

# Housing rights in UK and remedies available for homeless people

Jane Ball

Sheffield University



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University  
Of  
Sheffield.

# Rights or remedies?

- **A right** in France does not indicate necessarily that there is a remedy involved
  - that is that the person will be able to obtain what the law suggests they should
  - it is a **legal framework**
  - An example is the “right to the town”
  - An “opposable right” to housing has just been passed by parliament
- **A remedy** in England suggests that a person can obtain what is promised by the law even though there is no principle to that effect

# Rights or duties

- You can judge the quality of a right by the quality of the **duty** attached to it to satisfy that right
- The homelessness legislation in the UK is primarily a duty not a right
- It does have a right of recourse to the courts – limited to ensuring that the duty has been legally exercised

# Who is responsible? How is it possible?

- Every area has a **local housing authority** which is responsible for housing in their area
- Homelessness duties are part of a larger collection of duties concerning advice to everyone and care of housing stock
- Housing authorities are generally quite large, not like communes
- There is social or council housing in most local authority areas (18.5% of English housing, 27% in Scotland)

# Homelessness duties

- The strongest duty is owed to someone who is:
  - **Homeless** (on a wide definition including the poorly housed)
  - **In priority need**
  - **Not homeless intentionally**
- Some of these terms give some room for discretion or *pouvoir d'appréciation*
- People who seem to be in this position are given accommodation **immediately** often in emergency housing pending assessment

# Priority need

- This includes
  - People who are pregnant or who have dependant children
  - People who are vulnerable by reason of
    - old age, mental illness or handicap or physical disability or other special reason
    - Fleeing violence or threats
    - Leaving the army or prison
  - Children and young adults leaving institutional care

# What then?

- After they have been accommodated they may be transferred elsewhere where they have a “**local connection**”
- Other people (usually family) will also be housed with them if it is reasonable that they should live with them
- This duty is not limited – the local housing authority will buy in accommodation to satisfy it
- 141,000 households in England housed like this annually
- People in such accommodation then have “**reasonable preference**” for ordinary social housing allocation
- **All allocations** strongly take into account need

# What if refused?

- The applicant has the right to have their application re-considered by another housing officer and they are informed of this right
- If refused again they can apply to the local courts **on a point of law**
- The French would call this supervision of legality **but**
- A **discretion** give **less freedom** in allocation than a *pouvoir d'appréciation* because there is a detailed binding case law describing how the assessing officer should proceed
- It takes some months to get to court

# Scotland and Wales

- The law of **Scotland** is different
- It was similar until devolution in 1999
- They have legislated to:
  - extend these rights to everyone
  - no criteria of intentional homelessness
  - more than one offer of accommodation
- This is happening in in stages
- **Wales** also has extra categories of priority need

# Homelessness

- Homelessness provision is under pressure
  - Loss of social housing stock due to right to buy
  - Some rural areas have no stock now
  - Exceptional level of need in London
  - High level of vacancies in hard-to-let estates in the North
  - Reduced availability of legal aid for claims
- But good provision for the vulnerable homeless means that eviction is less of a disaster