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Changes to the Code of Guidance as a result of the new RRA /1

The Code by and large just restates the changes to the legislation already covered in that video.

However, there is new guidance across a number of issues, including:

1. Considering if someone is homeless due to a Section 13 rent increase
2. When to consider someone as homeless if they have received a valid section 8 notice
3. In what circumstances does the reapplication duty apply and not apply.

Changes to the Code of Guidance as a result of the new RRA /2

Considering if someone is homeless due to a Section 13 rent increase.
New guidance from 1st May 2026:

6.38: Where an applicant has been served with a valid section 13 notice of an increase housing authorities will need to assess whether the proposed rent would render the accommodation unaffordable for the household, such that it would no longer be reasonable for the applicant to continue to occupy.

6.39: Applicants may be advised on the process for referring the proposed increase to the First Tier Tribunal if they consider it to be above the rent that the landlord could reasonably expect to receive if they were to let the property on the open market. Whether or not a referral is made, if there is a possibility that the rent may be increased to a level that the household cannot reasonably afford, the applicant will be threatened with homelessness.

Changes to the Code of Guidance as a result of the new RRA /3

When to consider someone as homeless if they have received a valid section 8 notice.

This has always been a contentious area with councils in the past criticised for not accepting tenants as homeless (and therefore needing to be placed into TA) upon the expiry of a valid Section 21 notice.

Changes to the Code of Guidance as a result of the new RRA /4

The old Code stated:

The Secretary of State considers that where an applicant is:

- 1. An assured shorthold tenant who has received a valid notice in accordance with section 21 of the Housing Act 1988;*
- 2. The housing authority is satisfied that the landlord intends to seek possession and further efforts from the housing authority to resolve the situation and persuade the landlord to allow the tenant to remain in the property are unlikely to be successful; and,*
- 3. there would be no defence to an application for a possession order;*

then it is unlikely to be reasonable for the applicant to continue to occupy beyond the expiry of a valid section 21 notice, unless the housing authority is taking steps to persuade the landlord to allow the tenant to continue to occupy the accommodation for a reasonable period to provide an opportunity for alternative accommodation to be found.

Changes to the Code of Guidance as a result of the new RRA /5

In summary:

There is no similar advice in the revised post RRA Code to the old Code to consider someone as homeless when:

- A valid notice has expired and
- The landlord is likely to seek possession, and
- Further efforts from the housing authority to resolve the situation and persuade the landlord to allow the tenant to remain in the property are unlikely to be successful.

Changes to the Code of Guidance as a result of the new RRA /6

Instead, the new Code states that:

The Secretary of State considers that it is unlikely to be reasonable for the applicant to continue to occupy beyond the date on which the court has ordered them to leave the property and give possession to the landlord (Par 6.48).

In the old Code advice as to when to consider someone as homeless at the date the possession order expired used to say **highly unlikely** to be reasonable to continue beyond the date which the court has ordered them to leave the property.

This now states **unlikely** and not **highly unlikely**.

Changes to the Code of Guidance as a result of the new RRA /7

There remains in the new Code general guidance as to the issues the council should consider when deciding whether it is reasonable for a tenant to remain beyond the expiry of a valid section 8 notice.

Authorities should not adopt a blanket policy or practice on the point at which it will no longer be reasonable for an applicant to occupy following the expiry of a section 8 notice.

The Code lists **6 factors** that a council may consider to be relevant in deciding on the facts of any case when it will no longer be reasonable for an applicant to occupy following the expiry of a section 8 notice.

Changes to the Code of Guidance as a result of the new RRA /8

The 6 factors are:

1. The preference of the applicant (who may, for example, want to remain in the property until they can move into alternative settled accommodation if there is the prospect of a timely move)
2. The preference of the applicant who may want to leave the property to avoid incurring court costs;
3. The position of the landlord;
4. The financial impact of court action and any build up of rent arrears on both landlord and tenant;
5. The burden on the courts of unnecessary proceedings where there is no defence to a possession claim that has reasonable prospect of success; and
6. The general cost to the housing authority.

Changes to the Code of Guidance as a result of the new RRA /9

What has changed from the Code is the wording for one of these 6 factors, this being the consideration of the burden on the courts of unnecessary proceedings where there is no defence to a possession claim that has reasonable prospect of success.

The old wording required councils to consider the burden on the courts of unnecessary proceedings.

What has been added is:

the burden on the courts of unnecessary proceedings where there is no defence to a possession claim that has reasonable prospect of success.

Changes to the Code of Guidance as a result of the new RRA /10

To sum up where councils are in respect of when to consider someone as homeless at the expiry of a valid possession order:

- There is no longer specific wording to say that the Secretary of State considers someone to be homeless at the expiry of a Valid notice
- There remains advice in the new Code that states that: *“The Secretary of State considers that it is unlikely to be reasonable for the applicant to continue to occupy beyond the date on which the court has ordered them to leave the property and give possession to the landlord.”*
- There remains clear guidance to state that: *“Housing authorities should not consider it reasonable for an applicant to remain in occupation up until the point at which a court issues a warrant or writ to enforce an order for possession.”* (Par 6.49)

Changes to the Code of Guidance as a result of the new RRA /11

None of the advice on the previous slide is relevant if the tenant wishes to pursue their legal right to remain in occupation beyond the date a Court has ordered them to give up possession (the end date in any possession order). This includes their right to remain until a bailiff evicts them.

A person might be homeless for another reason related to whether it is reasonable to continue to occupy such as for example affordability or housing conditions.

Regardless of the new wording in the Code on the point as to when to consider someone as homeless a council must for every case show that they have considered the 6 relevant factors set out on the previous slide and should have a file note that records how all 6 have been weighed up in making its decision.

Changes to the Code of Guidance as a result of the new RRA /12

Changes to the reapplication duty for an applicant whose main duty was ended through a private rented sector offer (a PRSO)

In what circumstances does the reapplication duty apply and not apply.

Under the old rules an applicant who reapplies to an authority within 2 years of accepting a PRSO offer will:

- Go straight to a main duty as long as they are not intentionally homeless and
- Will retain any priority need even if they have lost it during the 2 years since accepting the PRSO offer

The reapplication duty is withdrawn for new tenancies that started after May 1st 2026 but remains in place for PRSO offers accepted in the 2 years prior to May 1st 2026