

E Farrell

request-817679-d7483df7@whatdotheyknow.com

07 February 2022

Ref: FOI_21_274

Freedom of Information Request

Dear E Farrell

Thank you for your request for information, received on 20 December 2021, which reads as follows;

Can you please explain if the Housing Executive has a duty to assess a person under Article 7 of the Housing (NI) Order 1988 if that person is not physically present in Northern Ireland?

As a example, is the duty triggered if a person from London, who has a local connection to Northern Ireland, contacts the Housing Executive and provides evidence that they are threatened with homelessness?

Can you please provide any legislation, guidance or case law that supports your position on this issue?

Your request has been understood as both a general enquiry in relation to Article 7 and also a Freedom of Information Request in relation to supporting information.

In relation to the scope of Article 7 I would comment as follows:

The Housing (Northern Ireland) Order 1988 only operates within the confines of Northern Ireland and the legal basis for the requirement that a person must be present in Northern Ireland in order to be considered under the homelessness legislation as contained in Part II of the Housing (NI) Order 1988, is broadly as follows –

1. In law there is “the presumption of applicability” or “comity” in respect of the extent and application of legislation.
2. The general principle is that “an enactment applies to all persons and matters within the territory to which it extends, but not to any other persons or matters” (Bennion Statutory Interpretation (4th Ed, 2002, page 306)).
3. The “extent” of an Act is the geographical area throughout which it is law. In this context, the term “Act” is taken to include Orders in Council and Statutory Instruments enacted in respect of Northern Ireland. Although the 1988 Housing Order does not expressly detail the extent of that Order, this is considered to be

unnecessary / immaterial because they are Northern Ireland specific concerned with the governance of the subject matter in terms of the territory of Northern Ireland.

4. This means that as a general rule the legislature intends that the legislation is concerned with all conduct taking place in the geographical area to which it applies and not to other persons and matters. In the absence of any explicit provision to the contrary the general rule applies.

In relation to supporting evidence, beyond the 1988 Order itself, I can confirm that the Housing Executive has processed your request as a request for information under the Freedom of Information Act 2000 and would respond as follows;

1) *Can you please provide any legislation, guidance or case law that supports your position on this issue?*

In response to your enquiry I would refer you to the legislation detailed above.

I hope that this information is of assistance to you. However, if you feel that this response does not adequately meet your request, please contact our Landlord Services FOI co-ordinator, Annabel Torney on (028) 95982236 or by email Annabel.Torney@nihe.gov.uk in the first instance.

You have the right to request a formal review by the Housing Executive within two calendar months of the date of this letter.

You may write to:

Freedom of Information
Information Governance Team
Planning, Performance Risk & Governance
Northern Ireland Housing Executive
The Housing Centre
2 Adelaide Street
Belfast, BT2 8PB

or contact us via email at FOI@nihe.gov.uk .

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a review of our original decision.

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow

Cheshire SK9 5AF

Yours Sincerely,

Richard Tanswell
Homelessness Policy & Strategy Manager (A)

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