

Kent & Medway Homelessness Local Connection Referral Protocol

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Working in Partnership

Kent & Medway Homelessness Local Connection Referral Protocol

1 Aims of protocol

The Homelessness Reduction Act 2017 calls for new referral and joint working arrangements between housing authorities and other public sector authorities in the prevention and relief of homelessness. The Ministry of Housing, Communities and Local Government have published and will continue to update a Homelessness Code of Guidance, which provides local authorities with the guidance about how to exercise their homelessness functions, in accordance with the Homelessness Reduction Act 2017.

This protocol builds on the Local Government Association (LGA) published guidelines and sets out how local authorities within Kent and Medway will respond to Section 198 local connection referrals, where a local authority is satisfied the applicant is eligible and homeless, but does not have a local connection to their local authority.

This protocol supports the Kent & Medway Homelessness Duty to Refer Protocol on the joint working arrangements between housing authorities and other public sector authorities in the prevention and relief of homelessness.

2 Background

The [Homelessness Reduction Act 2017](#) came into force on 3 April 2018 and significantly reformed homelessness legislation by placing duties on local authorities to intervene at earlier stages to prevent homelessness in their areas. It requires housing authorities to provide homelessness services to all those affected, not just those who have 'priority need'. These include:

- a) an enhanced prevention duty extending the period a household is threatened with homelessness from 28 days to 56 days, meaning that housing authorities are required to work with people to prevent homelessness at an earlier stage; and
- b) a new duty for those who are already homeless so that housing authorities will support households for 56 days to relieve their homelessness by helping them to secure accommodation.

As a result of the Act, housing authorities have the following duties:

- to carry out an assessment in all cases where an eligible applicant (regardless of priority need status, intentionality and whether they have a local connection) is homeless or threatened with homelessness
- to identify any support needed by the person to enable them to secure and retain accommodation and to work with them to develop a personal housing plan which will include actions (or 'reasonable steps') to be taken by the authority and the applicant to try and prevent or relieve homelessness e.g. by helping them to stay in their current

accommodation or helping them to find a new place to live before they become actually homeless

- to take reasonable steps to help the applicant secure accommodation if the applicant is already homeless, or becomes homeless despite activity during the prevention stage.

If homelessness is not successfully prevented or relieved, a housing authority will owe the main housing duty to applicants who are eligible, have a priority need for accommodation and are not homeless intentionally, i.e. to ensure that suitable accommodation is available for the applicant and their household until the duty is brought to an end, usually through the offer of a settled home.

The Act also introduced a duty on certain public authorities to refer service users who they think may be homeless or threatened with homelessness to a housing authority. The public services included in the duty are as follows:

- a. prisons;
- b. youth offender institutions;
- c. secure training centres;
- d. secure colleges;
- e. youth offending teams;
- f. probation services (including community rehabilitation companies);
- g. Jobcentre Plus;
- h. social service authorities;
- i. emergency departments;
- j. urgent treatment centres; and,
- k. hospitals in their function of providing inpatient care.

The Secretary of State for Defence is also subject to the duty to refer in relation to members of the regular forces. The regular forces are the Royal Navy, the Royal Marines, the regular army and the Royal Air Force.

Housing authorities are responsible for setting up local procedures for managing referrals from public authorities and establishing effective partnerships and working arrangements in their local areas.

This document sets out the joint working and referral arrangements that Local Authorities in Kent & Medway have agreed with other public authorities. The parties to the protocol are united in their commitment to developing an effective, shared approach to preventing and tackling homelessness in Kent & Medway, based on good communication and information sharing, early identification and referral of individuals identified as being homeless or at risk of homelessness, and timely and joined up action.

The Homelessness Reduction Act places responsibilities on both housing authorities and other public agencies in managing referrals of individuals who are homeless or at risk of homelessness. The Homelessness Code of Guidance provides guidance on devising a referral procedure.

This includes:

- the individual must give consent before a referral is made to the housing authority
- the individual is allowed to select the housing authority to which a referral is made
- referrals should provide details of the individual's name, contact details, and reason for referral, subject to the individual's consent
- the procedure should be decided by service partners in each local area and tailored to the role and functions of each authority
- joint working arrangements should be established to maximise positive outcomes, especially for people sleeping rough or at risk of sleeping rough, and service users with complex or multiple needs
- the focus should be on the earliest possible identification of people at risk of homelessness
- Local Authorities should store information received from the referring authority to use in its assessment and personal housing plan.
- having a single point of contact for public authority referrals, which should be widely publicised
- housing authorities should inform public authorities with a duty to refer of how they will respond to a referral

Please refer to the Kent & Medway Homelessness Duty to Refer Protocol for the full procedure and for making referrals under the Duty to Refer.

4 Criteria for Notification

The Local Government Association (LGA) has published [guidelines](#) for local authorities for referral on the grounds of local connection. These procedures and guidelines concern the situation where, under Part 7 of the *Housing Act 1996*, a local housing authority consider that the conditions for referral of the case to another local housing authority are met and notifies the other authority of its opinion.

Local authorities are not required to make inquiries as to whether, for example, an applicant has a local connection with another district and, where they decide to do so, there is no requirement to refer applicants to another authority if the conditions for referral are met.

Local connection referrals are discretionary and local authorities should not adopt a blanket policy about how they will exercise their discretion to refer a case.

The criteria for notification are set out in the statutory framework and are addressed in governmental guidance. The following is designed to provide merely an overview.

Before a local authority can consider referring an applicant to another local authority under s.198(A1) (referral of the application at stage of Relief Duty being owed) it must first be satisfied that the applicant is:

- (i) eligible for assistance and
- (ii) homeless.

Before a local authority can consider referring an applicant to another local authority under s.198(1) (referral of the main housing duty owed) it must be satisfied that, in addition to meeting the two criteria noted above, the applicant also:

- (i) is in priority need and
- (ii) did not become homeless intentionally.

Before making a referral the referring authority must be satisfied that the conditions of referral are met. Broadly, the conditions for referral will be met if:

- (a) neither the applicant nor any person who might reasonably be expected to reside with the applicant has a local connection with the district of the authority to which the application was originally made,
- (b) either the applicant or any person who might reasonably be expected to reside with the applicant has a local connection with the district of the other authority,
- (c) neither the applicant nor any person who might reasonably be expected to reside with the applicant would run the risk of domestic violence in that other district and
- (d) neither the applicant nor any person who might reasonably be expected to reside with the applicant has suffered any other violence in that other district and it is not probable that returning to that district would lead to further violence of a similar kind.

The conditions for referral will also be met if the applicant was placed in the authority's district by another authority as a result of a previous application to that authority and the second application is made within the prescribed period (5 years) of the first.

5 Local Connection

The test for establishing a local connection is set out in s.199 of the *Housing Act 1996* and addressed in detail in governmental guidance. The following is designed to provide merely an overview.

Living in an area

You have a local connection if you've lived in a council area for at least:

- 6 out of the last 12 months

- 3 out of the last 5 years

Staying in emergency housing or a refuge may count (this will depend upon the facts of each individual case). Time spent in prison or hospital doesn't count.

Working in an area

You have a local connection if you're working or self-employed in a council area.

Close family in the area

You have a local connection if any of the following family members have lived in a council area for at least 5 years:

- parents
- adult children
- brothers and sisters

The council might accept a local connection based on other family members. For example, if you were brought up by another relative and remain in close contact.

A referral should not be made to another local authority on the grounds of a local connection because of family associations if the applicant objects to those grounds.

Care leavers

You have a local connection if you're under 21 and were previously in care in the area for at least 2 years, including some time before you turned 16 (even if placed there by another council).

You also have a local connection if you're under 25 and you get advice and support from Children Services under a 'pathway plan'. If your pathway plan is provided by a Kent County Council, you have a local connection to every local housing department in Kent. If your pathway plan is provided by Medway Council, you have a local connection to Medway Council.

Refugee status or humanitarian protection

You have a local connection to the last council area you were housed in by the Home Office under asylum support. It doesn't matter how long you lived there for.

Special reasons

The council could decide you have a local connection for a special reason such as:

- a need to live in the area to receive specialist health care
- very important social connections with the area

Although housing authorities must apply the prevention duty to anyone that approaches them, regardless of whether they have a local connection, local connection arrangements still apply if the housing authority owes the main

homelessness duty, i.e. to provide accommodation. If this is the case and there is no local connection to the housing authority that accepted the original referral, they would be transferred to the housing authority with which they have a local connection.

6 Procedures for making a Referral

If an authority considers that the conditions for referral in s.198 *Housing Act 1996* are likely to be met in a particular case it should make any necessary enquiries in the area/s where there may be a local connection. These should be undertaken as soon as possible. An authority that is considering making a referral must investigate all the circumstances of the case with the same thoroughness as if it were not considering a referral.

Under s.184(4) *Housing Act 1996*, if a housing authority notifies or intends to notify another authority in England under s.198(A1) (i.e. at the relief duty stage) that it considers that the conditions for referral of a case are met, the authority must at the same time notify the applicant of this decision and the reasons for it. The notice must also inform the applicant of his right to request a review of the decision and that any request must be made within 21 days, or such longer period as the authority allows in writing.

In general, the notified authority is bound by any decision made by the referring authority as to whether the applicant is eligible, homeless, unintentionally homeless, and in priority need; there is no provision for the notified authority to challenge the decision other than judicial review in the High Court. For notifications made under s.198(A1), however, where the referring authority has made a decision as to whether the applicant is eligible, homeless or became homeless intentionally, the notified authority may come to a different decision but only if it is satisfied the applicant's circumstances have changed or further information has come to light since the referring authority made its decision, and that the change in circumstances or further information justifies coming to a different decision.

For notifications made under s.198(A1), notified authority's may not rely on a previous negative s.184 decision in order to reject a referral, with acceptance or rejection to be solely determined by the question as to whether or not the conditions for a referral (as detailed in section 4 above) have been met. Therefore, even where a previous negative s.184 decision has been made, the notified authority cannot refuse the referral if the conditions for referral have been met. In such circumstances the notified authority must accept the referral and then go on to determine whether there are any new facts which render that application different from the earlier application. If no new facts are revealed, or any new facts are of a trivial nature, the notified authority can rely on its previous decision and would not owe the applicant any homeless duties. Likewise, no homeless duties will be owed by the notifying authority, with their duties ending as a consequence of the acceptance of the referral by the notified authority.

7 Making the Referral to the other Local Authority

All notifications and arrangements concerning an applicant should be made by in writing, using the contact details in Appendix 1. The standard notification form is to be used to confirm the referral in writing. Authorities may also wish to follow the referral up with a telephone call as well. (See Referral Form Attachment).

Once written confirmation of notification has been received the referring authority will commence enquiries into the whether the conditions for referral have been met within 2 working days and within 10 days, will reply to the referring authority to confirm whether the conditions have been met or not.

The receiving authority may request additional information from the referring authority to assist with reaching a decision on the referral. They may also need to carry out an interview, either in person or via telephone, with the applicant. Where this is required the receiving authority will complete this within 5 working days of the referral being received.

The notified authority should normally accept the facts of the case relating to residence, employment, family associations etc., as stated by the referring authority, unless they have clear evidence to the contrary.

If, despite reminders, there is an unreasonable delay by the receiving authority in formally responding to the notification, the referring authority will escalate the case to their Head of Service to raise with their counterpart at the receiving authority.

Where two authorities cannot reach agreement on whether the conditions for referral are met they must seek to agree on a referee who will make the decision.

The guidance for disputes between authorities and for invoking the disputes procedure, as set out in the LGA [guidance](#), will be followed in such cases.

8 Arrangement for securing Accommodation

Where an authority notifies an applicant that it intends to notify or has notified another authority of their opinion that the conditions for referral are met at the s.193 main duty stage, it has a duty to ensure that suitable accommodation is available for occupation by the applicant until s/he is notified of the decision whether the conditions for referral are met. A similar duty arises where the referring authority similarly notifies an applicant in relation to a s.198(A1) referral at the s.189B relief duty stage, but only if it has reason to believe that the applicant may have a priority need.

If it is decided that the conditions for referral are not met, the referring authority will be subject to either the s.189B relief duty or the s.193 main duty, depending on whether the referral arose under s.198(A1) or s.198(1).

If it is decided that the conditions for referral are met, then either:

- (i) under s.199A(5)(a), the applicant is treated as having made an application to the notified authority on the date on which the applicant is given notice that the referral conditions are met, or
- (ii) under s.200(4), the notified authority will be subject to the s.193 main duty and must ensure that suitable accommodation is available for the applicant,

as the case may be.

The referring authority will notify the applicant that the receiving authority has confirmed the conditions for referral have been met and where temporary accommodation is being provided by the referring authority, will give the applicant at least 3 days' notice to vacate the temporary accommodation. This ensures that the applicant has been given a reasonable notice period and enables the receiving authority to make provision for accommodation, where necessary.

The referring and receiving authority may wish to make arrangements for the applicant to remain in their current temporary accommodation, with the receiving authority taking over the cost of the accommodation, particularly in the case of nightly paid provision. Such arrangements will be made at the discretion of the authorities and notice given to the temporary accommodation provider, where such agreement is made.

The referring authority will not seek reimbursement for the costs incurred in providing temporary accommodation, or other costs, unless there has been undue delays by the receiving authority in confirming that the conditions for referral has been met.

In normal circumstances a period of more than 30 days, commencing from the date when the written referral was made by the referring authority, should be considered as constituting undue delay.

9 List of Parties

The local authorities that are included in this protocol are as follows:

Local Authorities:

Ashford Borough Council
Canterbury City Council
Dartford Borough Council
Dover District Council
Folkestone & Hythe District Council
Gravesham Borough Council
Maidstone Borough Council
Medway Council
Sevenoaks District Council
Swale Borough Council
Thanet District Council
Tonbridge & Malling Borough Council
Tunbridge Wells Borough Council

This Protocol will be reviewed September 2021