

Requesting a Review of a Homelessness Decision (Section 202 Review)

Fareham Borough Council has a duty to provide advice and help to anyone who is homeless or threatened with homelessness. If you make a homeless application, we will consider your individual circumstances and decide what, if any, housing duty is owed to you. By law, we must write to tell you our decision, setting out the reasons why we have made it.

If you disagree with our decision, you might be able to ask us to reconsider it. This is called asking for a 'review'. This guide explains under what circumstances you can request a review, and what will happen once you do.

Requesting a review of a decision

The decisions(s) detailed below are the only ones that may be challenged. Any other decision awarded is final.

- You are not eligible for help (due to your immigration or nationality status)
- You are not homeless or threatened with homelessness
- You do not have a priority need
- You are homeless intentionally (or threatened with homelessness intentionally)
- Any of the steps set out in, or changes to, your Personalised Housing Plan under the prevention and/or relief duties
- To end the prevention and/or relief duties
- To refer your case to another Local Authority, or that the conditions for a referral have been met
- The conditions for referral to another Local Authority are not met, and that the duty will remain with Fareham Brough Council
- To give notice that you have deliberately and unreasonably refused to cooperate with the steps set out in your Personalised Housing Plan
- To give notice that the Council will bring the duty to help secure accommodation to an end
- To discharge any duty (where the Council says it no longer owes you a duty because of a change in your circumstances, due to any action which results in you losing your temporary accommodation or an unreasonable refusal of an offer of suitable, settled accommodation)

You are also able to ask for a review of a number of decisions relating to any accommodation that may be offered to you. You can request a review of:

- The suitability of any accommodation offered to you in relation to any of the duties mentioned above, or any offer of accommodation made under Part 6 of the Housing Act (the Council's Housing Waiting List). You can request a review whether or not you actually accept the offer.
- The suitability of any accommodation offered to you by way of an offer in the private rented sector.
- The suitability of any accommodation offered to you as a final accommodation offer or a final Part 6 offer (the Council's Housing Waiting List). You can request a review whether or not you actually accept the offer.

There are a couple of instances where you cannot ask for a review. You cannot ask the Council to review its' decision not to offer emergency (or 'interim') accommodation, or on the suitability of any such accommodation offered. However, you can still challenge these decisions by way of Judicial Review (an appeal to the High Court).

Is there a time limit for asking for a review?

Yes. The law says that you must ask for a review within 21 days of the decision. If you do not ask for a review within this time, you will lose the right to do so. We may consider a request for a review after this if you can show that there were exceptional reasons why you were not able to request a review within the time allowed. However, we are not under any obligation to do so.

What if I did not receive the decision letter?

The law says that we can treat any letter as having been received by you, even if it was not, as they are always available to collect from our offices. Again, you can ask for the time limit to be extended under these circumstances, but we are not under any obligation to do so.

Can I get any help with my request for a review?

You may find that an independent legal or specialist housing adviser can help you with the review process, and this would be advisable if you are seeking a judicial review.

You can find a legal aid solicitor and check if you are entitled to help with legal costs at www.gov.uk/check-legal-aid or by telephone on 0345 345 43 45 (lines open 9am to 8pm weekdays and 9am to 12:30pm on Saturday). You can also telephone Shelter's free helpline on 0808 800 4444 (lines open between 8am and 8pm weekdays and 9am to 5pm at weekends). It might also be possible to get assistance through Citizen's Advice www.citizensadvice.org.uk.

You may also wish to provide new information, in which case you might also need the help of other professionals such as social workers or doctors, who know your situation. However, you should always tell us as soon as possible that you want to ask for a review and then seek help, as this will save time and ensure your request is made before the deadline expires.

How do I ask for a review?

You (or someone acting on your behalf) can request a review in person at our offices, by phone, by e-mail or in writing. We would prefer that you do so in writing or by e-mail as this helps to ensure that everyone is clear on what it is that you are asking us to review and why.

It is enough to simply say that you want a review. Ideally, you should explain why you think the decision is incorrect and submit any additional supporting evidence you have. If you do not or cannot do this at the time you request a review, you will be given a reasonable period in which to provide this.

Who will deal with my review?

Your review will be dealt with by an Officer who is both senior to the original decision maker and who has not been involved in making that decision. You should send any request for a review to:

Housing Options Research & Review Officer,
Fareham Borough Council
Civic Offices
Civic Way
Fareham
PO16 7AZ

Alternatively, you can e-mail at housing@fareham.gov.uk

What happens next?

We will write to you within five working days acknowledging your request and explain the process we'll follow in connection with your review. The Reviewing Officer will reconsider all the previous information and will take account of any new circumstances or new information provided by you (or anyone acting on our behalf).

The Reviewing Officer could uphold the original decision or overturn it. Either way they will write to you to explain the decision they reach. It is also possible the Reviewing Officer could find that the original decision had mistakes in it but still reach the same conclusion or make a different decision that means the Council still does not have a duty to house you. Under these circumstances the Reviewing Officer must

write to you to explain their reasons. This is called a 'minded to' letter. You will then have a further opportunity to challenge the new decision

How long will the Council take to make a decision on my review?

The review process can take between three to twelve weeks, depending on the type of decision that is being reviewed. However, the period can be longer than this if both you (or the person acting for you) and the Reviewing Officer agree to an extension in writing.

Will I be accommodated during the review process?

You can ask us to arrange temporary accommodation while we consider your review, but we are not under any legal duty to do so. We would normally only provide accommodation if the original decision was flawed or if there are exceptional circumstances.

What is the law around the review process?

The law concerning reviews is contained within Section 202 of the 1996 Housing Act, Part 7 (as amended by the Homelessness Reduction Act 2017), which instructs Councils how they must carry out reviews. The Homelessness (Review Procedure etc) Regulations 2018 set out the procedures we must follow when conducting reviews.

You can find copies of this legislation at www.legislation.gov.uk. It may also be available from a local library, housing specialist or solicitor.

What if I am unhappy with the review decision?

If you remain unhappy with the decision you can seek a County Court Appeal. You must apply to the Court within 21 days of receiving your review decision, and it must be on a point of law. The Council would recommend you seek legal advice before taking any action.