

# UK homeless no longer have to take 'almost impossible' accommodation test

Wed 13 May 2015 13.16 BST

**Supreme court finds councils wrongly assessed the level of need of applicants for accommodation in ruling welcomed by charities**



▲ *'At the mercy of an almost impossible test, thousands of vulnerable homeless people have been forced to sleep rough or pushed into dangerous situations,' said Campbell Robb of Shelter. Photograph: Alamy*

Thousands of vulnerable homeless people should find it easier to obtain council accommodation following a supreme court judgment that will require housing officers to adopt a new approach. The ruling, welcomed by charities that support rough sleepers, found that many local authorities have wrongly been assessing need in relation to those deemed "street homeless" – even though the description does not appear in the relevant legislation.

By a majority of four to one, the supreme court justices found that a homeless man who had multiple physical problems and psychotic symptoms should not have been turned away by Southwark council.

**// This ruling represents a major step in tackling the injustice faced by so many single homeless people in England today.  
Jon Sparkes, Crisis**

“He was deemed by Southwark not to be in priority need because he would not be at a greater risk of injury or detriment than an ordinary street homeless person, due to the ability of his wife and son to fend for the whole household,” the justices observed.

“The expression ‘street homeless’, is ... much used, but it is not to be found in the 1996 [Housing](#) Act,” the judgment added. “The expression can plainly mean somewhat different things to different people.

“‘Homeless’, as defined in the act, is an adjective which can cover a number of different situations, and the very fact that the statute does not distinguish between them calls into question the legitimacy of doing so when considering the nature or extent of an authority’s duty to an applicant.”

Welcoming the judgment, Giles Peaker, a partner at Anthony Gold Solicitors who acted for the charity Crisis in the case, said: “The purpose of the law was to ensure that people who are at more risk of suffering harm when homeless are given accommodation.

“The test for vulnerability had become such a high hurdle that vulnerable people were turned away. The supreme court has set out clearly how the law should work to fulfil its purpose.”

Matt Hutchings of Cornerstone Barristers, who represented Shelter and Crisis in their intervention, said: “The supreme court has overturned the test that has been used by local authorities for 16 years to decide whether a homeless person is ‘vulnerable’ and so in priority need of accommodation.

“Previously, under guidance given by the court of appeal in the case of Pereira [the vulnerability test], applicants had to show that they were more vulnerable than an ‘ordinary homeless person’ ... So the test became ‘more vulnerable than the vulnerable’.

“The supreme court decided that this was wrong, and the correct test was ‘more vulnerable than an ordinary person’. In so doing, they have reinstated the original intention of parliament.”

Campbell Robb, chief executive of Shelter, said: “At the mercy of an almost impossible test, thousands of vulnerable homeless people have been forced to sleep rough or pushed into dangerous situations. Today’s landmark ruling should make this a thing of the past, and mean the law rightly acts to protect those who need it most.

“Far too often at Shelter we hear from homeless people in utterly desperate situations, like someone fleeing domestic violence or coping with a severe mental health problem, who’ve been wrongly refused help by their local council and left to fend for themselves on the streets.

“Today’s judgment shows that our homelessness laws remain a vital safeguard for those who lose their home through no fault of their own, and they must be upheld.”

Jon Sparkes, chief executive of Crisis, said: “This ruling represents a major step in tackling the injustice faced by so many single homeless people in England today.

“The court heard evidence of just how horrific a homeless person’s life has to be before they qualify for council help. The average age of death for a homeless person is just 47; they are over nine times more likely to commit suicide and 13 times more likely to be a victim of

violence. It's a scandal that someone facing this kind of life can be told they're not vulnerable enough for help.

"The reality is that anyone sleeping on the streets is vulnerable, and we applaud today's ruling for making it easier for people to get help. The court is also clear that while councils are often under huge financial strain, this must not be used as an excuse for avoiding their legal duties.

"Despite this ruling, we still have a long way to go. The legal entitlements for single homeless people remain inadequate and many will still be turned away from help – cold, desperate and forgotten by wider society."

Councillor Richard Livingstone, cabinet member for housing at Southwark council, said: "Today's Supreme Court hearing is an important test case that will have an impact on how councils across the country approach homelessness. Southwark, along with all councils, previously followed national guidance.

"The judgments today make it clear that this guidance had some shortcomings and did not always result in the best decisions being made for homeless people.

"We fully accept the supreme court's findings, which will affect how all councils deal with future homelessness decisions, and we look forward to clearer guidance being issued by the Department for Communities and Local Government.

"Locally, every effort has been made to support Mr Kanu and Mr Hotak's housing needs during the course of the trial and we'll continue to do so."

The Local Government Association said: "Councils will be considering this ruling carefully. It is a tragedy when anyone becomes homeless and councils work hard to find appropriate accommodation for homeless people, particularly those who are young, vulnerable, or with families.

"With homelessness approvals increasing and local authorities accepting more people than ever, sadly, councils simply do not have enough homes to provide accommodation for all of those who need support, due to a shortage of housing and pressures on their budgets.

"Councils are continuously finding new and innovative ways to deliver and finance new homes to expand the range of accommodation available. However, if they are to unlock their ambitions to build many more affordable homes, they must be given urgent flexibility to do so."