

Housing Options Commissioning Review. List of Legislation and functions to be contracted to CBH

The Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 permits any function of an authority which is conferred by or under Part VI (allocation of housing accommodation) and Part VII (homelessness) of the Housing Act 1996 to be exercised by any person (including companies) as the authority may authorise with the exception of the functions listed in the schedule of the Order. This table summarises the provisions of Part VI and VII of the Act and whether the functions can be contracted out under the Order. It only includes sections relating specifically to conferring duties and powers upon the authority and omits all other sections as these relate to points of detail (e.g. provisions about persons eligible for assistance, definitions, ability of the secretary of state to make regulations etc)

Statutory Provision	Summary	Contracting Out to CBH
Part VI Allocation of Housing Accommodation		
S159 Allocation of Housing Accommodation	imposes the fundamental obligation, which is that local housing authorities must comply with this Part of the Act when allocating housing accommodation.	Yes
S166 Applications for Housing Accommodation	<p>S166(1) to secure that</p> <p>(a) advice and information is available free of charge to persons in their district about the right to make an application for an allocation of housing accommodation; and</p> <p>(b) any necessary assistance in making such an application is available free of charge to persons in their district who are likely to have difficulty in doing so without assistance.</p> <p>(1A) secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 166A(9).</p> <p>(3) Every application made to a local housing authority for an allocation of housing accommodation shall (if made in accordance with the procedural requirements of the authority's allocation scheme) be considered by the authority.</p> <p>(4) The fact that a person is an applicant for an allocation of housing accommodation shall not be divulged (without his consent) to any other member of the public.</p>	Yes

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S166A Allocation in Accordance with Allocation Scheme: England	Specifies that every local housing authority must have an allocation scheme for determining priorities and as to the procedure to be followed, in allocating housing accommodation and gives further details on what must be contained in the scheme.	No
S168 Information about allocation scheme	<p>S168 (1) publish a summary of the allocation scheme and provide a copy of the summary free of charge to any member of the public who asks for one.</p> <p>(2) make the scheme available for inspection at their principal office and shall provide a copy of the scheme, on payment of a reasonable fee, to any member of the public who asks for one.</p> <p>(3) When the authority make an alteration to their scheme reflecting a major change of policy, they shall within a reasonable period of time take such steps as they consider reasonable to bring the effect of the alteration to the attention of those likely to be affected by it.</p>	Yes except Section 168(2) (information about allocation scheme) so far as they relate to making the allocation scheme available for inspection at the authority's principal office
Part VII Homelessness		
S179 Duty of local housing authority to provide advisory services	<p>S179(1) – secure that advice and information about homelessness and the prevention of homelessness, is available free of charge to any person in their district.</p> <p>(2) The authority may give to any person by whom such advice and information is provided on behalf of the authority assistance by way of grant or loan.</p> <p>(3) A local housing authority may also assist any such person—</p> <p>(a) by permitting him to use premises belonging to the authority,</p> <p>(b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and</p> <p>(c) by making available the services of staff employed by the authority.</p>	Section 179(1) to be contracted out.
S180 Assistance for voluntary organisations	S180 (1) The Secretary of State or a local housing authority may give assistance by way of grant or loan to voluntary organisations concerned	No

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	<p>with homelessness or matters relating to homelessness.</p> <p>(2) local housing authority may also assist any such organisation—</p> <p>(a) by permitting them to use premises belonging to the authority,</p> <p>(b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and</p> <p>(c) by making available the services of staff employed by the authority.</p> <p>(3) A “<i>voluntary organisation</i>” means a body (other than a public or local authority) whose activities are not carried on for profit.</p>	
S184 Inquiry into cases of homelessness or threatened homelessness	Once an application has been received under S183 (Application for Assistance) the next stage in the application process is for the authority to make enquiries into the application to determine what (if any) duty is owed. This section is concerned with the ambit and conduct of those enquiries	Yes
S188 Interim duty to accommodate in apparent priority need	If an authority has reason to believe that the applicant may be eligible for assistance, homeless and in priority need, this section requires that they have to secure that accommodation is made available for his occupation pending any decision that it may make as a result of its enquiries.	Yes
S190 Duties to persons becoming homelessness intentionally	The section imposes a duty to provide advice and assistance when an applicant is homeless, in priority need, but has become homeless intentionally	Yes
S192 Duty to persons not in priority need who are not homeless intentionally	This section sets out the duties to persons who are not in priority need and are not intentionally homeless.	Yes
S193 Duty to persons with priority need who are not homeless intentionally	Under this section, the duty towards the unintentionally homeless is to secure that accommodation is available for occupation by the applicant until the duty ceases in accordance with the section	Yes
S195 Duties in case of threatened	Sets out the duty that where the authority is are satisfied that as person has a priority need, and are not satisfied that he became threatened with	Yes

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homelessness	homelessness intentionally, it shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.	
S198 referral of case to another local housing authority	This section governs the circumstances in which a local authority may refer an applicant to another authority.	Yes
S200 duties to applicant whose case is considered for referral or referred	Sets out the various duties owed to an applicant by an authority that refers the applicant to another authority	Yes
S201 Application of referral provisions to cases arising in Scotland	Provides that Sections 198 and 200 apply to applications referred by a local authority in Scotland and to persons whose applications are so transferred.	Yes
S202 Right to request a review of decision	<p>An applicant has the right to request a review of—</p> <ul style="list-style-type: none"> • any decision of a local housing authority as to his eligibility for assistance, • any decision of a local housing authority as to what duty (if any) is owed to him under sections 190 to 193 and 195 [and 196] (duties to persons found to be homeless or threatened with homelessness), • any decision of a local housing authority to notify another authority under section 198(1) (referral of cases), • any decision under section 198(5) whether the conditions are met for the referral of his case, • any decision under section 200(3) or (4) (decision as to duty owed to applicant whose case is considered for referral or referred), • any decision of a local housing authority as to the suitability of accommodation offered to him in discharge of their duty under any of the provisions mentioned in paragraph (b) or (e) or as to the suitability of accommodation offered to him as mentioned in section 193(7), or • any decision of a local housing authority as to the suitability of 	Yes

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	<p>accommodation offered to him by way of a private rented sector offer (within the meaning of section 193)</p> <ul style="list-style-type: none"> • any decision of a local housing authority as to the suitability of accommodation offered to him by way of a private accommodation offer (within the meaning of section 193). • <p>An applicant who is offered accommodation as mentioned in section 193(5), (7) or (7AA) may request a review of the suitability of the accommodation offered to him whether or not he has accepted the offer.</p>	
S204 Right of appeal to county court on point of law	If an applicant who has requested a review under section 202 is dissatisfied with the decision on the review, or is not notified of the decision on the review within the time prescribed under section 203, he may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.	Yes (NB the appeals will be against CBC but CBH will still be able to give evidence on CBC's behalf as they do now for possession cases etc).
S204A Section 204(4) appeals	<p>Authorities have power under HA 1996 s.204(4) to house pending any appeal (and any subsequent appeal). Interim relief will not be needed on a county court appeal if the authority agrees to use this power.</p> <p>an applicant with a right to appeal to the county court against a local authority's decision on review (s.204A(1)) may also appeal to the county court if the authority refuses to exercise its power to secure interim accommodation under s.204(4) or is only willing to do so for a limited period ending before the final determination of the main appeal</p>	Yes
S205 - 209 Discharge of functions	<p>By s.206, a local authority may discharge its duty under s.193 in one of three ways:</p> <p>(i) by securing that suitable accommodation provided by it is available for the applicant;</p>	Yes

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	<p>(ii) by securing that the applicant obtains suitable accommodation from some other person; or</p> <p>(iii) by giving the applicant such advice and assistance as will secure that suitable accommodation is available from some other person.</p> <p>S208 – provides when a placement can be made out of the council's area</p>	
S211 Protection of property of homeless person and persons threatened with homelessness (S212 supplementary provisions)	This section, supplemented by s.212, makes provision for local housing authorities to take steps to protect the property of homeless people.	Yes
S213 Co-operation between relevant housing authorities and bodies	Where housing duties of any type arise, or when inquiry duties arise, the authority may seek cooperation from one of the specified bodies, or may even request a social services authority to take over their functions, and that authority shall co-operate to the extent "as is reasonable in the circumstances".	No
S213A Co-operation in certain cases involving children		Yes