

Get in on the Act

Homelessness Reduction
Act 2017

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Background

The Homelessness Reduction Bill (the Bill) was introduced in the House of Commons on 29 June 2016. The legislation completed its passage through Parliament on 23 March 2017 and received Royal Assent on 27 April.

This was a Private Members' Bill and was sponsored by Local Government Association (LGA) Vice-President Bob Blackman MP, the Conservative Member of Parliament for Harrow East. Private Member's Bills are introduced by MPs and Lords who are not government ministers and a minority become law. The Bill was unique in that it attracted the support of the Government, the cross-party Communities and Local Government Select Committee and the main political parties represented at Westminster.

The Homelessness Reduction Act 2017 (the Act) sets out new duties on English local authorities with the aim of preventing homelessness.

The Act extends to England and Wales, but will only apply in England. It is made up of 12 primary sections.

Section 1: Meaning of “threatened with homelessness”

Section 2: Duty to provide advisory services

Section 3: Duty to assess all eligible applicants' cases and agree a plan

Section 4: Duty in cases of threatened homelessness

Section 5: Duties owed to those who are homeless

Section 6: Duties to help to secure accommodation

Section 7: Deliberate and unreasonable refusal to co-operate: duty upon giving of notice

Section 8: Local connection of a care leaver

Section 9: Reviews

Section 10: Duty of public authority to refer cases to local housing authority

Section 11: Codes of practice

Section 12: Suitability of private rented sector accommodation

This guide aims to provide an introduction to the Act and summarises the positive changes secured by the LGA.

The role of the LGA and local government in influencing the legislation

We worked with MPs and peers during the passage of the Bill to provide information and research on the proposals, support and table amendments to the legislation, and influence government policy.

A draft of the Bill was published on 26 August 2016, at which point the Communities and Local Government Select Committee launched a pre-legislative inquiry to scrutinise its provisions. The re-drafted Bill, which incorporated a number of substantive changes as a direct result of engagement from the LGA, was published on 21 October 2016.

Our campaigning on behalf of local government, developed with the support from, and input of, councils from across the country, led to a number of positive changes in the final Act which have reduced the proposed burdens on councils, including:

- The Government committed to fully funding the new duties under the New Burdens Doctrine. This led to the announcement of £61 million in additional funding to meet new duties in the Act.
- These costings will be based on assumptions that are difficult to predict. The Government has therefore committed to a comprehensive review of the Act's impact two years after implementation.
- The Government confirmed that local government will be given time to prepare for the new duties and that councils will be consulted as secondary legislation is drawn up and codes of guidance updated.
- The 56 day accommodation duty for those with nowhere to stay, regardless of priority need, was scrapped.
- The requirement to recognise an expired section 21 notice (issued by landlords to evict tenants) as proof of homelessness was replaced with a more flexible requirement. Councils now have more flexibility to work with applicants and landlords to find solutions to those threatened with homelessness.

- The duty to help to secure accommodation in 12 month tenancies for people who are homeless regardless of whether or not they have priority need was re-drafted to allow councils to discharge the duty by offering either six or 12 month tenancies depending on local circumstances.
- Proposals relating to the duties owed to homeless people in priority need who fail to cooperate at the prevention and relief stage were re-drafted to clarify that councils no longer owe the main homelessness duty to those who fail to cooperate.
- Proposals for a new mandatory code of practice in legislation have been replaced by new powers for the Secretary of State to have the power to impose a code of practice at a later date if necessary.
- Provisions were re-drafted to clarify that both the relief duty and the main housing duty end for any applicant who, at the relief stage, refuses a suitable offer of settled accommodation that is available for occupation for at least six months.

As the legislation made its way through Parliament:

- The LGA, led by our Chairman Lord Porter, engaged extensively with the Government, and the Bill's sponsors, LGA Vice-Presidents Bob Blackman MP and Lord Best, to shape the legislation to ensure it is workable for local government. Government officials also consulted us on the costings of the new duties in the Bill.
- We worked with MPs and peers to shape the legislation at key stages of the Parliamentary process. This included supporting and tabling a number of successful amendments to the legislation, and providing briefing material and background research.
- We worked closely with councils to identify the implications of the proposed new burdens, which informed our lobbying efforts on behalf of local government.

- We submitted written evidence to assist with the Communities and Local Government's pre-legislative scrutiny inquiry, and provided support to councils to engage with the inquiry.
- To support our work in Parliament, we secured national and trade press coverage and engaged with external stakeholders, including housing charities.

Resourcing the legislation

We lobbied for local authorities to be fully funded for delivering all aspects of the Act, which is crucial to ensuring the legislation achieves its objectives. In response to our calls, we secured a commitment from Government to fully fund the new duties under the New Burdens Doctrine. This led to the announcement of £61 million in additional funding to meet new duties in the Act.

We recognise that it is difficult to accurately predict the impact of the new legislation and the costs it will generate for councils, and raised these concerns with the Government throughout the passage of the legislation. We are pleased the Government has listened to the calls from the LGA by committing to reviewing the implementation of the legislation. This will conclude no later than two years after the commencement of its substantive sections. We will push to secure additional funding should it become clear local authorities have not been sufficiently funded.

Preparing for the new duties

We have made clear that councils will need time to prepare for the new duties. This will include recruiting and training new staff, implementing new procedures and IT systems and capturing the necessary data. We welcome the confirmation from the Government, in response to calls from the LGA, that local government will be given this time and that councils will be consulted as secondary legislation is drawn up and codes of guidance updated.

We will continue to work with the Government to ensure that local authorities are adequately supported to fulfil the new duties outlined in this legislation.

The key provisions and their implications for local government

Section 1: Meaning of “threatened with homelessness”

Section 1 sets out the circumstances whereby households are threatened with homelessness, and therefore when they should be offered support from local authorities to try and prevent them from becoming homeless. It extends the period during which someone might qualify as being threatened with homelessness from 28 days to 56 days. It also establishes a duty to treat an applicant as threatened with homelessness if they present a valid section 21 notice that expires in 56 days or less. For background, a section 21 notice, as set out in the Housing Act 1988, is a notice used by landlords to evict tenants and to gain possession of a property that is let under an assured shorthold tenancy when the tenants have not violated the terms of the tenancy agreement. The prevention duty continues to be owed until the local housing authority brings it to an end for one of the reasons set out in the section 4, even if 56 days have passed.

The requirement to recognise an expired section 21 notice as proof of homelessness is more flexible than the proposal in the original draft of the Bill. This was amended following our lobbying work. This section was further re-drafted in the House of Commons in response to the concerns of stakeholders, including the LGA. Amendments, which we supported, mean that the duties in Section 1 apply in relation to an individual’s only accommodation and where that notice will expire within 56 days. We also secured revisions to this section which provide councils with more flexibility to work with applicants and landlords to find solutions to those threatened with homelessness.

Section 2: Duty to provide advisory services

Section 2 extends the existing duty on local authorities to provide free homelessness advice and information to any person in their local authority area. This should include advice and information on preventing homelessness, securing accommodation when homeless, the rights of homeless people or those threatened with homelessness, the help that is available from the local authority or others and how to access that help. It also requires advice services to be designed with certain vulnerable groups in mind. This includes care leavers, victims of domestic abuse, people released from prison or youth detention accommodation, former members of the armed forces, people leaving hospital and those suffering from a mental illness or impairment.

The Government intends to include advice for local authorities on meeting this duty in new statutory guidance. They have committed to consulting councils as secondary legislation is drawn up and codes of guidance updated.

Section 3: Duty to assess all eligible applicants’ cases and agree a plan

Section 3 sets out the process that councils must undertake with all applicants, regardless of priority need, to agree a homelessness plan. This will require local authorities to carry out an assessment in all cases where an eligible applicant is homeless, or at risk of becoming homeless. Following this assessment the council must work with the person who has applied for help to agree the actions to be taken by both parties to ensure the person has, and is able to, retain suitable accommodation.

Personalised plans have already been introduced in Wales, and some local authorities in England are taking a similar approach. The Department for Communities and Local Government has stated that they will apply the learning from these examples in developing the detailed guidance on how this measure should be implemented.

Section 4: Duty in cases of threatened homelessness

Section 4 sets out a duty on councils to take reasonable steps to prevent homelessness for any individual, regardless of priority need, who is at risk of homelessness. This means either assisting them to stay in their current accommodation, or helping them to find a new place to live. This requirement interacts with section 1, as the duty applies to eligible applicants who are considered as being threatened with homelessness 56 days before they are likely to become homeless. This duty also sits alongside other measures, in particular the non-cooperation measure that will encourage those who are homeless or at risk of becoming homeless to work proactively with their local authority, and the duty on local authorities to provide advice and information.

Section 4 also sets out the circumstances under which an authority's duty to prevent homelessness may be brought to an end by the service of a written notice. This includes the local authority being satisfied that suitable accommodation has been secured where there is a reasonable prospect of that accommodation being retained for six months (or a longer period up to 12 months if prescribed in regulations). The original draft of the Bill set out a duty to help secure accommodation in 12 month tenancies. This was re-drafted in response to the concerns of the LGA.

Section 5: Duties owed to those who are homeless

Section 5 places a duty on councils to relieve homelessness for all eligible households, regardless of priority need. This involves taking reasonable steps to help the applicant to secure suitable accommodation. The duty lasts for up to 56 days. The relief duty

requires councils to take reasonable steps to help secure accommodation for any eligible person who is homeless. This help could be, for example, the provision of a rent deposit or debt advice.

This section also alters the interim accommodation duty that councils currently owe to homelessness applicants in priority need. We welcomed revisions in the House of Commons which clarify that the interim duty to accommodate an applicant in apparent priority need ends once the council notifies that applicant that the council is satisfied that they are not in priority need, rather than necessarily enduring for a period of 56 days.

The 56 day accommodation duty for those with nowhere to stay, regardless of priority need, which was proposed in the original draft of the Bill was scrapped in response to representations from the LGA.

Section 6: Duties to help to secure accommodation

Section 6 interacts with the new prevention and relief duties outlined in sections 4 and 5. It provides councils with the flexibility to assist in resolving people's housing issues by providing support and advice to households, who would then be responsible for securing their own accommodation. It still remains open to the local authority to secure accommodation for eligible applicants where appropriate. Accommodation must be suitable where the council has secured or helped to secure it.

Section 7: Deliberate and unreasonable refusal to co-operate: duty upon giving of notice

Section 7 sets out the actions a council can take if an applicant who is homeless, or threatened with homelessness, deliberately and unreasonably refuses to take any steps set out in the personalised plan. It also sets out the procedure and duties which apply if an applicant who is homeless refuses, at the relief stage, a suitable final accommodation offer.

Following our engagement on behalf of councils, this section was significantly re-drafted to clarify that councils no longer owe the main homelessness duty to those who

fail to cooperate. We also secured revisions to this section to bring it closer in line with the legislation's overall rationale of focussing on prevention and creating greater parity of treatment for all households approaching councils at risk of homelessness. We lobbied on behalf of councils to ensure the section clarifies that both the relief duty and main housing duty end for any applicant who, at the relief stage, refuses a suitable offer of settled accommodation that is available for occupation for at least six months. This maintains the safeguard that priority need applicants who fail to cooperate with any local authority actions short of an actual offer of suitable accommodation will remain eligible for an offer of settled accommodation.

Section 8: Local connection of a care leaver

Section 8 makes it easier for care leavers to show they have a local connection with both the area of the local authority responsible for them and the area in which they lived while in care, if that was different.

Section 9: Reviews

Section 9 extends an applicant's right to request a review of their local authority's homelessness decisions, so they apply to a number of decisions that a local authority might make when discharging the new prevention and relief duties.

Section 10: Duty of public authority to refer cases to local housing authority

Section 10 requires public authorities, specified in regulations, to notify a local authority of service users they think may be homeless or at risk of becoming homeless. The public authority will need to gain the consent of the individual before referring them. Individuals will be allowed to choose which council they are referred to.

Section 11: Codes of practice

Section 11 enables the Secretary of State to produce mandatory codes of practice dealing with local authorities' functions in relation to homelessness or homelessness prevention. It also allows future codes to apply narrowly to specific councils.

The power for the Secretary of State to impose a code of practice at a later date replaced proposals for a new mandatory code of practice in legislation. This follows our engagement on behalf of councils. We also supported revisions made to this section which ensure that a code of practice must be approved by both Houses of Parliament before being issued.

Section 12: Suitability of private rented sector accommodation

Under section 12 local authorities must ensure certain suitability requirements are satisfied when they secure accommodation for vulnerable households in the private rented sector.

Next steps

Legislative change alone will not reduce homelessness and we will continue to push for councils to be able to build more genuinely affordable homes and for the impact of welfare reforms to be redressed. The LGA's Housing Commission report, published in advance of the Government's Housing White Paper, sets out over 30 recommendations as to how local and central government can work together to resolve our housing crisis and forms the basis of our lobbying work.

We will continue to work on behalf of councils to ensure this legislation is deliverable for councils, particularly as the Government draws up secondary legislation and guidance. We are also working with the Government to ensure councils will be effectively supported to respond to new duties. Alongside this, we will be running our own sector-led improvement offer to assist councils to learn from each other in delivering ambitions to reduce homelessness and the costs of temporary accommodation.

A note of thanks

We extend our thanks to all those parliamentarians that supported us in our detailed work on the legislation and championed the concerns in speaking on behalf of local government during key debates. We also thank the Bill's sponsors, LGA Vice-Presidents Bob Blackman MP and Lord Best, for their positive engagement to ensure the Act is workable for councils.

Useful links

For the full text of the Act and the explanatory notes please refer to: www.legislation.gov.uk

For the LGA's briefings at each stage of the Bill, please go to: www.local.gov.uk/parliament/briefings-and-responses/homelessness-reduction-bill

For more information about the LGA's work on housing and planning, please go to: www.local.gov.uk/topics/housing-and-planning

For more information about the LGA Housing Commission, please go to: www.local.gov.uk/topics/housing-and-planning/housing-commission



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