



Able Investigations & Enforcements

POLICE INFORMATION BOOKLET

Eviction Without Court Order Under Section 188 of the Housing Act 1996



POLICE INFORMATION SHEETS

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Eviction Without Court Order Under Section 188 of the Housing Act 1996

What is Section 188 of the Housing Act 1996?

Section 188 of the Housing Act 1996 places a duty on local authorities in England and Wales to provide interim accommodation to homeless applicants where they have reason to believe the applicant may be:

- Homeless/Asylum Seekers
- Eligible for assistance, and
- In priority need.

This duty is temporary and continues while the council makes further inquiries to determine whether a full housing duty under section 193 is owed.

Why a Court Order is Not Required for Eviction

When a person is provided with accommodation under Section 188, they are not a tenant but rather an excluded licensee or tolerated occupier. Because of this status, standard protections under the Protection from Eviction Act 1977 do not apply. This has been proved in the supreme Court. **Supreme Court decision in R (on the application of ZH and CN) (Appellants) v London Borough of Newham and London Borough of Lewisham (Respondents) [2014] UKSC 62**

• Key Legal Reasons:

Excluded Licence / Temporary Arrangement

Occupants under section 188 are given a license to occupy, not a tenancy. This means they do not have security of tenure and can be asked to leave without a court possession order.

Schedule 1, Protection from Eviction Act 1977

Section 3A and Schedule 1 of this Act make it clear that certain categories of accommodation — including interim housing provided by local authorities — are excluded from the requirement to obtain a possession order.

Short-Term Emergency Accommodation



The accommodation is provided for a very short period while the local authority investigates the homeless application. It is not intended as a long-term solution and does not create any lasting housing rights.

Case Law Support

Because interim accommodation under Section 188 typically creates an **excluded licence**, the **Protection from Eviction Act 1977** does **not apply**. Therefore:

1. **A possession order is not required**, and
2. The occupant can be evicted with **reasonable notice**, often 24–48 hours, depending on the circumstances.

This has been upheld in case law such as:

1. *Desnousse v Newham LBC [2006]*
2. *Mohammed v Manek and Kensington and Chelsea LBC [1995]*

Courts have upheld the principle that Section 188 licensees may be asked to leave without court action (e.g., *Desnousse v Newham LBC [2006]*, *Mohammed v Manek and Kensington and Chelsea LBC [1995]*).

The above case law This judgement confirms that a licence granted for interim accommodation under section 188 Housing Act 1996 is not accommodation “occupied as a dwelling under a licence” for the purposes of ss.3 and 5 of the Protection from Eviction Act and therefore the Council/Housing Association is entitled to evict a licensee from section 188 accommodation without first obtaining a court order. This ruling also applies to (Section 188(3), 204(1), or 200(1), or Section 190(2)

● Important Caveats

Reasonable Notice Must Still Be Given

While a court order is not needed, reasonable notice (often 24–48 hours) should be given in writing before asking the person to vacate.

Proportionality and Fairness

Public bodies must still act lawfully and proportionately, particularly where vulnerable individuals (e.g. families or disabled persons) are involved. The eviction must not breach human rights obligations (Article 8 ECHR).

After Section 188 Ends

If a full housing duty is accepted, the person may be offered different temporary accommodation. If the duty ends (e.g., due to ineligibility or intentional homelessness), the authority can terminate the interim provision.

Civil Enforcement Officers and Police Involvement

If the occupant **refuses to vacate** after the notice expires:

1. The local authority may involve **enforcement officers** or request **police attendance**,
2. A **breach of the peace** or **criminal trespass** situation may arise, depending on the behaviour of the occupant.

◆ 4. Use of Force if used, Must Be Lawful and Proportionate

Even though no possession order is needed:

1. Any eviction **must not involve unlawful force**,
2. Enforcement should ideally be handled by trained officers or agents to avoid civil liability.

In Summary

Feature	Interim Housing (s.188)
Legal Status of Occupant	Licensee (not tenant)
Security of Tenure	None
Requires Court Possession Order?	✗ No
Notice Required	✓ Yes – reasonable written notice
Legal Justification	Housing Act 1996 + Protection from Eviction Act 1977

Further Information

For questions about enforcement or procedures, contact:

- Local Housing Options Team
- A solicitor experienced in housing law
- Able Civil Enforcement (for lawful removal process) 0345 366 0000.



Able Investigations and Enforcements is the leading industry authority in a range of specialist enforcement and investigation services, as a specialist firm we do not collect any form of residential debt recovery. Our in house teams are specially trained to deal with contentious evictions, from protesters, van dwellers, squatters to travellers, with our in house, MOE, & Tornado teams, we can engage with the client where other firms cannot.

With our head office located in Bristol, we operate throughout the whole of the UK. Acting quickly and professionally, we deal with contentious matters whether under Common Law or Writ of Possession.

Should you require the services of the High Court, we can arrange to have the matter to be transferred via our High Court Officer, which will then be dealt with in-house.

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