

IMPLICATIONS OF THE HOMELESSNESS REDUCTION ACT 2017

1. INTRODUCTION

- 1.1 The purpose of this report is to provide an overview of the key changes made by, and the implications of, the Homelessness Reduction Act 2017 ('the Act').

2. BACKGROUND

- 2.1 The Act was given Royal Assent on 27 April 2017 and although local authorities are still waiting for a formal commencement Order, the Department for Communities and Local Government ('DCLG') has indicated that the Act is expected to come into force in April 2018.
- 2.2 The Act amends Part VII of the Housing Act 1996 which remains the key statute setting out local authorities' statutory duties in relation to homelessness.
- 2.3 The effect of the Act is to significantly increase the duties placed on local authorities relating to individuals who are homeless or threatened with homelessness and to ensure that advice and assistance to prevent and relieve homelessness is provided at a much earlier stage. The practical implications arising out of the new duties are likely to be significant.
- 2.4 A new Homelessness Code of Guidance for Local Authorities is currently in consultation and not expected to be published until the Spring of 2018.

3. HOW WILL THE COUNCIL'S DUTIES CHANGE?

Definition of threatened with homelessness

- 3.1 Under the current legislation a person is treated as being threatened with homelessness if it is likely that they will become homeless within 28 days. When the new Act comes into force this period of time will extend to 56 days. This means that the Council will be required to take a homeless application and consider its statutory duties to any applicant seeking assistance at a much earlier stage.
- 3.2 In addition, the Act prescribes that a person is to be treated as threatened with homelessness if a valid Section 21 Notice (i.e. a notice seeking possession of a property), which relates to a private assured shorthold tenancy, has been served and is due to expire within 56 days. The practical implication of this change is that the service of a valid section 21 notice due to expire within 56 days will now become the statutory trigger for the Council's homelessness duties towards applicants, thus requiring the Council to act much earlier than is required now.

Advisory Services

- 3.3 The Council must currently provide basic advisory services to any person within the district about homelessness and the prevention of homelessness free of charge. However, this duty will extend to include information and advice on:
- preventing homelessness;
 - securing accommodation when homeless;
 - the rights of persons who are homeless or threatened with homelessness and the duties of the Council;
 - any help that is available from the Council, or anyone else, for people who are homeless or may become homeless (even if they don't meet the statutory definition of threatened with homelessness); and
 - how to access that help.
- 3.4 The new advice service is also required to address the varying needs of people within the district including, for example, people released from prison, care leavers, people leaving hospital and victims of domestic abuse. This is more onerous than the current requirement.

Assessments and personalised housing plans

- 3.5 Following an application, once a person has been assessed as homeless or threatened with homeless within 56 days, the Council will make an assessment of whether they are eligible for assistance in accordance with the Asylum and Immigration Act 1996 ('eligible for assistance'). However, after eligibility has been established all individuals, regardless of personal circumstances or priority need, will be entitled to a formal assessment of their case ('the formal assessment').
- 3.6 The formal assessment must include an assessment of the circumstances that caused a person to become homeless or threatened with homelessness, the housing needs of the individual including, in particular, what accommodation would be suitable for the individual and any members of their household, and what support would be necessary for the individual to be able to have and retain suitable accommodation. It is anticipated that this assessment could be time consuming. The support element of the assessment will require increased partnership working with various partnership agencies as it will not be possible for the Council's housing staff to have the required expertise to assess support needs of all applicants. Local information sharing arrangements will need to be put in place to facilitate this.
- 3.7 The Council has to provide a copy of the formal assessment to the applicant. Following the formal assessment of a person's case the Council must then try and agree a personalised housing plan with that individual to include steps that both they and the Council should be required to take for the purposes of securing and retaining suitable accommodation. Any agreement reached must be recorded in writing, as must any failure to reach an agreement with the reasons why agreement could not be reached and any steps the Council consider reasonable to require the applicant to take. A copy of the written record must be given to the applicant. All formal assessments and the steps agreed to be taken, or that the Council consider it reasonable to require the applicant to take, must be kept under regular review by the Council until the person is no longer owed a homelessness duty.

The prevention duty

- 3.8 Under the current law, once it is established that a person is threatened with homelessness within 28 days and they are eligible for assistance, the Council must then be satisfied that there is a priority need (i.e. a pregnant woman, people with dependent children, vulnerable people by reason of old age, mental illness, physical disability etc.) and that the applicant is not threatened with homelessness intentionally before the prevention duties are engaged. The result of this is that, currently, the Council will rarely owe a prevention duty to a single, individual with no health issues.
- 3.9 However, the Act significantly increases the prevention duties owed to applicants as it takes away both the priority need and the intentionally homeless assessments. Therefore, once the Act comes into force any person who is threatened with homelessness within 56 days and is eligible for assistance will be owed a prevention duty. The prevention duty means either helping them to stay in their current accommodation or helping them to find a new place to live before they become homeless. The reasonable steps that the Council must take to help the applicant must take into account the formal assessment of their case.
- 3.10 The new prevention duty may end in a number of ways :
- when the Council is satisfied that the applicant has suitable accommodation available, with a reasonable prospect of this being available for at least the next 6 months or such longer period not exceeding 12 months as may be prescribed;
 - the 56 day threatened with homelessness period has expired;
 - the applicant has become homeless;
 - the applicant has refused an offer of suitable accommodation (available for at least 6 months or such longer period not exceeding 12 months as may be prescribed);
 - the applicant has become homeless intentionally from any accommodation made available as a result of the Council's duties;
 - The applicant is no longer eligible for assistance
 - The Council has served on the applicant statutory notices relating to the applicant's deliberate and unreasonable refusal to take agreed steps or to take the steps that the Council considered it reasonable to require the applicant to take; or
 - The applicant has withdrawn their application.

The initial relief duty

- 3.11 If, after the expiration of the 56 days, a solution has not been found and the applicant becomes homeless the initial relief duty applies. Additionally, some applicants will already be homeless when they first present to the Council.

- 3.12 As with the prevention duty, set out above, the Council will no longer be required to make priority need or intentionally homelessness assessments at this stage. Therefore, if a person meets the statutory definition of being homeless and eligible for assistance, the Council must take reasonable steps to help that person secure suitable accommodation that has a reasonable prospect of being available for at least 6 months. The reasonable steps required must, again, be informed by the formal assessment of the individual. This is an increased duty to those individuals who currently would not have qualified for assistance.
- 3.13 However, whether the Council has reason to believe that an individual is in priority need will still be relevant to whether the Council has an interim duty to provide accommodation. If the Council has reason to believe an applicant is homeless, eligible for assistance and has a priority need the Council must still secure that temporary accommodation is available for their occupation pending the applicable duty decision.
- 3.14 The new relief duty may be ended in a number of ways:
- when the Council is satisfied that the applicant has suitable accommodation available for occupation, with a reasonable prospect of this being available for at least 6 months;
 - the Council has complied with its duty to take reasonable steps to help that person secure suitable accommodation and the period of 56 days has ended;
 - the applicant has refused an offer of suitable accommodation (available for at least 6 months or such longer period not exceeding 12 months as may be prescribed.);
 - the applicant has become homeless intentionally from any accommodation that has been made available as a result of the Council's duties;
 - the applicant is no longer eligible for assistance,
 - the applicant has refused a final offer of accommodation from the Council's waiting list or of a private sector tenancy of at least 6 months;
 - the Council has served on the applicant statutory notices relating to the applicant's deliberate and unreasonable refusal to take agreed steps or to take the steps that the Council considered it reasonable to require the applicant to take; or
 - the applicant has withdrawn the application.
- 3.15 Both the prevention and initial relief duties represent new statutory responsibilities for the Council. If homelessness has still not been resolved and the duty has not been discharged by another means following the conclusion of these two phases, then the local authority is obliged to assess the application under the full homelessness duty as it currently exists. That being the main housing duty to applicants who are eligible, have a priority need for accommodation and are not homeless intentionally.

Temporary Accommodation

- 3.16 Under the Act the Council may also be under a duty to provide housing for those applicants who are found to be in priority need but who are intentionally homeless for longer than is currently the case. This is because under the current legislation the Council only has a duty to provide accommodation to these applicants for such a period of time as will give them a reasonable opportunity to secure accommodation. Under the Act this period will commence only after the initial relief duty has come to an end. This is likely to

increase the overall period that the Council will have to accommodate applicants who have a priority need but who have been found to have made themselves intentionally homeless; as such applicants are likely to have already been accommodated during the initial relief stage thus increasing the pressure on, and the costs of, temporary accommodation.

Property

- 3.17 Under the current legislation the Council is under a duty to take reasonable steps to protect the property of only those homeless applicants to whom it has an interim duty to accommodate; this means this duty only extends to those applicants who the Council has reason to believe are eligible, homeless and in priority need. However, under the Act this duty will be extended to all eligible applicants who are homeless irrespective of priority need. This is likely to have an impact on the costs of securing storage for homeless applicants.

Referrals to other local authorities and local connections

- 3.18 Homelessness legislation in its current form enables the local authority to refer an applicant to the local authority with whom the applicant has a local connection. Local connection can be established from residence, employment or family associations in the district, or because of other special circumstances. Currently the duties that a local authority has to applicants who may not have a local connection to its area, is to make enquiries following receipt of an application and in circumstances where it has reason to believe the applicant is eligible, homeless and in priority need, to secure accommodation pending the final duty decision.
- 3.19 Under the Act there will be no requirement for an individual to have a local connection to qualify for the Council to carry out an assessment and personalised housing plan or for the prevention duty to apply. The time required for housing officers to carry out assessments, devise personalised housing plans, carry out reviews and help an individual to stay in their current accommodation or find a new place to live is likely to be significant. It is not known how many people without a local connection will seek to utilise this service. However, the requirement to offer this level of support to people without a local connection should be noted.
- 3.20 However, where applicants meet the criteria for the initial relief duty or for the main housing duty, and the Council considers that the applicant does not have a local connection to this district but does have one somewhere else, it will be possible to refer the applicant to the housing authority with which the applicant has a local connection (except in cases of domestic violence or violence).

4. NEW REFERRAL PROCESS

- 4.1 Another novel requirement of the Act is that it introduces a duty on certain public bodies (as to be specified by the Secretary of State in regulations) to refer individuals who they think may be homeless or threatened with homelessness to a housing authority. The individual must give consent to the referral and can choose which authority to be referred to. There is no need for a local connection to be established.

- 4.2 The Council must establish effective partnerships and working arrangements with agencies to facilitate appropriate referrals. Steps have been taken towards achieving this through networking training and the development of contact lists. There are currently ongoing discussions with other Hampshire local authorities regarding the potential development of an on-line referral form for public bodies to use.
- 4.3 The regulations setting out which public bodies will be under this duty have yet to be made, but having regard to the broad definition given in the Act to the term public authority this is likely to include NHS Trusts, GPs, Probation, schools and all manner of council services. The number of individuals who may seek assistance from the Council when they are homeless and, in particular, threatened with homelessness is likely to increase significantly through this referral process.

5. DUTIES ON APPLICANTS

- 5.1 Whilst the Act imposes significant new duties on the Council, applicants are also subject to new duties to co-operate.
- 5.2 Both the prevention and the initial relief duties can be brought to an end if an applicant deliberately and unreasonably refuses to take any of the steps that they agreed to take, or the Council has set for them to take where agreement could not be reached, in their personalised housing plan.
- 5.3 Before bringing either duty to an end, the Council will first have to issue a warning letting the applicant know that if they deliberately and unreasonably refuse to take any of the steps in their personalised housing plan after receiving the warning, that the Council will issue a notice bringing the duty to an end. The warning must explain the consequences of a notice being given and the housing authority must allow a reasonable period after the warning is given before issuing a notice.
- 5.4 The Council will be required to make reasonable efforts to obtain the co-operation of an applicant, including seeking to understand the reasons for their lack of co-operation. Where an applicant appears not to be co-operating the Council will need to review their assessment of the applicant's case and the appropriateness of the steps in the personalised housing plan.
- 5.5 Where the applicant is receiving support from other services, the Council will also need to alert those relevant services to the problem as soon as possible and seek to involve them in supporting the applicant to resolve the situation. Local information sharing arrangements will need to be put in place will facilitate this.

6. REVIEWS

- 6.1 The Act will place significant additional administrative burdens on the Council in exercising the new duties. There are many stages in the new process where the Council will be required to issue a written decision and most of these decisions will be subject to a formal review process.

- 6.2 A number of decisions made under the existing legislation may be subject to review. The number of reviews requested in 2015/16 was 6 and 2016/17 was 4. However, with the anticipated increase in the number of applications under the Act and the number of decisions which will be subject to review, it is expected that from April 2018 onwards these numbers will significantly increase.
- 6.3 In addition, applicants who are dissatisfied with the decision of a review, or are not notified of the decision on the review within the time prescribed, may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision. To date, the Council has received very few appeals to the county court related to homelessness decisions; however, this right of appeal may be exercised more in light of the above and as the scope of the new legal provisions is yet to be established in the courts; particularly in relation to some terms such as “reasonable prospects” and “deliberate and unreasonable refusal” which are likely to require judicial guidance.
- 6.4 The Act opens up greater scope for applicants to challenge the decision making processes of the Council under the pre action protocol for judicial review should the Council be viewed as failing to comply with its duties under the Act, or acting unreasonably when doing so; for example in relation to the formal assessment, including failure to keep these under review or the steps that it considers reasonable for the applicant to be required to take.

7. WHAT IT MEANS FOR THE COUNCIL

- 7.1 There is likely to be a significant increase in applications as a result of publicity surrounding the new Act, the fact that more assistance is available and earlier, the duty on public bodies to refer cases to the Council and the fact that individuals who are threatened with homelessness, or seeking a formal assessment and personalised housing plan can request that any Council of their choice carries out this service. Shelter estimates that there could be a rise of up to 50% in homeless applications. Current applications this financial year stand at 112 as at 1 December 2017.
- 7.2 In Wales, which has had similar legislation to the new Act for the last two years, the following was noted:
- A 26% rise in applications;
 - An increase of duty decisions for 16/17 year olds from 14,000 to 28,000;
 - A rise in applications from single people.
- 7.3 The advisory services that the Council is required to offer will increase in the future. The undertaking of the formal assessments and creating and reviewing the personalised housing plans will be more detailed and facilities and new procedures will need to be developed to assist with this obligation.
- 7.4 The duty to provide temporary accommodation will increase, as will the Council’s duties to secure the property of individuals who are homeless. The duty placed on applicants to co-operate is important. Council engagement will need to increase given the requirement to regularly engage both the applicant and relevant third party agencies to assist the applicant with meeting this duty.

- 7.5 There will likely be an increase in the number of decisions which are open to formal review and there may be an increased possibility of more legal challenges. The Council has already commissioned training for staff, this will be ongoing.
- 7.6 The increased workload and the need to implement new initiatives, including the provision of advisory services to prevent homelessness will necessitate an increase in staff to ensure the Council can meet its new obligations under the Act.
- 7.7 The Council's current Homelessness Strategy will need reviewing to reflect the new changes and to find more innovative solutions to tackle the homelessness issues. A further report will be presented to Cabinet on adopting the Government's "Gold Standard Programme" for preventing and tackling homelessness in the Council's area. The Programme, based on a national assessment framework, involves 10 challenges aimed at promoting good practice and ensuring homelessness prevention services are fit for purpose. Other authorities have adopted this Programme and it has been recognised as a valuable tool in tackling and preventing homelessness as well as supporting local authorities to deliver more efficient and cost effective homeless prevention services.
- 7.8 To meet the challenges of the new legislation, the Homelessness Team are devising a work programme which covers the following areas:-
- **Private Landlord engagement;** renewed emphasis is required to develop relationships with private landlords through Landlord Forums, officers working with Letting Agents and providing support and services to encourage acceptance of homeless applicants and to secure accommodation.
 - **Ensure effective protocols for discharge from hospital, prison, care.**
 - **Reviewing the Council's web site and using e-forms.** This includes reviewing existing application forms for the referral process and housing register form;
 - **Reviewing the Discretionary Housing Payments scheme to give greater emphasis to preventing homelessness;**
 - **Reviewing the Council's Homelessness Strategy;**
 - **Reviewing the Allocation Scheme to ensure the Council's housing stock is used in the most efficient way and minimise the use of Bed and Breakfast;**
 - **There will be a need, as part of an overall Housing Strategy to plan for more housing to assist the Council in meeting its statutory obligations;**

8. GOVERNMENT FUNDING AND HOMELESSNESS BUDGET

- 8.1 The cost of homelessness falls on the Council's General Fund. For 2017/18, the total original budgeted cost, including the provision of Bed & Breakfast was £823,830. This is an increase of £176,612 in comparison to the outturn for 2014/15.

- 8.2 The Government has provided some funding to off-set reductions in Housing Benefit Subsidy and assist Councils with the implementation and administration of the new Act. The funding allocated to the Council is as follows:

	New Burdens Funding	ICT Funding *	Flexible Homelessness Support Grant
2017/18	£57,082	£9,200	£396,265
2018/19	£52,287		£443,817
2019/20	£55,271		TBC Spring '18
2020/21			TBC Spring '18
	£164,640	£9,200	£840,082

* Exclusively ring fenced for the IT system to collect the increase in data that has to be reported to the Government every quarter.

- 8.3 The Council will utilise the funding to; offset reductions in Housing Benefit Subsidy, review the Private Sector Landlord Scheme with a view to increasing the overall number of properties available and rationalise the rents payable to and by the Council, and fund additional resources required as a direct result of the Act. A sum of £150,000 will initially be set aside for this additional resource requirement.

9. CONCLUSIONS

- 9.1 When the Act comes into force, the statutory obligations that the Council will owe to individuals who are homeless or threatened with homelessness will significantly increase. Resources will be allocated to ensure that the Council discharges its responsibilities but this alone will not be enough. New methods to tackle an ever increasing demand for housing are required as well as implementing a multi-agency approach to deal with the whole issue of homelessness.

10. FINANCIAL IMPLICATIONS

- 10.1 The financial implications are detailed within Section 8 of this report.

11. CRIME & DISORDER IMPLICATIONS

- 11.1 The overall aim of the Act is to reduce the number of people either homeless or threatened with homelessness. It is therefore hoped that any crime and disorder associated with homelessness will reduce.

12. ENVIRONMENTAL IMPLICATIONS

- 12.1 There are none.

13. EQUALITY & DIVERSITY IMPLICATIONS

13.1 The Act requires the Council to perform additional statutory duties; it extends the range of people that will receive homelessness advice and assistance.

14. PORTFOLIO HOLDER COMMENTS

14.1 The Homelessness Act will have a huge impact on the Council's housing service and we will be looking for new solutions to deal with an ever increasing need for housing. I am glad that the issue of homelessness has been brought to the forefront and look forward to working with officers to deliver a new, stronger housing service.

15. RECOMMENDATIONS

It is recommended that Cabinet:-

15.1 Note the changes that will be taking place under the Homelessness Reduction Act;

15.2 Note that a further report on the Government's 'Gold Standard Programme' for managing homelessness will be brought to Cabinet at the earliest opportunity.

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Background Papers

Published documents