



# What is a Section 202 review?

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## **What is a Section 202 review?**

If you have made a homelessness application in accordance with the Housing Act 1996 and upon completing our enquiries, we have issued you with a “Decision Letter” that concludes that the Council, did not owe you a duty to house you, you can ask for that decision to be reviewed. This is a statutory review and is carried out by the Council in accordance with Section 202 of the Housing Act 1996. This leaflet explains when and how to ask for a review.

## **Which decisions can I ask to be reviewed?**

You have a right to seek a review of the following decisions made in relation to your homeless application:

- eligibility (if you have been found ‘not eligible’)
- homelessness (if you have been found to be ‘not homeless’)
- the reasonable steps, or any changes to those steps, set out in your Personal Housing Plan (to prevent or relieve homelessness)
- the prevention duty has been brought to an end
- the relief duty has been brought to an end
- priority need (if you have been found to be a ‘non- priority need’ case)
- intentionality (if you have been found to be ‘intentionally homeless’)
- restricted duty (if a member of your household is a ‘restricted person’)
- referral to another housing district (if the decision is to refer your case to another council or that the conditions for a referral have been met)
- suitability of accommodation (you can only request a review of the suitability of your temporary accommodation where the Council has accepted a full housing duty towards you and you are occupying temporary accommodation pending you finding suitable permanent accommodation through the Council’s Housing Allocation Policy).
- suitability of settled accommodation offered to you in discharge of our full housing duty (Final offer of accommodation owed to a person/household to whom we have accepted a homelessness housing duty)
- discharge of duty (where the Council concludes that it no longer owes you a duty to house you because of a change in your circumstances or due to an act resulting in the loss of your current temporary accommodation or an unreasonable refusal of a suitable offer of settled accommodation).
- makes a decision to give an applicant notice that they have deliberately and unreasonably failed to cooperate with the council
- makes a decision to give notice that the council will bring the duty to help secure accommodation to an end.

### **When can I ask for a review?**

You must ask for a review within 21 days of notification of the decision. Your request for a review must be in writing. Therefore it is important to request a review as soon as possible. If you fail to request a review within the stipulated 21 days you will lose your entitlement to a review. If you request a review outside the 21 days you will have to show the Council that there were exceptional circumstances as to why you could not request a review within the 21 day time period. The Council will then decide as to whether to conduct a review out of time or not.

It is preferable that your request for a review is in writing. If you have any issues which may make this difficult please contact the Housing Options service.

Your review will be decided on a point of law. If the council has not made an error in law it is likely that your review may not succeed.

### **Can I get help with my request for a review?**

There are solicitors who specialise in Housing Law who will be able to make representations on your behalf. Alternatively you can seek assistance from a specialist housing adviser, support worker, or family / friend who will be able to assist you to make the initial request for a review. It is imperative that you make a written request for a review as soon as possible. Detailed representations as to why you think the original decision is incorrect can be submitted at a later date. Do not wait to find a solicitor to represent you before you request a review. Once you have requested a review within the stipulated 21 days you can then find a solicitor to act on your behalf. Please note that once you have instructed a solicitor to represent you, we will require a signed consent from you to correspond with them.

### **Who will deal with my review?**

Your review will be dealt with by one of the Council's Housing Options Officers. This person will be both senior to and independent of the original decision maker.

### **How do I request a review?**

Please send a review request in writing to the Housing Options service at [homelessness@alldale.gov.uk](mailto:homelessness@alldale.gov.uk).

You can send your review through the post to Housing Options Service, Allerdale Borough Council, Allerdale House, Workington, Cumbria CA14 3YJ.

### **What information should I put in my review request?**

Ideally you should explain why you think the original decision is incorrect and provide any new information that supports your request for a review. However, simply putting in writing that you want to request a review is enough to start the process.

You will be given a reasonable period during the review to make any further submissions or provide additional information. However, please ensure you provide your full name, reference number, and contact details (current address or care of address, e-mail address, mobile number) so we can be sure who is requesting the review and how to contact you.

In addition, the Council will use whatever contact details you supply to provide you with the Council's review decision once completed. If a solicitor is acting on your behalf your review decision will be forwarded to them by e-mail / First Class post.

## **What happens next?**

Upon the Council receiving your written request for a review you will receive a letter within one week which will acknowledge receipt of your request for a review. It will also explain the process by which your review will be carried out and provide you with the name of the Review Officer who will conduct your review and who you or your solicitor will be able to contact to answer any queries relating to your review.

## **Regulation 8 (2) Letters**

Once your review officer starts to review the original decision made, if it is discovered that the original decision did not fully consider all the facts of your case or give due consideration to the provisions of the Housing Act 1996 or there is new information that may affect the decision the review officer will issue you with a Regulation 8 (2) letter. A Regulation 8 (2) letter or otherwise referred to as a "Minded to" letter is issued in accordance with The Allocation of Housing and Homelessness (Review Procedures) Regulations 1999. The review officer in the same letter will confirm that regardless of the flaws found in the original decision letter he/she is minded nonetheless to make a review decision that either upholds the original decision or is minded to reach another conclusion which still could result in a negative review decision.

Therefore a review decision could either uphold the decision contained in the original decision, alternatively, it could reach another decision which still amounts to the Council not owing a duty to house you. Or the review decision could confirm that the Council does owe you a full housing duty.

You may be asked to provide additional information or attend an interview with your Review Officer. The review will take into account your current circumstances and any new information since the original decision. If you have a solicitor or advocate acting for you, we will contact them rather than contacting you directly.

## **How long will it take?**

The review should be completed within 8 weeks (56 days). However, in some cases the process may take longer and if your review is going to take longer than 56 days to complete we will advise you or your solicitor in order that an extension of time can be agreed in order that the Council can complete your review. Likewise if you are waiting for any medical report and the 56 days for completing your review is nearing, the Council will consider granting you or your solicitor an extension of time in order that the outstanding medical report can be obtained and duly considered by your review officer.

## **Will I continue to be accommodated during the review?**

If you were provided with temporary accommodation, you will receive a notice of when it will come to an end in your decision letter. The Council does not have a duty to accommodate you while the review is being carried out. Therefore we suggest that you make alternative arrangements once you have received your decision letter. Please do not wait until your accommodation is nearing its end before you request a review.

The Council does have a discretionary power to provide you with temporary accommodation pending the completion of your review. Upon receiving your review request, you will receive a letter advising you whether or not we will provide you with accommodation during the review.

If the original decision made was a negative decision and you are seeking a review of that decision, we would strongly advise you to try and find alternative accommodation yourself by liaising with your Housing Options Officer who will assist in finding affordable alternative accommodation. If you wait until your review is complete, there is no guarantee that on review the Council will overturn the original decision and accept that it owes a full housing duty to you.



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