

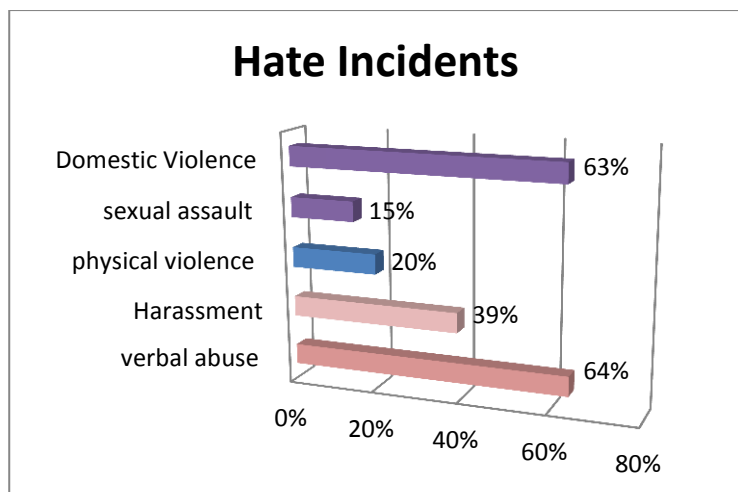
**Brighton & Hove**  
**Trans**  
**Housing**  
**Guide**



**Brighton & Hove**  
**City Council**

## Introduction

Although we have come a long way in recognising the rights of individuals to live a life free from harassment and discrimination, it is sadly still a fact that for members of the Trans community this is often not realised on a day to day basis. Transphobia and hate crimes/incidents are all too often a daily occurrence.



## Trans Needs Assessment 2015

Housing is seen by most as a fundamental right that all people should be able to access and once they are living in their home they should feel it is a safe refuge from the outside world. People's experiences however tell us that we have a long way to go before Trans people feel that this is the case.

This guide sets out to help members of the Trans community know what protections there are to help them access accommodation and to know their rights if they face discrimination, harassment, illegal eviction or transphobic hate crimes/incidents.

## Equalities Act 2010

The Equalities Act 2010 makes it unlawful in the provision of Goods, Services, Housing, and Facilities to discriminate or harass a person because they are intending to undergo, are undergoing, or have undergone gender reassignment.

The act protects anyone who is Intending to undergo, is undergoing, or has undergone gender reassignment even if they have not had or do not intend to have any medical gender reassignment treatments.

There are a number of situations that are covered under the act

- Direct Discrimination: when a person, rule or policy discriminates against a person solely because they are transgender
- Indirect Discrimination: when you have a rule or policy that applies to everyone but disadvantages a person with a protected characteristic.
- Harassment: behaviour deemed offensive by the recipient. Employees can claim they find something offensive even when it's not directed at them.
- Harassment by a third party: employers are potentially liable for the harassment of staff or customers by people they don't directly employ, such as a contractor (this is called Vicarious Liability)
- Victimisation: discrimination against someone because they made or supported a complaint under Equality Act legislation

There are now further types of discrimination that can cover discrimination because

- a) a person is thought to be transsexual (and this can include transgender), or
- b) a person is associated with a transsexual person

**Perceptive Discrimination:** The act also makes it unlawful on the same basis to discriminate or harass a person because they are PERCEIVED to be Intending to undergo, are undergoing, or have undergone gender reassignment

**Associative Discrimination:** The act also makes it unlawful on the same basis to discriminate or harass a person because they are ASSOCIATED with a person who is intending to undergo, are undergoing, or have undergone gender reassignment

## The Equalities Act in Practice

It is unlawful to discriminate in the provision of goods and services and this will include letting agents and landlords and will cover most residential lettings.

### Example

Sonia is a trans woman who sees a property on a letting agency website. Sonia shows an interest by sending an e-mail and arranges a viewing to see the property. Sonia attends the viewing at the allotted time having made sure that the property is still available but at the viewing is then informed that the property is no longer available. Sonia is looking at the website and sees that the property is still advertised as available for letting and gets her friend Tom to call the agency to arrange a viewing. Tom is informed that the property is still available for letting. Sonia has been directly discriminated on the basis that she is transgender.

## Finding accommodation

### Private rented accommodation

Brighton & Hove has a large private rented sector that can provide people with a home. Private renting can be the fastest way of relocating from one area to another and will give a choice of areas that you may wish to live in, to be near to friends for example.

Renting in Brighton & Hove is expensive, one of the most expensive outside of London. You should make sure that you know what you are doing before you rent a property.

Below is a link to a check list that will help you rent a property with a good landlord or agent and it explains what you should ask and what your rights and responsibilities are.

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/429420/HowToRent210515-digitalprint\\_May\\_2015.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/429420/HowToRent210515-digitalprint_May_2015.pdf)

### Rent levels in Brighton & Hove

Brighton & Hove is one of the most expensive places to live outside of London. Rents have increased over the past ten years and for many people this is not an option.

- **Studio** £696
- **1 bed** £910
- **2 bed** £1,349

Housing Benefit is paid by the Department of Works and Pensions (DWP). The maximum rate payable as of July 2017 is:

- Studio £ 663
- One Bed £633
- Two Bed £834

The council does not set the Local Housing Allowance - this is set by the DWP. The above rate covers the whole of Brighton & Hove and is also applicable to areas to the east of the city to Newhaven and to the west of the city to the River Adur.

Renting can be cheaper if you can find someone to rent with and split the rent. If you are considering this option, you should consider how well you know the person you are going to live with and what would happen if this goes wrong. Renting with someone may mean that you have a joint tenancy and you will both be responsible if the other person is not able to pay the rent. If you are thinking of flat sharing, always seek advice before you proceed.

## Rent deposits and fees

### Rent deposits

Rent deposits are normally required by landlords and agents to protect them against rent arrears or damage to their properties. All landlords and agents have to, by law, protect the deposit in one of the government approved schemes. These are:

- Deposit protection service - [www.depositprotection.com](http://www.depositprotection.com)
- Mydeposits - [www.mydeposits.co.uk](http://www.mydeposits.co.uk)
- Tenancy deposit scheme - [www.tenancydepositscheme.com](http://www.tenancydepositscheme.com)

All deposits **must** be protected within 30 days of the tenant handing the deposit over. Your landlord doesn't have to protect a holding deposit (money you pay to 'hold' a property before an agreement is signed). Once you become a tenant, the holding deposit becomes a deposit, which they must protect

Your landlord (or the agent) must also give you information about the deposit including the following:

- the address of the rented property
- how much deposit you've paid
- how the deposit is protected
- the name and contact details of the tenancy deposit protection (TDP) scheme and its dispute resolution service
- their (or the letting agency's) name and contact details
- the name and contact details of any third party that's paid the deposit
- why they would keep some or all of the deposit
- how to apply to get the deposit back
- what to do if you can't get hold of the landlord at the end of the tenancy
- what to do if there's a dispute over the deposit

For further information on deposits, visit [www.gov.uk/tenancy-deposit-protection](http://www.gov.uk/tenancy-deposit-protection).

If a landlord wants you to leave your property, they must serve a notice. The most common notice is called a section 21 notice. If your landlord had not protected your deposit or followed the rules correctly, by giving you the information that is required, the notice may be invalid. You can check with the scheme to see if your deposit is held using the web links above.

## Agent's fees

Agents are still allowed to make certain charges, commonly called agents fees. Find out what fees (and costs) you will be charged and when you need to pay them. By law, a breakdown of all fees should be clearly visible to you in the agent's office and on their website.

You should shop around before you proceed with any agent as their fees can vary significantly.

## Complaints about agents

If you wish to complain about your agent you should have raised this with them first. If you are dissatisfied agents must be members of an independent complaints scheme and this information must, by law, be clearly visible.

Many agents will be members of a recognised professional body such as:-

- Arla [www.arla.co.uk/find-agent.aspx](http://www.arla.co.uk/find-agent.aspx)
- NALS [www.nalscheme.co.uk/find-an-agent/](http://www.nalscheme.co.uk/find-an-agent/)
- RICS [www.rics.org/uk/find-a-member/](http://www.rics.org/uk/find-a-member/)
- UKALA [www.ukala.org.uk/agents/ukala-agent-directory](http://www.ukala.org.uk/agents/ukala-agent-directory)

The web links will find an agent in the local area that you are looking to live in.

The government has announced in the 2017 Queen's Speech that it intends to bring forward legislation to ban agent's fees. No details are currently available and changes are unlikely to come into force until 2018.

## Harassment and unlawful eviction

Although the Equalities Act gives protection to the transgender community in particular, there are some other useful legal protections that will apply to everyone who identifies as Trans. This will include people who identify as non binary, gender queer equally.

## Protection from Eviction Act 1977 (PEA 1977)

It is an offence for a residential occupier to be evicted without the proper process being followed. In most cases, if you are renting your home from an agency or private landlord, it is self-contained and you don't share with a landlord, then you will have to be given notice that your tenancy is going to end.

The rules are complex and you should always seek advice on the validity of any notice. In general terms, the notice must give you two months notice that you must leave, or that your tenancy is not going to be renewed.

At the end of the notice the landlord or agent **must** obtain a court order for possession in the local county court. You may be liable for the costs of the court proceedings if you have not left at the end of the tenancy. The court will send you an order for possession which will specify that date that the order will come into effect.

If you have not left by the date in the possession order then the landlord or agent **must** apply for a bailiff's warrant in order to evict you. Only an officer of the court is able to enforce the possession order against you. This is know as "due process of law"

## Harassment

Under the PEA 1977, harassment is defined as:

- Withdrawal of services





The housing officer will advise you what they can do to assist you and you may wish to discuss transferring from your current home to an alternative tenancy. There are two possibilities if you are the tenant.

### **Priority transfer**

A priority transfer can be arranged if you are experiencing significant insurmountable problems associated with the occupation of your dwelling and there is imminent personal risk to the tenant or family if you remain in your home. This will normally be backed up by evidence by the police or other agencies dealing with your case.

If there is not imminent personal risk, the case can be considered for a lower priority or Management Transfer. This is because it is less urgent and may be for example that it is harassment in an area rather than actually in your own home.

If you are awarded a priority or management transfer, you will not be able to remain in the area that you currently live in by will have to move to another part of the city.

### **Domestic violence and social housing tenants**

If you are a tenant and you are experiencing domestic violence you may also be offer assistance to move. The rule as the same as above for a priority or management transfer.

Please note that priority transfers come from your landlord to the Homemove team and the Homemove team are not able to consider cases without the support of your landlord.

To report anti-social behaviour, harassment or domestic violence if you are a Brighton & Hove City Council tenant, call 01273 293030.

If your landlord is a housing association, you will need to call your landlord and ask to speak to someone about anti-social behaviour or domestic violence.

### **Social housing**

In many areas, social housing is in very short supply and the waiting list can be extremely long. Registering for social housing will not normally provide a quick result for someone looking to make an urgent move.

Each local authority will have its own housing allocations policy. This may be a policy on its own or jointly with other social housing provider, commonly known as a 'joint housing register'. In Brighton & Hove, there is a joint housing register that lays out the rules that are in place and what priority your application may receive if you apply.

### **Reporting harassment, anti-social behaviour or domestic violence**

We are aware that many people do not report things to the police. The police are there to help you and can offer you support and can record any crimes as a crime. This may assist you if you need to move as you will have proof that you can give to the local authority. You can also keep a diary of events and if you are injured at any time then you should report this to your doctor and keep any evidence that you have.

## **Allocations Policy**

### **Eligibility**

Applicants for social housing have firstly to be eligible to be considered for social housing. The rules on eligibility can be complex for some applicants. Normally, if you are a UK national who has been living in the UK for the last two years you will be considered to be eligible.

If you are an EEA national and you are resident in the UK and are working, you will also be considered eligible to for social housing. If you are not a worker or you are a family member of an EEA national, you may still be considered for housing but it is more complicated.

Asylum seekers are not eligible for social housing assistance while there asylum claim is being considered. However, if you have applied for Asylum and you have been granted 'leave to remain', you will normally be able to apply for social housing as long as your leave to remain is current.

If you are not considered eligible for social housing for whatever reason, you will automatically have the right of a review of this decision. The letter that you receive must inform you of this right and what you must do. The right of a review has to normally be within 21 days of any decision.

If you are having difficulty with your eligibility status you should seek advice from an organisation that specialises in immigration law.

## **Qualifying person**

If you are eligible for social housing you also have to be a 'qualifying person'. The rules as to who qualifies are down to each local authority and they have to have an allocations policy. Some of the important factors are set out below.

## **Local connection**

Most local authorities now have a local connection policy that priorities people that have been living in their area for a period of time. Each local authority can differ. You can normally find information on the council website.

In Brighton & Hove the residence qualification is that you have resided in the local authority area for a period of five years. There are a number of exceptions to the five year local connection rule. These include

- An applicant with an accepted homeless duty by the council
- An accepted under a social services nomination by Brighton & Hove City Council
- Currently serving or having left the armed forces within the last five years
- The council agreed to offer accommodation under a reciprocal agreement
- Existing social tenants who have the 'right to move' related to employment
- Some temporary time spent outside of Brighton & Hove will not be counted when building up a local connection with the city

Brighton & Hove's current Allocations Policy can be found here at [www.brighton-hove.gov.uk/homemove](http://www.brighton-hove.gov.uk/homemove).

This document contains all the information so that you can give the council the relevant information.

## **Income and saving cap**

In order to allocate social housing to those most in need the council has an income and savings cap. The current cap is based on income and saving by bedrooms needed. These caps can change and can be found in the allocations policy using the link above.

## **Anti-social behaviour and rent arrears**

The council will look at a person's previous housing history and if there is anti-social behaviour or rent arrears, someone may not be able to join the housing register. Each case is looked at on its merits to see if the anti-social behaviour has stopped or how the



rent arrears came about and if payments have been made to pay off a former housing debt.

The council will look if someone has any previous criminal conviction but will only take into account convictions that are not spent under the Rehabilitation of Offenders Act.

## **No recognised housing need**

If the council considers that someone is adequately housed then you would not be able to join the housing register.

If the council does not consider that you qualify to join the housing register (or remain if you have already applied) then the council must inform you of the decision and also give you a right to a review.

## **Housing assessment**

If you are eligible and qualify for social housing then the council will assess your case and place you in one of four Bands - A to D. Most people will be placed into Bands A to C but have to have a recognised housing need under the allocations policy. You will be given notification of your banding and you will be given the right of a review if you disagree. This must be within 21 days of the decision.

## **Change of circumstances**

You are obliged to inform the council if your circumstances change. This can be if you move or if you people on your application move out for example

## **Medical assessment**

You may be able to gain some priority for a move into social housing on the basis of a medical condition. This can be either physical or mental health related. Please remember it is not the fact that you have a medical condition that determines if you will be given some additional priority for a move. In order to qualify you will have to demonstrate how your current accommodation is affected by your health. There must therefore be a medical need to move.

You may be asked to prove the medical information and the more information that you disclose the better your chances are that you may get some additional preference and be placed in a higher band.

In the first instance you should complete a medical and or mobility form which will ask you about your medical situation and your housing circumstances. You will have to evidence your medical conditions. The most practical way is to ask your GP surgery for a Patient Summary. This will have current and former medical issues and what medication you are or have been on.

The council acknowledges that disclosing personal information can be difficult but if the council does not know then it cannot assess the situation and cannot award you any additional priority for this. Be open and honest with your situation. Your information will not be given to any other person without our consent.

This is just a snap shot of the allocations policy and you may want to look at the full version on-line. The council only allocates around 680/700 properties each year and cannot help everyone with accommodation.

## Getting an advocate

Sometimes it is good to get someone who can help you with your housing application. They may have helped people before with similar situations and will know how the system works. There are a number of voluntary organisations that will be willing to help you and your application.

## Homelessness

You may be faced with nowhere to live at very short notice for a variety of reasons. This may be because you are facing transphobia, threats of violence, harassment or you may have been evicted unlawfully or not been able to find alternative accommodation if you are asked to leave your home.

If you are faced with having nowhere to live you may be able to get some assistance from your local authority. Every local council has to make arrangement to receive homeless applications from people that have nowhere to live. The duty that they have to accommodate you may be different depending on your circumstances.

There are a number of hurdles that you will have to satisfy. The process is complicated and you will need to answer questions about your circumstances.

If you are facing homelessness and you have somewhere to live you should always seek advice immediately before you leave. If you are facing violence or threats of violence you may be able to flee from your accommodation immediately. If you are facing violence or threats of violence you should seek immediate assistance from the police, this may help you if you then approach a local authority in these circumstances.

## Homeless Reduction Act 2017

**The Homelessness Reduction Act came into force on 3 April 2018. This act has made changes to the way the local council's deal with anyone who is threatened with homelessness. There are a number of changes the way that people who approach homeless services will be dealt with.**

### Homeless Prevention Duty

The new act has increased the length of time that local authorities have to offer a service to people threatened with homelessness. Any person who is threatened with homelessness within 56 days will be owed a homelessness prevention duty.

This duty is owed to any person approaching the local authority, regardless of any priority need, local connection or if they may be intentionally homeless.

### Homelessness Relief duty

At the end of the Homelessness Prevention Duty, or if someone approaches a local authority who is already homeless, applicants will be owed a Homeless Relief Duty. At this stage, the council can take account if someone does not have a local connection within its area. They may then refer the person to an area where they do have a local connection. Anyone who does have a local connection will continue to be owed a relief duty by the council, regardless of priority need or whether they have made themselves intentionally homeless.

## Personal Housing Plan

These new duties are designed to help more people avoid becoming homeless. The prevention and relief duties mean there must be a new way of working with any person seeking homelessness advice.

Councils need to work with you to find a solution to whatever the problem is that may cause you to become homeless. This means using the help and support available in the city, as well as the council's resources. But it also means helping you to use your own resources – whatever they are – to take reasonable steps to avoid homelessness. If you can stay with friends or family, this may be expected. If you have the ability to find accommodation, this will be expected so long as you have the right help from the council.

To help achieve this, the council must agree a Personal Housing Plan with you. It must contain the following information:

- Why you've approached us:
  - Circumstances that caused you to become homeless or at risk homelessness
- Your household needs:
  - What accommodation would be suitable for you and those who live with you
- Your support:
  - What support would be necessary for you and your household

The plan will also have actions that both the applicant and the council will be taking. These actions will vary from case to case and will depend if the person is in the prevention or relief stage of the process.

## The Main Housing Duty

Councils will now only check if you are owed a housing duty in the longer term at the end of the relief duty when they have not been able to prevent your homelessness or provide an alternative accommodation option for you that will last for at least six months.

There have not been any changes to the main duty or to those that the council would have to provide accommodation to if they become homeless.

The council can indicate to those that it does not have a Main Housing Duty to at the relief stage and bring any accommodation to an end for those that it does not have a Main Housing Duty to.

If the council is going to find that you have made yourself intentionally homeless and you are in priority need, it cannot end the accommodation duty during the relief stage and it will still have to provide you with accommodation for a reasonable period of time at the end of the relief duty.

If you approach a local authority you will still have to prove certain things before they will accept a Main Housing Duty to assist you these are

1. You are eligible for assistance
2. You are homeless
3. You have a priority need for assistance
4. You have not made yourself intentionally homeless
5. You have a local connection with the area that you are applying to (unless you are fleeing violence and it is unsafe for you to return to the area due to these threats)

## Eligibility

You will normally be eligible if you are a UK citizen and have not recently returned to the UK after living abroad. You will also be eligible for assistance if you are a European national and are here as a worker. The rules of European nationals and other people who are from abroad are complex.

## Homeless

Someone is homeless if they do not have somewhere that they can live or if they have somewhere but it is not reasonable for them to live there, because of threats of violence for example. You should be open and honest about your situation and if you can have paperwork to help you with your claim.

## Priority need

Someone is considered to be in priority need if they fall into one of the categories contained in the Housing Act 1996. In general, if you are single you would have to be considered 'vulnerable' under this act in order to qualify. A person has to be assessed to see if they would be significantly more vulnerable when homeless than the ordinary person. This is complex and the assessment will have to look at the facts in your case. This will include medical information, both physical and mental health. If you are transitioning, at what stage you are in the process. You do not have to be undergoing any medical treatment but if you are it you should be prepared to disclose this information.

If you have transitioned and you are having any problems relating to this, again you should disclose this information. If you also have any other medical issues you should also disclose this information, it may help your claim.

## Intentionally homeless

Someone can be found to be intentionally homeless if they give up accommodation that would have been reasonable for them to continue to occupy this accommodation. This is a difficult legal area and you should, if you are able to, get advice before you give up accommodation elsewhere. You may be found intentionally homeless if you are evicted for not paying your rent when you could have done so.

## Local Connection

The rules on local connection are different under homelessness than those that local councils use for their housing registers. You will have a local connection if you have one of the following

1. Residence for six out of the last 12 months
2. Residence for three out of the last five years
3. You work in the local authority area
4. You have family connections (they must have lived here for five years and they should be close family members)
5. You have another special reason

A local authority cannot refer you back to another local authority area if you are fleeing violence or threats of violence that are likely to be carried out. You will need to prove that it would not be safe for you to return to an area. Local connection only applies if the council has a duty to accommodate you (they accept that you are eligible, homeless in priority need and that you have not made yourself intentionally homeless)

A local authority cannot refuse to assess your application on the basis that you do not have a local connection. They **must** investigate regardless of your local connection.

## **Right to a review**

The new act gives an applicant the right to request a review during the prevention and relief duty stages. Any notifications will have to inform you of your right to request a review and any time periods that you must request this review in.

All decisions that previously had the right of a review will still have this right under the new act.

## **Dealing with your information**

You have the right for your information to be kept safe. You also have the right to know what is on your file. If you wish to see a copy of your housing file you can make a **subject access request**.

If, once you have received your housing file, you can request that any inaccurate information is corrected. If you wish to make a request, you can do so at [www.brighton-hove.gov.uk/dataprotection](http://www.brighton-hove.gov.uk/dataprotection).

## **Identity and change of identity**

### **Honorifics**

People are often uncomfortable in using information to identify themselves in a certain way. The council system allows you to choose how you identify yourself by selecting to use an honorific such as Ms or Mr or if you prefer you can choose 'Mx' or none of the above. You are free to choose and free to change as you wish.

### **Identity**

We recognise that there can be issues with identity and we want to make this as easy as we possibly can. As we are responsible for allocating accommodation either on a temporary or permanent basis, we have to ensure that we are doing so in a lawful way. We will ask you to complete forms and we will then ask you to provide evidence that you have associated with the information that you have given.

### **What happens if I do not have evidence of my new identity?**

You can apply giving the name that you wish us to identify you with, and we will put the application in this name and correspond with you under the name that you have given us to use. If your official documents are not in this name, we would need to know that this is the case and we will need to see your official identity as it stands at the time.

**Updated June 2018**