Tenure above for the allowable reasons for termination)
- Specify the termination date (the date by which the tenant must leave) and that the tenant has the whole of the 24 hours of this date to vacate possession
- A statement that any questions over the validity of the notice or the right of the landlord to serve it must be referred to the Residential Tenancies Board within 28 days from the receipt of the notice

3 Did the notice give sufficient notice of termination?

The period of notice depends on the duration of the tenancy, and whether it is the landlord or tenant who is terminating the tenancy:

Duration of Tenancy	Notice by Landlord	Notice by Tenant
Less than 6 months	28 days	28 days
Over 6 months and less than 1 year	35 days	35 days
Over 1 year and less than 2 years	42 days	42 days
Over 2 years and less than 3 years	56 days	56 days
Over 3 years and less than 4 years	84 days	56 days
4 or more years	112 days	56 days

Shorter notice periods can apply where termination is for non-compliance with tenancy obligations:

- Seven days for serious anti-social behaviour
- 28 days for other breaches

Such special reasons must be specified in the written notice from the landlord.

4 In the case of arrears, did the landlord issue the required warning letter?

Where the tenant is to be evicted because of rent arrears, the landlord must first send a separate letter notifying the tenant of the arrears and giving at least 14 days to set things right. Only after those 14 days, and if the problem remains, can the landlord issue the Notice of Termination.

If the landlord has failed to issue the warning letter about the arrears, or does not leave 14 days for the tenant to comply, the Notice of Termination is not valid.

Illegal evictions: What to do if the procedure has not been followed?

If the landlord has failed to comply with any of the legal steps above, the Notice to Termination is not valid and any attempted eviction would be illegal.

A tenant who has been illegally evicted can appeal to the Residential Tenancies Board. Illegal evictions are a serious breach of the law and the RTB has the power to:

- Award damages against the landlord of up to €20,000
- Award some form of recompense to the tenant

Most landlords will call off an eviction if they are reliably informed that they have made an error in the procedure and so face prosecution and a fine. This might provide an opportunity to refer the causes of the attempted eviction to the RTB's 'dispute resolution process' (see below). Even if the landlord immediately initiates a new eviction using the correct procedure, the client has time to rectify the situation or find alternative accommodation.

If the termination process has not been followed correctly, you could, depending on the policy of your organisation, contact the landlord or provide the client with a letter setting out your concern that correct procedures were not followed in this case (stating which element of the procedure) and that the landlord is at risk of action by the RTB. Make sure you indicate that this view is based on the information currently available to you.

Where it is clear that, despite errors in procedure, the landlord intends to evict the tenant, a number of options arise for the client:

- They should inform the Garda that they believe they are about to be evicted from their home, outlining the reasons why the eviction is illegal.
- Contact the Residential Tenancies Board, explain the circumstances and request that it apply to the Circuit Court for interim or interlocutory relief (see box below). They should inform the landlord that this contact has been made.
- Make a list of any items which they have been denied access to or which have been damaged or lost during the illegal eviction.
- Prepare for a possible RTB hearing by:
 - Making a recording (sound and photos) of the illegal eviction on their phone or video camera. It is advisable to inform the landlord/agent that such a record is being made as this will assist in using it as evidence in any court hearing. Keep a written record of events: vehicle number plates, incoming phone numbers, Garda badge numbers, etc.

In certain circumstances, where a dispute has been or is being referred to the Residential Tenancies Board, the board (at the request of the person referring the dispute) may apply on behalf of the aggrieved party to the Circuit Court for interim or interlocutory relief (this is usually an application for an injunction to prevent the landlord proceeding with the eviction in the short term). However, it should be noted that the board has discretion on whether to accede to the request, and the decision will depend on the circumstances of each case. Such a court order can only be requested prior to the actual eviction.

Deposits

Tenants are at much greater risk of becoming homeless when they fail to get their deposit back from the landlord, as they cannot afford to create a new tenancy with another landlord. Designated Officers in the Department of Social Protection (formerly Community Welfare Officers) can provide a deposit for people who need one to get accommodation and fulfil the criteria, but our experience is that most will only provide a second deposit in exceptional circumstances.

At the time of publication, new legislation about how deposits are held and returned is about to be passed into law. To get an update on this situation see the public information website www.citizensinformation.ie or the Focus Ireland Prevention Hub.

Rental Accommodation Scheme (RAS)

It is important to note that, despite the Rental Accommodation Scheme (RAS) being a form of social housing support, disputes between landlord and tenant under this scheme are addressed through the Residential Tenancies Board (RTB). It is anticipated that housing managed by Approved Housing Bodies (colloquially known as the Housing Associations) will soon fall under the remit of the RTB as well. Where a tenant is housed under RAS, the Local Authority has the same responsibility for re-housing them as it would for one of its own tenants. Tenants facing eviction from RAS properties should contact the Local Authority.

Dispute resolution in the private rented sector

The RTB provides a mechanism for resolving disputes between landlords and tenants, eg, deposit refunds, breaches of tenancy obligations, terms of lease, termination of tenancies, rent issues, or complaints from neighbours about tenant behaviour. Tenants and landlords should be encouraged to explore this option, particularly where the tenant faces a period of homelessness on eviction.

Issues which arise when a private rented tenant gives notice

As a tenant is unlikely to give notice to break the tenancy without another home to move to, this situation is unlikely to lead to a risk of homelessness, and so is not dealt with in detail here. However, failure to give the requisite notice is likely to result in the landlord retaining the deposit and the tenant therefore finding it impossible to secure alternative accommodation as planned.

A tenant who does not serve the landlord with formal written notice endangers their deposit. If a Part 4 tenancy is in place, the tenant could also be held liable for the remainder of the rent owed for the rest of the lease period.

The Residential Tenancies Act provides how a tenant should terminate a tenancy. The notice must be in writing and signed by the tenant. It should specify the date of service and the date the notice will expire. The notice must state the following:

‘Any issue as to the validity of the notice or the right of the tenant to serve it must be referred to the Residential Tenancies Board under Part 6 within 28 days from the date of receipt of it.’

A tenant can give 28 days’ notice at any time if the landlord is in breach of his or her obligations. To avail of the shorter period, a tenant must notify the landlord in writing of the breach and give the landlord a reasonable opportunity to rectify the position.

Where a landlord refuses consent to assign or sub-let a fixed-term tenancy, the tenant can terminate the tenancy before the fixed term expires provided they give adequate notice under the Residential Tenancies Act 2004.

1.2 Evictions where a housing association is the landlord

It is quite common for tenants of a Housing Association to believe their landlord is the Local Authority, but their rights are very different.

When the Residential Tenancies (Amendment) (No 2) Bill 2012 is enacted (probably in 2015), tenants of Housing Associations will be covered by the same rules as tenants in the Private Rented Sector, with a few exceptions. The exceptions generally relate to tenants who receive nursing or other care supports as part of their tenancies. These are complex issues and best dealt with through a lawyer or specialised housing adviser.

1.3 Evictions from local authority accommodation

While Local Authority housing has traditionally been seen as the most secure form of accommodation for low-income households, Local Authorities have increasingly resorted to eviction procedures in response to rent arrears and accusations of anti-social behaviour. Local Authority tenancies are not covered by the RTB legislation and Local Authorities have considerable powers under various Housing Acts and regulations.

Local Authorities have the power to apply to court in order to evict tenants under section 62 of the Housing Act 1966: Recovery of Possession of Dwellings by a Local Authority. The application of the procedure outlined in section 62 has recently (in the case of *Donegan v DCC* [2012] IESC 18) been found to be incompatible with Article 8 of the European Convention of Human Rights. Article 8 of the convention protects the right to respect for one's family and private life. A declaration of incompatibility can be made by the court under section 5 of the European Convention on Human Rights Act 2003. If any such eviction notice is received under this legislation, expert legal advice should be sought.

If a Local Authority believes a tenant has breached a tenancy agreement, it can proceed with eviction. However, there are conditions that must be met and a formal process to be followed.

While Local Authorities use different approaches, there are generally three main stages in an eviction. It is essential to establish where in this process your client stands so appropriate advice can be given. In all cases the preliminary advice to the client should include: do not hand in the keys or vacate the dwelling unless and until you have received expert legal advice. Stages:

- i Local Authority Procedure
- ii Notice to Quit
- iii Court Proceeding

i Local Authority Procedure

If your client is at this stage in the process, they will usually have received a letter from their Local Authority stating that the authority is concerned about some aspect of the tenancy, eg, rent arrears or anti-social behaviour. The letter may ask the tenant to attend a meeting to discuss the issue; it is important that tenants attend such meetings. Tenants should ask for details about the complaint to be sent to them in writing in advance of the meeting.

It can be a great help to tenants to bring an expert legal advisor with them to the meeting who can advocate on their behalf. It is also important to take a note of the meeting, and, if possible, to have all parties agree to this.

The aim of the meeting will be to reach agreement on addressing the cause of complaint, ie, what action the tenant needs to take.

Local Authorities sometimes hold internal reviews and may ask tenants to provide a letter stating the reasons the tenancy should not be terminated.

If a Local Authority wants to proceed with an eviction, it will get a Manager's Order (or a similar administrative mechanism) to allow it to proceed. Tenants are not notified of this step, but where a tenant is aware that a Local Authority is proceeding in this manner they should ask for an opportunity to put their side of the story to the manager.

ii Notice to Quit

Tenants who have reached this stage in the process will have been served with a formal Notice to Quit letter. This demonstrates that the Local Authority has exhausted any internal procedures (above) and wishes to proceed with terminating the tenancy. The notice will specify the time period in which the property should be vacated. If the tenant hasn't left by the date set in this notice, the Local Authority can move to the final stage by applying to the District Court for a Possession Order.

If a tenant in this situation has not already sought legal advice, they should be strongly advised to do so at this stage.

iii Court Proceedings

If your client has received a Notice to Quit but has not left the accommodation, they will receive a summons to and a date for a court hearing. Under the legislation, as long as the Notice to Quit has been correctly served, the court must give the Local Authority a Possession Order, which allows them to evict the tenant.

If your client is at this stage in the proceedings, they need expert legal advice, particularly in relation to the findings of a recent court hearing *Donegan v DCC*.

If this court hearing is pending and the client has not yet obtained legal advice, their best option might be to seek an adjournment of the hearing while they seek such legal advice and prepare their case. Such an adjournment is more likely to be granted if the Local Authority, or its lawyers, is contacted and the circumstances requiring the adjournment explained. Depending on the policy of your centre, you could telephone the Local Authority or its lawyers to request this, and you should follow up the verbal request with a letter.

It will help if your client is willing to commit to avail of whatever supports are available to help them deal with the issues which led the Local Authority to take action (MABS, drugs rehabilitation, tenancy support, etc). Even without such prior agreement, the client should still attend the hearing and make the case for an adjournment to seek legal advice (and deal with the underlying issues).

Tenancy Sustainment and Prevention Services

A number of Local Authorities now operate Homeless Prevention or Tenancy Sustainment services for people at risk of losing their tenancy, often provided by voluntary organisations. These services work with the tenants using a case management model to assist them to deal with the money management or behaviour issues which are threatening their tenancy. Such services can avert eviction and homelessness, but clearly the earlier such services are brought into the process the better. Check whether your Local Authority has such a formal process, and, if so, whether your client can be referred to it.

Local Authority areas which have not established such formal services may still be open to a proposal to bring in such outside services to assist tenants to deal with the problems which threaten their tenancy.

1.4 Owner occupiers

Anyone who is no longer able to meet their mortgage payments is at risk of losing their home. However, there are procedures in place to help mortgage holders come to a manageable agreement with their lender. It is, therefore, unlikely that owner occupiers will present at advice centres in immediate risk of homelessness, so there will normally be adequate time for the client to avail of specialist services.

The key advice for owner occupiers who are at risk of repossession is to keep in contact with their lender.

The Citizens Information Board has developed a specific website for people facing mortgage problems www.keepingyourhome.ie as well as a mortgage arrears information helpline which can be contacted at 076 107 4050.

Mortgage arrears are usually associated with a range of other personal debt issues and are best dealt with in this context. The Money Advice and Budgeting Service offices are located throughout the country and it is advisable to contact them for professional advice on budgeting (see www.mabs.ie for your nearest MABS office).

They will assist in preparing a detailed budget which lists all income and expenditure in the household. It is essential not to ignore any communications received from the lender.

The Central Bank's Code of Conduct on Mortgage Arrears (CCMA) sets out the framework which lenders must use when dealing with borrowers in mortgage arrears or in pre-arrears. Under the CCMA, lenders must operate a Mortgage Arrears Resolution Process (MARP) when dealing with arrears and pre-arrears customers. This requirement was introduced in January 2011 and the rules have changed under the revised CCMA, which came into effect in July 2013. A link to the most recent version can be found on the Central Bank website (www.centralbank.ie) under Publications.

It is worth noting that a borrower can lose the protection of this code if they are deemed to be not cooperating.

A borrower can be considered to be not cooperating if:

- i They fail to make a full and honest disclosure of information to the lender that would significantly affect their financial situation
- ii They fail to provide information sought by the lender which is relevant to their financial situation
- iii Three months elapse during which the borrower
 - Fails to make their mortgage payments in full, as specified in the mortgage agreement or the terms of an alternative repayment arrangement
 - Hasn't made contact with, or responded to, communications from the lender or a third party acting on the lender's behalf

Impending eviction of owner occupiers in mortgage arrears

If a household seeks advice only at a point where a court hearing or eviction is imminent, it is important first to advise them that they should apply for free legal aid if they cannot access representation from their own resources. The first application for legal aid may be turned down as the matter relates to land ownership; however, it is worth appealing this decision.

The household should still be advised to engage with MABS and prepare a realistic repayment plan.

What happens if someone plans to surrender their home?

Some households may be tempted to 'hand back the key' of their home to the bank or lender when mortgage payments have become unsustainable. This option is available in some countries, such as the USA, but the legal situation is different in Ireland. Even if a mortgage holder relinquishes their dwelling they will still be liable for the outstanding debt, including any accrued interest, charges, legal, selling and other related costs. It may also affect their entitlement to Social Welfare benefits. Clients should be advised not to surrender their home, except as the result of detailed legal advice.

1.5 People at risk of homelessness in more complex situations

There are a number of other circumstances in which specific rules may apply to a person facing homelessness.

The client is a victim of domestic violence leaving the home

Quite often it is the victim of domestic violence who leaves the family home. Unfortunately, under the current Local Authority assessment procedures, no housing provision is specifically made for such situations. In order to be assessed as having a social housing need, your client would have to show the Local Authority that they are in need of accommodation and that they are unable to provide for this from their own resources. It may be difficult to show that they have a need for accommodation where they have a continued interest in a property (such as the family home). The Local Authority may consider a request for separate accommodation on exceptional or medical grounds, but this is discretionary.

If the person fleeing domestic violence is a parent accompanied by a child, the Local Authority has legal responsibilities in respect of the child. Where a child is without accommodation, but is not in State care, the HSE has a statutory obligation (under the Child Care Act 1991, section 5) to provide suitable accommodation to people under the age of 18 years. In most cases both the parent and child/children are provided with accommodation by the

Local Authority, but in some circumstances the homelessness of the parent may ultimately contribute to the child being taken into care. While the same statutory obligation doesn't exist for adult victims of domestic abuse, there are a number of organisations which can assist women in such situations (Women's Aid, Sonas, Saoirse, etc).

Circumstances in which people flee domestic violence are almost always complex and the client may continue to be at risk from the abusing partner. Because of this, general advice services should not give advice such as 'you should return to the family home to secure your ownership rights'. Aside from assisting, if possible, with the immediate accommodation need, general services should refer clients to specialised domestic violence services.

The client is subject to a barring order

A person can be the subject of a barring order for up to three years. If, prior to the order being made, their only tenancy rights related solely to the family home, and they have subsequently been barred from this, they are effectively homeless. Under the Social Housing Assessment Regulations 2011 a person can be considered eligible for social housing support if they don't have any alternative accommodation that could reasonably be expected to meet their need. As a barring order makes it unlawful for an individual to use their family home to meet their housing need, they could be eligible for social housing support (provided they can also show that they are unable to provide for such accommodation from their own resources). Any such person should be directed to their Local Authority to be assessed.

People leaving acute hospital

People leaving acute hospital may be discharged without having any existing tenancy rights. In such circumstances, they may be leaving hospital and moving into homelessness or into insecure/temporary accommodation. The HSE's code of practice for Integrated Discharge Planning¹ recommends that a policy should be developed by hospitals, the voluntary sector and the Local

¹ http://www.hse.ie/eng/services/Publications/services/Hospitals/Code_of_practice_for_integrated_discharge_planning.pdf

Authority in partnership with each other around the discharge of individuals who are homeless or living in temporary and/or insecure accommodation. Any person who is identified as falling into this category should (with their consent) be referred to homeless services by the hospital on admission and once again when they are due for discharge. Medical social workers, attached to the hospital, may be able to assist individuals in this regard.

If a person is eligible for social housing support they may be able to have their needs prioritised under the Scheme of Letting Priorities in their Local Authority based on medical grounds.

People leaving psychiatric hospitals

People leaving psychiatric hospitals may be discharged without having any existing tenancy rights. This may occur for a number of reasons, eg, they may not have had any such rights prior to being admitted or may have lost them during their treatment. It should be noted, however, that the Mental Health Commission Code of Practice on Admission, Transfer and Discharge to and from an Approved Centre² recommends that, where a person is homeless, the multi-disciplinary team should refer them to the housing authority and the key worker should liaise with local social, housing and homeless services to arrange for continuing support in the community.

It also recommends that protocols be developed in relation to information sharing and discharge planning for homeless persons with mental illness between psychiatric hospitals (approved centres) and relevant social, housing and homeless agencies. Such protocols should deal with joint planning at the earliest possible opportunity following admission.

Similarly to leaving acute hospitals, if a person is eligible for social housing support they may be able to have their needs prioritised under the Scheme of Letting Priorities in their Local Authority based on not only medical grounds but also on the grounds of a disability. A person who has been treated in a psychiatric hospital will usually be discharged with a community care plan and their keyworker can, with the person's consent, be contacted in this regard.

² http://www.mhcirl.ie/Mental_Health_Act_2001/Mental_Health_Commission_Codes_of_Practice/Admission,Transfer_Discharge/

Adolescent children leaving their family

For the issues facing young people who have left the family home and are dependent on Social Welfare see Chapter 4, Section 2.

Young people leaving the care of the State

Where a young person is leaving the care of the State they may be able to access supports around their move to independent living. Certain people leaving care are entitled to aftercare support and this support could prevent homelessness and can provide invaluable support to the young person in preparing for their adult life. If a young person, who is leaving care, presents as homeless or at risk of homelessness, contact should be made with the local social work department, Focus Ireland, EPIC etc, so advice and information can be given around their right to aftercare.

Furthermore, a person leaving care may also be entitled to a higher social welfare rate, see Chapter 4, Section 2 for further information in relation to this.

People leaving prison

A person who is being released from prison may have an increased risk of homelessness. There are prison in-reach services available to prisoners to assist them with their post release settlement. Some of these services are provided by Focus Ireland, the Peter McVerry Trust and by the Homeless Person's Unit.

Adults leaving a relationship

It is important to note that this section deals with circumstances other than where the client is fleeing a violent relationship. In this situation the tenure of the housing they have left can dictate the nature of the difficulties they will encounter.

- i If they have been living in private rented accommodation where the tenancy was in their own name (jointly or solely), and they have proof of residence, they should be eligible for Rent Supplement as per Chapter 3, Section 2.
- ii If they have been living in Local Authority housing they will need to inform the authority they have moved out. They may be asked to provide legal documents to show the accommodation is no longer available to them.
- iii If they have been living in accommodation as an owner occupier they will encounter particular issues, as they are considered to have an interest in a house. This means the Local Authority will most likely assess them as not having a housing need and are therefore not eligible for Rent Supplement. They may be asked to provide legal documents (such as an affidavit) to show that the accommodation is no longer available to them.

In cases II and III the person should seek legal advice.

Chapter 2

Crisis: When someone requires emergency support

This section looks at the type of questions which arise when the client is in a crisis but has not yet engaged with homeless services. In particular, it looks at the steps that must be taken to access emergency accommodation and basic payments and entitlements.

What is homelessness?

Homelessness is legally defined in Section 2 of the **Housing Act, 1988**³, which says a Local Authority must consider a person homeless if:

- i There is no accommodation available which they, along with anyone else who usually lives with them, eg, a partner and/or children, can reasonably occupy, or continue to occupy; **or**
- ii They are living in a hospital, county home, night shelter or other similar institution because there is no other accommodation available to them
and
- iii They are unable to provide accommodation from their own resources

It is important to emphasise that a person doesn't have to be using temporary accommodation specifically for homeless people to be legally considered homeless.

For a discussion of how homelessness can be understood in broader policy terms see the Appendix. (footnote 3 on following page)

2.1 Getting shelter

The first issue for someone in crisis is to secure emergency accommodation for the night.

Accommodation for people who are homeless is provided by either voluntary organisations or the Local Authority. However, in practice emergency accommodation is generally accessed through the Local Authority. In some areas and in limited circumstances an information provider can refer a person who is homeless directly to a suitable voluntary sector provider.

While there is no right to housing in Ireland, under the Housing Act 1988 each Local Authority has the responsibility to provide for the accommodation needs of people who are homeless. Each Local Authority maintains a 'housing list' of people who are in need of housing in that area. To get on the housing list a person (or household) must be deemed eligible through a 'housing needs assessment' carried out by the Local Authority.

In general, Local Authorities take responsibility for providing emergency accommodation only for those people who are on their own housing list. So the first step is to get on that particular housing list. Eligibility criteria for this assessment are discussed in more detail in Chapter 3 'Moving out of homelessness'.

Every Local Authority has a Housing Officer whose duties include providing assistance to any adult who is homeless to find emergency accommodation. Some larger Local Authorities have a designated Homeless Officer within their Housing Department.

³ Section 2 of the Act states: 'A person shall be regarded by a housing authority as being homeless for the purposes of this Act if —

- (a) there is no accommodation available which, in the opinion of the authority, he, together with any other person who normally resides with him or who might reasonably be expected to reside with him, can reasonably occupy or remain in occupation of; or
- (b) he is living in a hospital, county home, night shelter or other such institution, and is so living because he has no accommodation of the kind referred to in paragraph (a)
- (c) and he is, in the opinion of the authority, unable to provide accommodation from his own resources.'

If time allows, the first step in accessing emergency accommodation is for the person who is homeless to make an appointment to see the Homeless Assessment and Placement Service in their Local Authority. They must explain that they are homeless; in practical terms this means the person has:

- i Nowhere to stay on the day they present to the Local Authority
- ii Been staying in a place where they do not have a right to remain, eg, staying on a friend's couch
- iii Somewhere to stay, but where they are at risk of harm if they stay there, eg, a person who is suffering domestic violence.

The Housing Officer should refer a person in a homeless crisis to emergency accommodation in the area.

You can find contact details for Local Authorities⁴ on the Focus Ireland Homeless Prevention Hub (www.focusireland.ie/our-services/hub/guidebook), along with contact details for the closest Focus Ireland Office to you, where you can get help in sourcing and securing emergency accommodation.

(footnote 4 on following page)

Emergency response out of hours

In Dublin, there is a 24-hour emergency Homeless Helpline – 1800 707 707 – which can be used during evenings and weekends to help people in crisis find emergency accommodation.

This helpline can be used to find emergency accommodation for a person in any of the four Dublin Local Authorities: Dublin City Council, as well as Fingal, South Dublin and Dun Laoghaire-Rathdown County Councils.

In practice, services in the counties adjoining Dublin can try to avail of this service in an emergency.

If someone lives outside Dublin and encounters an emergency outside standard working hours it is advisable to contact hostels and outreach teams directly in their locality. You can find more information on who to contact out-of-hours in your area at the Focus Ireland Homeless Prevention Hub.

If circumstances mean none of these services is available in your area, ring the nearest Garda station.

Which local authority?

People can be declined access to the housing list, and therefore access to emergency accommodation, in a Local Authority area because they do not 'normally' live in that area. Sometimes this rule can be too narrowly applied, so it is always worth exploring the Local Authority's reasons in detail, particularly in relation to the 'connection through relatives' option below.

A person can apply for housing support from only one Local Authority; in general this can be either:

- i The area where the person normally lives, or in the case of a person who is homeless, the area where they last lived before they became homeless
- ii The Local Authority where the person has a 'local connection'

What does a 'local connection' mean?

A person should be considered by the Local Authority as having a local connection to an area if he/she, or a member of their household:

- a) has lived there for a continuous period of five years at any time, **or**
- b) is employed there, or within 15km of the area, **or**
- c) is in full-time education in a university, college or school there, **or**
- d) is a person with a physical, mental health or intellectual disability who is attending a medical or residential service for that disability, **or**
- e) has a relative who lives in the area and has done for at least two years⁵

What about a person who was born outside Ireland?

For people who were born outside Ireland, or are being refused accommodation on the basis of Habitual Residence Condition or on the basis of being refugees, see Chapter 3.

⁴ <http://www.environ.ie/en/LocalGovernment/LocalGovernmentAdministration/LocalAuthorities/>

⁵ Social Housing Assessment Regulations 2011, S.I. No. 84 of 2011 – available from the Focus Ireland Homeless Prevention Hub

What kind of accommodation will be provided?

Some emergency accommodation is run directly by Local Authorities while other facilities are run by voluntary organisations (often with funding from the Local Authority). In some cases, Local Authorities procure lodging houses, B&B accommodation or hotel rooms from the private sector. This is most likely to occur with families who are homeless.

The accommodation available may be a hostel – some provide beds in dormitories, others may have rooms shared between two people. Meals and other services may be provided in some locations. Some places provide accommodation for men or women only, while in a few cases services are mixed. Very rarely is emergency accommodation for couples provided.

Different types of emergency accommodation have different rules. For example, in relation to the use of alcohol and/or drugs, some prohibit their use entirely, others are ‘wet’ hostels.

The standards and quality of emergency homeless accommodation varies considerably in different services and in different parts of the country. In some places, the only emergency accommodation may provide particular problems to certain individuals (eg, ‘wet’ hostels which allow alcohol consumption can present particular challenges to people who are non-drinking alcoholics, and dormitories can present particular problems to people who have mental health issues). People who sleep rough (see below) often do so because the emergency accommodation on offer is problematic for them for some reason. Sleeping rough presents significant personal safety and health risks, so it is useful to make the client familiar with any suitable type of accommodation that may be made available. It is worth checking what is available on the Homeless Prevention Hub.

Will the client have to pay for emergency accommodation?

There are different policies both in relation to charges – some may charge nightly, some weekly – and in relation to the procedure when a person doesn’t have the funds to pay. For example, some will direct a person to a source of financial support (see next section) and allow them to pay the charges when they have secured an income.

If you do not know the charging policy of the emergency accommodation you are referring the client to, make sure they know that they may be charged. You may also be able to ring in advance and make arrangements for a person who does not currently have access to funds.

Children who are homeless

The situation is different in relation to children: Children under the age of 16, who present as homeless, should be viewed in line with child protection and welfare principles and referred in accordance with Children's First Guidelines. Section 5 of the Child Care Act 1991 requires the HSE to find suitable accommodation for a child (aged 16 or 17) who is homeless and not in State care. If they are in this age range, the HSE should be contacted and it should make arrangements for the young person to be accommodated.

In out of hours situations, where the HSE local health office is not available, the young person should attend their local Garda Station in order to access the out of hours social work service.

HSE local health office numbers for your area can be found on the website of the HSE.

2.2 Getting an income

After shelter, the next core need of a person who is homeless is access to an income. In some circumstances, access to emergency accommodation itself may depend on access – or future access – to an income.

If a person in a homelessness crisis does not have an income, and is not in receipt of a Social Welfare payment, they may be entitled to a payment under the Supplementary Welfare Allowance (SWA) scheme.

There are a number of different types of SWA payment:

- i A 'basic weekly payment' for people who have little or no income. It is usually paid when there is no other Social Welfare payment a person could qualify for, or when they are waiting for a claim for a more long-term welfare payment to be processed.

- ii Supplementary Payments can be made for certain running expenses, such as rent.
- iii Exceptional Needs Payments (ENPs) are one-off payments that can be made for unforeseen expenses which a person couldn't reasonably be expected to meet from their weekly income.
- iv Urgent Needs Payments (UNPs) can be paid in emergencies, for example in the case of a flood, fire or other disaster. A UNP can be made to help with immediate costs such as food and clothing. Depending on circumstances, a person may be required to pay back some or all of a UNP when their situation improves.

This section provides some information on basic weekly payments under the SWA scheme; see Chapter 4 for more information on specific issues for people who are homeless in accessing general SWA payments.

Supplementary Welfare Allowance

Anyone who lives in Ireland, and whose means (as assessed by the Department of Social Protection) are less than the SWA rate of payment (for an individual, plus members of their household if applicable) can apply for a payment.

In general, to be eligible a person must meet the Habitual Residence Condition (see Chapter 4), they should have applied for any other Social Welfare payment they may be entitled to, and, if they are of working age, should have registered as a jobseeker with the Department of Social Protection (DSP). However, where a person is homeless, and has no other income, they should make an application immediately.

Some people are not normally entitled to a SWA payment. These include:

- i People who are working or studying full-time, ie, 30 or more hours per week
- ii People who are involved in a trade dispute

Applications for a weekly SWA payment should be made at a local Health Centre. You can find details of the locations, contact details and opening hours of Health Centres at the Focus Ireland Homeless Prevention Hub. People in Dublin should contact the Homeless Persons Unit.

The Homeless Person's Unit

A person who is homeless can contact their local DSP representative (formerly the CWO) in relation to a social welfare payment under the SWA scheme. In some cities and larger towns there are Homeless Person's Units (HPU) which provide payments under the SWA and gives advice and assistance on making claims for other Social Welfare entitlements such as jobseeker's or disability payments. The HPU can also help to fast-track Medical Card applications for people who are homeless.

The HPU can provide different services for men, women and children, and for people who are not from Ireland (including people seeking asylum, refugees and people from EU Accession countries). You can find contact details for the local offices administering on the SWA on the website of the Department of Social Protection (please see <http://bit.ly/PFgVaf>).

Anyone making an application for SWA must provide some documentation for the Department of Social Protection to process their claim. These include:

- i Personal Public Service (PPS) Numbers for the person applying, along with any members of their household.
- ii Proof of identity, eg, passport, driving licence, work permit, immigration (GNIB) card.
- iii Documents to show their income and financial situation, eg, pay slips, P45, P35, P60, bank statements, etc. If other members of the household – a spouse or partner, children – have income, evidence needs to be provided for this too.
- iv Proof of where they live. Where a person has a long-term bed in Emergency Accommodation this address can be accepted. Where the person is sleeping rough, the HPU can provide the necessary documentation where one is in operation. If there is no HPU in the area, it would (if in accordance with your internal guidelines) be useful to provide a letter saying you can vouch that they are sleeping rough in the area.

Long-term social welfare needs

Supplementary Welfare Allowance is generally regarded as an 'interim' or short-term payment. It is important that a person applies for the payment which best reflects their needs. For example, if a person has a disability which has the effect of substantially restricting their ability to work, they might apply for Disability Allowance. In other circumstances, a person might apply for the One Parent Family Payment, or Jobseekers Allowance, etc.

2.3 Getting access to medical care

Health difficulties can be a trigger for homelessness, and of course homelessness can itself give rise to health issues. Getting access to medical care is therefore very important.

Medical Cards allow people on low incomes access to certain health services free of charge. These include:

- i GP services
- ii Prescribed drugs. However, from January 2014, Medical Card holders must pay €2.50 per prescription item, up to a monthly ceiling of €25.00
- iii In-patient and out-patient public hospital services and medical appliances
- iv Dental, optical and aural services
- v Maternity and infant care services
- vi Some personal care services, eg, public health nursing, social work services and other community care services

If a person's only income is from Social Welfare, HSE guidelines⁶ on Medical Card entitlement state that they should be entitled even if their income is over the threshold.

Links to further information on Medical Cards and application forms are available on the HSE website.

⁶ <http://www.hse.ie/eng/services/list/1/schemes/mc/forms/assessmentguidelines.pdf>

Chapter 3

Moving on from homelessness

This section provides information for people leaving homelessness and securing more long-term, sustainable housing.

It is increasingly recognised that with the right supports and accessible accommodation people who are homeless can return to living in mainstream accommodation. Under this 'housing led' approach, voluntary and statutory providers are putting increasing emphasis on 'exits' from homelessness into stable housing (with tenancy supports as required). Government policy states that, by 2016, no one should have to rely on homeless services for more than six months.

People who are homeless but trying to move out of it should be in contact with homeless services and should have an allocated 'key worker' from the organisation which is assisting them in finding accommodation. People who have complex issues and are in contact with several support services (eg, drug treatment, mental health) may have a key worker in each of these services, one of whom will be designated as their case manager. In general, these services should be providing the support for the person to move on out of homelessness, so general advice services are unlikely to be accessed by people in these circumstances.

However, in areas where homeless services are less developed this might arise. Some people using homeless services may seek information from general information providers when they are dissatisfied with the support they are getting or simply want a 'second opinion' on their options.

What kind of housing?

The two main routes out of homelessness are:

- Into some form of social housing (either owned by Local Authorities or by Housing Associations)
- Into the Private Rented Sector

If they depend on Social Welfare, to pay their rent in the Private Rented Sector a person will normally require assistance in the form of Rent Supplement. To qualify for Rent Supplement a person will normally have to have completed a Housing Needs Assessment with the Local Authority and be on its Housing List.

So, the first stage of seeking accommodation in most cases is to apply for a Housing Needs Assessment to be completed by the Local Authority (for exceptions to this rule see 3.3 below)

Getting on the housing list

Local Authorities are responsible for assessing both a person's need for social housing and the most appropriate form of social housing for a particular household. This is provided for in section 20 of the Housing (Miscellaneous Provisions) Act 2009. The Department of the Environment sets out regulations for how Local Authorities (housing authorities) should handle applications for social housing.⁷ Information on applying for local authority housing is available from the Citizens Information website.

A household can apply to only one housing authority, and they should already be living in the area or have a local connection to it (see Chapter 2 for the discussion of this).

The Housing Officer in the Local Authority will undertake an initial assessment of need to establish eligibility for support. It is essential an applicant brings a valid form of identification, such as birth certificate or valid passport, with them.

The initial assessment will include questions about their housing history and, in particular, their last permanent address.

⁷ Social Housing Assessment Regulations 2011 (amended). Available at: <http://www.environ.ie/en/DevelopmentHousing/Housing/RHLegislation/FileDownload,25575,en.pdf>

To assess whether the Local Authority has a duty to find temporary accommodation or long-term housing for someone, the Housing Officer will look at the following factors:

- i Is the person currently homeless?
- ii Do they have a priority need for temporary accommodation/ access to housing?
- iii Does the applicant have a connection with the local area?

While the Local Authority is considering the situation, it should provide temporary accommodation for anyone who has nowhere else to stay.

Determining access to social housing is a two-stage process:

- Determining whether the person/household is eligible for social housing
- Determining whether the person/household is in need of social housing

3.1 Social housing

To be eligible for social housing, applicants must:

- i Have a low income
 - ii Not have suitable alternative accommodation available, and
 - iii If not Irish, have a legal right to remain in the State on a long-term basis⁸.
- i **Income:** A household's net income⁹ must be below the threshold set by the Department of the Environment¹⁰. In 2012, and depending on the Local Authority area, these ranged from €25-35,000 for a single person and up to a maximum of €30-42,000 for larger households. A Local Authority can set lower thresholds if it considers it appropriate. Any updated guidelines can be found on the website of the Department of the Environment, Community and Local Government.

⁸ Access to social housing supports for non-Irish nationals: See: <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,29412,en.pdf>

⁹ Social Housing Support: Household Means Policy. See: <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,29413,en.pdf>

¹⁰ Maximum net income limits for social housing applicants: <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,29414,en.pdf>

- ii **Alternative accommodation:** if anyone in the household has property in which the household could reasonably live, the household will not be considered eligible for social housing. This includes property that is currently rented out to tenants (as a tenancy can be terminated if the owners need the property to live in themselves). However, a property won't be considered a reasonable alternative if:
 - a) The person living in it is divorced, legally separated or has a dissolved civil partnership with a member of the household applying for social housing
 - b) It would be overcrowded if the household lived in it
 - c) It doesn't adequately meet the needs of a household member with a disability
 - d) It is not fit for human habitation
- iii. **Legal Right to Remain:** Legal Right to Remain: See Chapter 4, page 45 (4.5).

Determining eligibility for social housing on the grounds of homelessness

The Local Authority deems someone to be homeless if they fall into any of the following circumstances:

- i If they have nowhere to stay on the day they present to the Local Authority Assessment and Placement Service
- ii If they have been staying in a place but have no right to remain there
- iii If they have somewhere to stay but are at risk of harm if they remain there
- iv If they cannot pay for any accommodation
- v If they are in need of accommodation and are unable to provide it from their own resources

A person must also:

- vi Have a legal right to reside in the Republic of Ireland
- vii Have an income that does not exceed the limits defined in the scheme
- viii Must not have accrued rent arrears with a Local Authority or another social housing provider
- ix Must not have alternative accommodation available to them that they could reasonably occupy

Since July 1st, 2011, the Social Housing Assessment (Amendment) (No 2) Regulations 2011 have made some changes to the rules. One of these allows for the unsustainability of a household's mortgage to be taken into consideration in assessing the household's need for social housing.

Choice of area

Local Authorities often divide their functional area into a number of different areas. Households applying for social housing can indicate their preference for a particular area, and can also specify up to two other areas of choice in that Local Authority area.

Allocations

If following a housing needs assessment a Local Authority decides that an applicant is eligible, they will then be placed on the social housing waiting list according to their level of need and in accordance with the Local Authority's scheme of letting priorities.

Is it possible to reject an offer of social housing?

A household can refuse an offer of social housing but that may have implications for them under the allocations scheme for the relevant local authority. Each local authority must develop a housing allocation scheme under the Housing (Miscellaneous Provisions) Act 2009. In general (although each individual scheme should be checked) if a household refuses two reasonable offers they may be suspended from the housing list for a period of 12 months which can also affect their entitlement to rent supplement. If this occurs, it may be possible to appeal the decision by setting out a case that the offer was not reasonable (if applicable) in all the circumstances.

How long should the application process take?

For a person who currently has accommodation, where the application has been properly completed, a Local Authority should process a Housing Needs Assessment within 12 weeks. However, a person who is homeless is a priority case and should be assessed immediately.

For people currently in accommodation, a Local Authority may request additional information to assess the application. Generally, this should be submitted within four weeks of the request, but this period can be extended by the Local Authority if asked to by the applicant. Once the additional information has been provided, the Local Authority should process the application within six weeks.

If a Local Authority is unable to process the application within this timeframe, it is required to notify the household before the time limit expires, specifying why there has been a delay and when the Local Authority expects to deal with the application. If necessary and for stated reasons, the Local Authority may further extend this period, but it must notify the household, and, in any case, the total extension cannot be longer than 14 weeks.

3.2 Private rented housing

Someone leaving homelessness into the private rental market will usually require Rent Supplement. Information on this application is accessed through the Department of Social Protection's website and on the Citizens Information website, so we will not duplicate that here. But there are some details that a person leaving homelessness should be aware of:

- i If they have been in homeless services for six months in the last year, if they were a tenant in private rented accommodation for six months in the last year or if they have been in a combination of these (as an example, two months homeless and four months in private rented) totalling six months in the last year, they may get Rent Supplement.
- ii Where the above is not the case, as we have set out in section 3.2, they should be assessed by the Local Authority for eligibility for social housing and as having a housing need.
- iii Increased Rent Supplement. The person leaving homelessness should be aware that the Designated Officer who is dealing with their application for Rent Supplement has discretion (through article 38 of Statutory Instrument 412 of 2007 and SWA circular 2011-21) to provide a level of Rent Supplement in excess of the rent limits. This authority is exercised only in exceptional cases.

- iv In many areas Rent Supplement applications have been centralised. This means the relevant forms have to be filled out and posted, generally to a PO Box number. It is vital that all the information requested is included and the entire form is filled in correctly, as Focus Ireland regularly sees customers miss out on accommodation because of delays that result from incomplete or incorrect forms being sent in. It is also useful for the person to ask the local Designated Officer for a contact email or number and, where possible, to be supported to make contact once the forms have been put in to ensure there is some tracking of the application.

A few issues to consider with a new tenancy

When entering into a new tenancy agreement, the landlord must provide the following information and documentation:

- Registration of a tenancy. Any properties for rent are required to be registered with the Residential Tenancies Board. Landlords who fail to register are liable to prosecution.
- Rent Books. All landlords are required to provide tenants with a rent book or written letting agreement or lease. All payments made to the landlord must be recorded either in the rent book or by written statement. Any landlord who refuses to supply a rent book can be reported to the RTB. In addition, the rent book, or letting agreement, must contain other information about the tenancy, specified by the Rent Book Regulations as follows:
 - Address of the rented dwelling
 - Name and address of the landlord and his agent (if any)
 - Name of the tenant
 - Term of the tenancy
 - Amount of rent, when and how it is to be paid, (eg, cash, cheque, standing order)
 - Details of other payments (eg, telephone, TV)
 - Amount and purpose of any deposit paid and the conditions under which it will be returned to the tenant
 - Statement of information on basic rights and duties of landlords and tenants

Leases and letting agreements

Before your client signs a lease agreement, they should read it carefully and consider what exactly they are agreeing to. All lease agreements must comply with the Residential Tenancies Act 2004. A lease agreement may give a tenant greater rights than those stated in the Act, but it cannot be used to deny statutory rights.

Standards

All landlords must, by law, ensure their property complies with certain minimum standards (eg, free from damp, in good structural repair, hot and cold water, adequate means of heating and ventilation, appliances in good working order, electrical wiring, gas, pipes in good repair). Suspected breaches of these standards should be reported to the Local Authority or the Residential Tenancies Board. An inspection will be carried out and the landlord ordered to do any necessary repairs. Further information in relation to these standards is available from Citizens Information (<http://bit.ly/1hTKjnz>).

Chapter 4

Specific social protection and other supports available to people who are homeless

There are several excellent guides to general social protection and income supports to which people who are homeless may be eligible on the same basis as other claimants (eg, Working for Work, www.citizensinformation.ie). This section looks instead at specific specialised elements of the welfare code which may have particular applications for certain groups of people at particular risk of homelessness. It also gives a detailed overview of the discretionary payments which may be available under the Supplementary Welfare Allowance Scheme.

4.1 Proof of place of address

Many services and welfare payments require claimants to provide an address where they are living, and sometimes evidence that they are, in fact, living at that address. This can present obvious problems for a person who is homeless.

Where a person has a long-term bed in Emergency Accommodation, this address can be given for the purposes of an SWA application. A letter from the hostel or receipt for payment can provide the necessary evidence.

If a person is sleeping rough, the Homeless Person's Unit (HPU) can provide the necessary documentation. If there is no HPU in the area, it may (if in accordance with your internal guidelines) be useful for you to provide a letter saying that you can vouch that they are sleeping rough in the area.

4.2 Reduced payments for young people under age 25

People aged under 26 receive a lower rate of Jobseekers Allowance (JA) or Supplementary Welfare Allowance than the 'full adult rate'.

People aged 18–24 are entitled to the lowest rate of payment, and those aged 25 to an intermediate rate.

Despite to the lower rate of social welfare payable to a person under 26, they must still make the standard contribution to the rent. Practically, this means it is unlikely such a person could sustain the cost of private rented accommodation.

However, a person under 26 can be awarded the full adult rate in the following circumstances:

- i If they have dependent children
- ii If they were in the care of the HSE during the 12 months before turning 18 (see more below). This only applies to such people between the ages of 18 and 24
- iii If they are transferring from Disability Allowance

Additional exemptions apply to young people claiming JA, where the young person is:

- i Participating in an approved education or training course, or Community Employment. However, once the course ends, the young person returns to the age-related payment, if that's what there were getting before the course started
- ii People whose claim is linked to a previous JA claim made within the previous 12 months to which the maximum personal rate applied

Exemption for young people leaving care

Focus Ireland has given high priority to the issues facing young adults who were in the care of the State, as they face a high risk of homelessness. When reduced rates were introduced for young people, Focus Ireland successfully campaigned for an exemption for this group.

Reduced rates do not apply for young people who:

- a) Are at least 18 and under 25 years of age, **and**
- b) Had been in the care of the State at any time in the 12 months before their 18th birthday

The exemption is set out in Part 2 Sections 6(4) and 7(3) of the Social Welfare and Pensions Act 2009. Types of State care specified are:

- i Subject to a High Court order
- ii Children in care as defined by section 16 of the Children's Act 2001 (special care) or Part 6 of the 1991 Child Care Act (this seems to include foster care)
- iii Under a voluntary care arrangement as per section 4 of the 1991 Child Care Act
- iv Under an accommodation arrangement as per section 5 of the 1991 Child Care Act

4.3 Exceptional Needs Payments

An Exceptional Needs Payment (ENP) is a single payment to help meet essential, once-off, exceptional costs which a person could not reasonably be expected to meet from their weekly income.

There is no automatic right to an ENP – each application is assessed on a discretionary basis by Department of Social Protection (DSP) staff taking into account the circumstances of the case. There is no standard rate of payment for an ENP, it varies depending on need.

Examples of ENPs could include special clothing for people with a serious illness, funeral costs, or meeting the cost of visiting relatives in hospital or prison. ENPs may also be provided to help with the cost of bedding or other essential household equipment. ENPs will generally not be provided for expenditure that is predictable or recurring in nature.

It has been standard practice to provide ENPs to Local Authority tenants who were moving into unfurnished accommodation to help with the cost of 'kitting out' their accommodation. However, these 'kit out' ENPs are generally not provided where the accommodation is leased, either by a Local Authority or an Approved Housing Body or from the private sector, as this accommodation should be provided on a furnished basis. In addition, the DSP has stated that ENPs should not be used to repeatedly furnish the same transitional accommodation provided by voluntary bodies. However, if the DSP is satisfied that an exceptional need exists, consideration will be given to such cases.

In all cases, there are no hard and fast rules in relation to ENPs. Every case should be decided on the basis of its individual circumstances.

Applications should be made to the DSP representative at the local Health Centre or DSP office.

4.4 Urgent Needs Payments

Urgent Needs Payments (UNPs) are also available under the SWA scheme to help people with immediate emergency needs. UNPs may be paid to people who are not normally eligible for assistance under the SWA scheme.

Depending on particular circumstances, for example, if someone is working, or if an insurance claim has been settled, they may have to pay some or all of this back.

Applications should be made to the DSP representative at the local Health Centre or DSP office.

4.5 Habitual Residence Condition

The following Social Welfare payments are subject to the Habitual Residence Condition:

- Jobseeker's Allowance
- One-parent Family Payment
- Disability Allowance
- Supplementary Welfare Allowance
(except for Exceptional and Urgent Needs payments)
- Child Benefit
- Domiciliary Care Allowance
- State Pension (non-contributory)
- Carer's Allowance
- Guardian's Payment (non-contributory)
- Widow(er)'s Non-contributory Pension
- Blind Pension

All applicants for the above payments, regardless of nationality, must satisfy the habitual residence test. That is, a person must prove their main centre of interest is in this State. Furthermore an applicant must establish that they have a right to reside in Ireland in order to show that they are habitually resident.

People who are not habitually resident are entitled to avail of Emergency Homeless Accommodation, though they will not normally be allocated a 'long-term bed' and will have to apply for a bed each night.

Migrant workers

Certain EEA migrant workers, and former workers, are entitled to assistance under EU Law with having to satisfy the Habitual Residence Condition. In Ireland this means EU workers may receive SWA if they are refused other payments on the grounds of failing to meet the HRC condition.

Migrant workers from EEA countries other than Ireland who have been working in the State for 12 months or more are entitled to SWA if they meet the qualifying conditions.

Migrant workers who have been working in Ireland for less than 12 months are still entitled to SWA, but it may be limited to six months from the time they stop working on the condition that they:

- i Have registered as a jobseeker with the Department of Social Protection, **or**
- ii Are temporarily unable to work due to illness, **or**
- iii Take up vocational training to their previous employment

Glossary

DA	Disability Allowance
DSP	Department of Social Protection
ENP	SWA Exceptional Needs Payment
HRC	Habitual Residence Condition
JA	Jobseeker's Allowance
RAS	Rental Accommodation Scheme
SWA	Supplementary Welfare Allowance
UNP	SWA Urgent Needs Payment

Appendix 1

The Ethos definitions of homelessness

FEANTSA, the European federation of organisations working with the people who are homeless, has developed a typology of homelessness and housing exclusion called Ethos. This has four main concepts of homelessness:

- i **Rooflessness:** for example, people who are sleeping rough or in emergency accommodation
- ii **Houselessness:** this includes people living in hostels or temporary accommodation such as homeless hostels or women's refuges, as well as people due to leave institutions such as children's homes or prisons
- iii **Insecure Housing:** for example, people who are staying with family or friends on a temporary basis, or who don't have a legal tenancy. Also includes people whose home is being repossessed, and people living under the threat of violence; and
- iv **Inadequate Housing:** includes people living in temporary structures or mobile homes, dwellings unfit for human habitation, and dwellings which are very overcrowded

Appendix 2

What is Government policy on homelessness?

The Government policy is set out in its strategy *The Way Home* (2008).

The strategy had seven aims:

- i Reduce homelessness through prevention
- ii Eliminate the need to sleep rough
- iii Eliminate long-term homelessness and length of time homeless
- iv Meet long-term housing need
- v Ensure services are effective
- vi Improve and re-orientate funding arrangements
- vii Improve data and information strategy

The strategy focused on the reorientation of existing services, localisation of services and value for money.

In February 2013, the Government issued a 'Homeless Policy Statement' which restated the Government's commitments and set a new target to eliminate long term homelessness and the need to sleep rough by 2016. This statement can be accessed at <http://bit.ly/19Zpi2J>.

Appendix 3

Key pieces of legislation

Ireland has no legislative or constitutional right to housing. However, there are a number of important pieces of legislation relating to housing.

A key piece of legislation governing social housing policy in Ireland is the **Housing (Miscellaneous Provisions) Act 2009**, which amended and extended the Housing Acts 1966–2004.

The Act established a framework for a more strategic approach to housing services by Local Authorities, including through:

- i Housing authorities adopting
 - Housing services plans
 - Homelessness action plans
 - Anti-social behaviour strategies
- ii New methods of assessing housing need and allocating housing
- iii More effective housing management
- iv A more developed legislative basis for providing rented social housing through leasing or contract arrangements in the private rented sector
- v A number of amendments to the Residential Tenancies Act 2004

The private rented sector in Ireland is governed by the **Residential Tenancies Act 2004**, which provided a major reform of landlord/tenant law.

The Act provided for:

- i A four-year security of tenure measure
- ii New procedures for the termination of tenancies
- iii Provisions relating to rents
- iv Minimum landlord and tenant obligations

- v Establishment of the Residential Tenancies Board (RTB)
 - Its functions include resolution of disputes in the sector, a new system of tenancy registration, carrying out research and providing information and policy advice in relation to the private rented sector. The Act will shortly be amended by the Residential Tenancies (Amendment) (No. 2) Bill 2012 which will include tenancies with approved housing bodies in the remit of the Act. Further, it will extend the remit of the RTB to deal with deposit related issues.

Anti Social Behaviour is defined in the **Housing Acts** in the following way:

- i The manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts, 1997 and 1984)
- ii Any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the Housing Acts, 1996 to 2002, or Part V of the Planning and Development Act 2000, or a housing estate in which the house is situate, without prejudice to the foregoing, includes
 - Violence, threats, intimidation, coercion, harassment or serious obstruction of any person
 - Behaviour which causes any significant or persistent impairment of a person's use or enjoyment of his or her home, or
 - Damage to or defacement by writing or other marks of any property, including a person's home

At the time this guidebook was printed (May 2014) the following pieces of legislation were going through the Oireachtas but had not been passed:

- Residential Tenancies (Amendment) (No 2) Bill 2012
- Housing (Miscellaneous Provisions) Bill 2014

For a list of organisations that may be able to assist you or provide support, information and/or advocacy services please consult our Focus Ireland Homeless Prevention Hub (available at www.focusireland.ie/our-services/hub/guidebook).

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