

## Appendix 1 - Homeless Reduction Act Details & Service/ MTFP Budget Impacts

### Introduction

Homelessness legislation in England, Scotland, Wales and Northern Ireland places a duty on local authorities (or the Housing Executive in the case of Northern Ireland) to secure accommodation for an applicant who is or maybe threatened with homelessness.

The governing legislation for homelessness in England can be found in Part 7 of the Housing Act 1996 (as amended). Where an applicant is eligible for assistance (mainly based on their immigration status), the Act sets out the local authority's duty depending on how many of the following criteria they meet: homeless or threatened with homelessness, in priority need, and not intentionally homeless.

A local authority in England will only have full rehousing duty if all of the criteria are met under Housing Act 1996 part 7(as amended). Further details on the criteria are provided in the Homelessness Code of Guidance for Local Authorities<sup>1</sup>, including the full list of circumstances in which an applicant will be deemed to be in priority need.

For all other applicants, including those who are homeless (or threatened with homelessness) but not in priority need, a local authority need only provide advice and assistance. The advisory services must be provided, free of charge, to everyone in the district, even if they are not homeless or threatened with homelessness.

Since 2012 local authorities have been able to discharge their housing duty through suitable properties in the private rented sector with a tenancy of at least 12 months.<sup>2</sup>

A local authority may refer an applicant to another authority if they establish that they do not have a local connection with their area. Local connections are usually related to residence, work or family. Further details are provided in the Code of Guidance.

Should an applicant disagree with a local authority's decision on their eligibility for housing assistance, they are entitled to request a review under section 202 of the Housing Act 1996 (as amended).

In Wales, new legislation focusing more on homelessness prevention, was introduced in April 2015. Although this is different in a number of respects from the legislation now adopted in England, and although the Welsh housing context is also markedly different, from say, the South East of England, it is possible to learn from this implementation two years ago.

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<sup>1</sup> Department for Communities and Local Government, [Homelessness Code of Guidance for Local Authorities](#)

<sup>2</sup> [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#)

## **The Homelessness Reduction Act 2017**

The Homelessness Reduction Act 2017, received Royal Assent in April 2017 and became an Act of Parliament on the 27 April 2017, started as a Private Member's Bill introduced by Bob Blackman MP. Based on public statements, the Act is expected to come into force from April 2018, although no date has been announced by Government. This will provide time for the necessary secondary legislation; the publication of a new Code of Guidance; and for training of local authorities and partner organisations.

The Act makes substantial changes to local authorities' homelessness duties under Part 7 of the Housing Act 1996 (as amended). There are 13 clauses that amend many existing duties and bring in a substantial number of new duties. This results in a substantially altered legal framework in which local authorities must now operate. The new Act put more emphasis on prevention activities by placing new legal duties on local authorities to provide meaningful support to everyone who is homeless or at risk of homelessness, regardless of whether they are in priority need or 'intentionally homeless', as long as they are eligible (This only depends on the immigration status of the applicant).

The main changes the Act implements to local authorities' homelessness duties include:

### **Threatened With Homelessness**

The Housing Act 1996 defines that a person is considered to be threatened with homelessness if it is likely that they will become homeless within 28 days. The Homelessness Reduction Act 2017 inserts new subsection 175 (4) which provides that a person is threatened with homelessness if it is likely that they will become homeless within 56 days, doubling the previous 28 day period.

New subsection 175(5) makes clear that a person is threatened with homelessness if they have been served with a valid notice under section 21 of the Housing Act 1988 (notice to end an assured shorthold tenancy) for their current home that expires in 56 days or less and they have no other accommodation available

### **Providing Advisory Services**

The Housing Act 1996 stipulates that local authorities must ensure advice and information around homelessness and preventing homelessness is available free of charge to everyone in their district. The new act requires a more robust approach to advisory services with the need to provide information and advice on:

- Preventing and relieving homelessness;
- The rights of people who are homeless or threatened with homelessness, and;
- Any other support (provided by the local authority or any other local organisations) that is available for people who are homeless or likely to become homeless as well as how to access that help.

Local authorities will also need to ensure that advisory services can be tailored to meet the needs of particular groups who are at increased risk of becoming homeless:

- Care leavers (who are now considered to have a local connection to an area if they were looked after, accommodated or fostered there for a continuous period of at least 2 years).

- prison leavers
- armed forces
- domestic abuse victims
- hospital leavers and
- those suffering with a mental health illness

### Duty to Assess Every Eligible applicant and Agree a Plan

The Homelessness Reduction Act 2017 inserts new section 189A into the 1996 Act which stipulates that the support offered to eligible applicants is to be more robust than currently required. Once a local authority is satisfied that someone is homeless / threatened with homelessness and eligible for assistance an assessment should be carried out which includes;

- The circumstances that have caused homelessness / potential homelessness;
- The housing need and other support needs of the applicant and their household;
- A personalised written plan, setting out steps for the applicant and the Council to take to ensure accommodation is secured and/or retained.

An applicant's assessment and plan must be kept under review and updated as necessary, until the local authority has determined that no further duty is owed.

### Duty to Prevent Homelessness

The new s.195 of the act sets out the 'prevention duty'. This applies to all eligible applicants threatened with homelessness, regardless of priority need or intentional homelessness. The duty is "to take reasonable steps to help the applicant to secure that accommodation does not cease to be available for the applicant's occupation". The reasonable steps must be with regard to the assessment and agreed housing plan.

### Duty to Relieve Homelessness

Under the Homelessness Reduction Act 2017, new s.189B places a duty on all local authorities to take reasonable steps for 56 days to relieve homelessness by helping all eligible homeless applicants to secure accommodation regardless of whether they are 'intentionally homeless' or in priority need. This help could be, for example, the provision of a rent deposit or debt advice.

Those in priority need will be provided with interim accommodation whilst steps are taking place to secure future accommodation.

### Duties to Help to Secure Accommodation

This amends section 205 of the 1996 Act to make clear that where a local housing authority secures accommodation for an applicant as part of their prevention or relief duties, sections 206 to 209 of the Housing Act 1996 apply in the same way they would if the accommodation was secured under the main homelessness duty. These sections contain various provisions about how local authorities discharge their functions, for example, how they may secure accommodation and that they must notify the other local authority if accommodation is secured for the applicant in that district.

## Deliberate and Unreasonable Refusal to Co-operate: Duty upon giving of notice

This new provision within the act imposes express duties on the applicant to co-operate with the Council's attempts to prevent or relieve their homelessness. If the Council considers that an applicant has deliberately or unreasonably refused to cooperate or take steps agreed as part of their assessment plan, a notice can be served to the individual informing them of the Council's decision, the consequences of it (e.g. ending of prevention / relief duty) and their right to request a review. This notice can only be served if a warning has been given to the applicant beforehand and a reasonable time period has elapsed since the warning was given.

## Local Connection of Care Leaver

This provides that all care leavers who are owed continuing duties under section 23c of the Children Act 1989 are deemed to have a local connection in the area of the local authority that owes them those duties. Where the young person was looked after by a county council they will have a local connection to any district in that county.

Where a care leaver has lived in a different area to the above for at least two years, some or all of which falls before they turned 16, they also have a local connection with that district until they are 21

## Right to Review

The Homelessness Reduction Act 2017 gives applicants the right to request a review of any decision made by the local authority (in addition to those laid down in current legislation) regarding:

- Steps set out in assessment plans;
- Giving notice to withdraw prevention or relief duties;
- Suitability of accommodation offered.

## Public Authority Duty to Refer in England to Local Housing Authority

Under the Homelessness Reduction Act 2017, this is a new duty under section 213B "specified public authorities" e.g. NHS Services, will be required to refer details of people who they consider being homeless or threatened with homelessness to their local authority (if the person agrees to the notification being made). The Council will then need to make contact with this individual for assessment.

In Wales, this duty is a duty to 'co-operate' not just a duty to 'refer' adding an extra challenge as to how local housing authorities operationalise this with partner agencies and engage them in problem-solving difficult cases that may have multiple agencies involved.

## Code of Practice

New section 214A into the 1996 Act which enables the Secretary of State to produce codes of practice dealing with local housing authorities' functions in relation homelessness or homelessness prevention. It is expected that the main code of guidance will be issued in Autumn 2017. Any Code of Practice would be expected to compliment this, giving more detail on possible best practice approaches.

## Suitability of Private Rented Sector Accommodation

The Homelessness Reduction Act amends Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012 to require a local housing authority to satisfy itself that specific requirements set out in Article 3 are in place where it secures accommodation for households with a priority need in the private rented sector. This extends the existing requirements to cover the new duties under the amended 1996 Act – sections 189B (to take reasonable steps to help secure accommodation for the homeless) and 195 (duty to take reasonable steps to help the applicant prevent homelessness) in cases where the local housing authority secures accommodation for an applicant.

### **Key Implications for the Council**

These new duties will impact considerably on the service provided by the Council, including in the following areas:

**Increased Homelessness Presentations** - Potential advice and prevention case load will increase as more customers approach the Council for assistance. Given expected national publicity prior to the enactment date, customer expectations might also be raised. In Wales, the volume of presentations was 26% higher. The DCLG estimate this will be approximately 28% higher in England, but this has the potential to be greater in high demand/ low affordable supply areas like Oxford

<b>Number of households visiting Options duty service</b>	<b>1063</b>
<b>Total Number of homeless decisions</b>	260
<i>Accepted</i>	125
<i>Intentionally homeless</i>	46
<i>Not priority</i>	27
<i>Not homeless</i>	55
<i>Not eligible</i>	7
<b>Number of referrals to PRS deposit/bond scheme</b>	163

**Table 1.** Shows number of applicants approached Oxford City Council duty drop-in service for housing assistance in 2016/17. From next financial year we will have some form of legal duty under HRA to everyone who visits our duty drop-in service.

### **Casework Changes**

**Volume of Cases and Time Spent per Case** - The number of homeless applications and need for in depth casework is likely to increase substantially. The Housing Options Team will need to offer detailed face to face interviews with a greater number of applicants to include those who are facing homelessness longer into the future than currently and also to include single people as well as families. Applications could increase by anything from 30 to 100%, based on national debate. More specialist staff resources will need to be available to respond to this increased demand

A number of other local agencies (defined as 'public sector' organisations) who work with families and single people will need to be made aware of their new duties under the Act to identify clients they are working with who may be at risk of homelessness and to refer them to the Housing Authority so that work can begin to

prevent their homelessness. Further guidance is expected to clarify the full list of agencies covered by this new duty and whilst DCLG is expected to carry out some communication directly on this, Council Officers will need to ensure appropriate referral arrangements are in place and adequate resources are available to respond to those referrals. Public bodies are likely to include schools, hospitals, GP's, Police, probation, County Council (social care and family support), and the DWP. In Oxfordshire, work under the Trailblazer programme to improve joint working with these partners is vital in ensuring that all agencies work together to solve issues.

**Changes to Team and Roles** - There will need to be a significant shift of focus in the job roles of officers to reflect earlier interventions and initially on activity to prevent homelessness. In depth help will need to be provided to support both families and single people who may be at risk of homelessness irrespective of whether they are likely to be in priority need or have a local connection with us.

Where prevention actions are not successful and cases move towards becoming homeless there will also then be significantly increased focus also on helping relieve homelessness through finding accommodation. This focus on helping with accommodation finding will relate to a wide range of clients including navigating a range of supported accommodation for more vulnerable clients.

It will be necessary to review and revise roles within the Housing Options Team, and increase the capacity of the team, to ensure the Council can meet its new duties under the Homelessness Reduction Act 2017 and this work is now underway.

**Personal Housing Plans and Statutory Documentation** - One particular area where the role and workload of officers will change is in the production and issuing of statutory documents. Officers will need to carry out up to three stages of assessment of a client's needs and communicate its findings by formal letter at both the initial 'prevention' stage and also under the 'relief' stage.

Officers will need to produce 'personal housing plans' to share with clients both at the prevention stage (i.e. prior to someone becoming homeless) and relief stage (at point of or just after homelessness) which set out a series of actions to be taken by the council and also by the applicant to address their homelessness and resolve their situation wherever possible.

Applicants will have to be provided with these written Housing Action Plans. These will be important documents as there will be a statutory right to challenge these plans and where the applicants does not fully co-operate, there will potential repercussions on the longer term duties of the Council to assist.

**Increased Reviews and Appeals** - Applicants will have increased rights to seek reviews of the Council's decisions at each stage of the assessment process and over any aspect of the personal housing plan that they disagree with. This will generate further workload for officers in terms of undertaking and issuing review decisions and potentially defending county court reviews.

**Temporary Accommodation** – Due to the new duties applicants will be remaining longer in our temporary accommodation. Under amended s.190, duties to those in priority need but intentionally homeless are now (s.190(2)(a)) to secure accommodation is available for such period as will give the applicant a reasonable opportunity of securing

accommodation, such period commencing after the end of the s.189B(2) duty. This is potentially a longer period overall than in the current position. More approaches to the Council and more detailed and extensive casework over time will also inevitably, result in an increased pressure to place some households in temporary accommodation, where prevention or relief have failed.

**More Prevention and Relief Activity** – Given the new duties to a greater number of homeless households, including those without priority need, or those who may be ‘intentionally’ homeless, the Council will also be trying to assist a greater number of households stay where they are, or seek alternative accommodation that is suitable and affordable for them. This may often be through the provision of a deposit, bond, or guarantee, and could also involve paying expenses relating to out-of-area moves. This will have additional resource implications for the Council, particularly with regard to deposit payments and rent advances, etc

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