

HOMELESSNESS REDUCTION BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Homelessness Reduction Bill as introduced in the House of Commons on 29 June 2016 (Bill 7).

- These Explanatory Notes have been prepared by the Department for Communities and Local Government, with the consent of Mr Bob Blackman, the member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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These Explanatory Notes relate to the Homelessness Reduction Bill as introduced in the House of Commons on 29 June 2016 (Bill 7)

Overview of the Bill

- 1 The Bill makes changes to the current homelessness legislation contained in Part 7 of the Housing Act 1996. It places duties on local housing authorities to intervene at earlier stages to prevent homelessness and to take reasonable steps to help those who become homeless to secure accommodation. It requires local housing authorities to provide some new homelessness services to all people in their area and expands the categories of people who they have to help to find accommodation.
- 2 The Bill is made up of 13 clauses. It introduces requirements for local housing authorities to carry out homelessness prevention work with all those who are eligible for help and threatened with homelessness. The Bill changes the point at which a person is classed as being threatened with homelessness from 28 days before a person is likely to be homeless, to 56 days. It also makes changes to the way local housing authorities assess the point at which a person becomes homeless or threatened with homelessness. The Bill requires local housing authorities to carry out an assessment of the applicant's needs, and that the steps agreed between the local housing authority and the applicant are set out in writing – in the form of a personalised plan. A new duty is placed on local housing authorities to take steps for 56 days to relieve homelessness by helping any eligible homeless applicant to secure accommodation. A new duty is introduced which will be owed to certain applicants who deliberately and unreasonably refuse to co-operate with local housing authorities. The Bill specifies that local agencies should refer those who are either homeless or at risk of being homeless to local housing authority housing teams. Provision is also made for certain care leavers, to make it easier for them 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.

Policy background

- 3 The number of homeless households in England is increasing. 57,750 households were accepted as statutory homeless and in priority need in 2015/16, up 6% on a year earlier. The total numbers in temporary accommodation are also rising, at 73,120. Local housing authorities took action to prevent homelessness for 50,990 households in April to June 2016, up 4% from 48,820 in April to June 2015.
- 4 Some local housing authorities are likely to concentrate only on their statutory duties, which are focussed on households in 'priority need' – under the Housing Act 1996 ("The 1996 Act"), certain categories of household, such as families with dependent children, pregnant women and households that include someone who is vulnerable, for example because of old age, or disability, have a 'priority need' for accommodation. This is likely to sharpen the existing divide between those who meet the threshold for 'priority need' and those who do not, and who therefore receive little support. In Wales new provisions on prevention and relief of homelessness were introduced in the Housing (Wales) Act 2014. These were commenced in April 2015 and have been operating for over a year now. Although it is still early days, the changes have shown positive results.
- 5 The Communities and Local Government Select Committee conducted an inquiry into a draft of the Bill and published a report on 14 October, which was effectively pre-legislative scrutiny

ahead of the publication of the finalised Bill on 21 October 2016.¹ The Committee has highlighted there is more to be done to ensure that those who are homeless or at risk of homelessness receive consistently high levels of service across the country. It is vital that local housing authorities and households work together to resolve problems earlier, and ensure more people are helped to avoid homelessness.

Legal background

- 6 The Homelessness Reduction Bill makes significant amendments to the current homelessness legislation contained in Part 7 of the 1996 Act. It places duties on local housing authorities to intervene earlier and take steps to prevent homelessness in their areas.

¹ Communities and Local Government Committee, Fifth Report of Session 2016–17, The draft Homelessness Reduction Bill, HC 635

Territorial extent and application

- 7 Clause 13(1) sets out the territorial extent of the Bill, that is, the jurisdictions which the Bill forms part of the law of. The extent of a Bill can be different to its application. Application is where a Bill produces a practical effect.
- 8 Legislative competence for homelessness provision has been devolved to Wales, Scotland and Northern Ireland.
- 9 Clauses 1 to 12 extend to England and Wales but apply to England only.
- 10 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned.
- 11 The Bill does not contain any provision which gives rise to the need for a legislative consent motion in the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly. If there are amendments relating to such matters that fall within the convention, the consent of these legislatures (as appropriate) will be sought for them.
- 12 As the Bill is a Private Members' Bill, the new English votes provisions in the House of Commons Standing Orders do not apply.

Commentary on provisions of The Bill

Clause 1: Meaning of “homeless” and “threatened with homelessness”

- 13 This clause amends section 175 of the 1996 Act to make changes to the way local housing authorities assess the point at which a person becomes homeless or threatened with homelessness.
- 14 Where a valid notice is given to a person under section 8 or section 21 of the Housing Act 1988, the expiry date of that notice is to be treated by the local housing authority as the date on which the person no longer has the accommodation where:
 - a. it is reasonable to think the landlord will apply for a possession order; and
 - b. no local housing authority has asked the person and any people they live with, or might reasonably be expected to be living with (defined as “other relevant persons”), to stay on in the accommodation after the notice expires.
- 15 For a section 8 notice, the expiry date is the day before the date stated on the notice when court proceedings could first begin. For a section 21 notice, it is the date stated on the notice.
- 16 Where a valid notice is given under section 8, the local housing authority can ask the recipient to stay in the accommodation past the expiry of the notice if they consider it reasonable to expect the recipient (and any other relevant person) to do so and also consider that if possession proceedings are brought there is reasonable chance of:
 - a. the landlord dropping the proceedings; or
 - b. the recipient successfully defending them.
- 17 Where a valid notice is given under either section 8 or section 21 the local housing authority can ask a recipient to stay on in the accommodation past the expiry of the notice if they consider it reasonable to expect the recipient (and any other relevant person) to do so, and the local housing authority has taken reasonable steps to try to persuade the landlord to withdraw the notice or delay applying for possession.
- 18 When considering whether anyone can reasonably be expected to stay on in the accommodation after the expiry of a section 8 or section 21 notice, the local housing authority must take into account the likely consequences (including financial) for the recipient, other relevant persons and the landlord of:
 - a. the recipient and any other relevant person ceasing to have to accommodation; and
 - b. the recipient and any other relevant person continuing to occupy the accommodation after the expiry of the notice.
- 19 The local housing authority will also need to consider any other relevant matters but specifically the likelihood that:
 - a. any proceedings for possession will be withdrawn;
 - b. any proceedings for possession will be successfully defended; and
 - c. the local housing authority will be able to persuade the landlord to withdraw the section 8 or section 21 notice or delay applying for a possession order.

- 20 New subsection (3G) of section 175 of the 1996 Act makes clear that it is not reasonable for a person to occupy accommodation if that would be in breach of a court order.
- 21 New subsection 175(4) of the 1996 Act) 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 and meaning that local authorities must work with people to prevent homelessness at an earlier stage.

Clause 2: Duty to provide advisory services

- 22 This clause extends the duty to provide advisory services in the 1996 Act by substituting a new section 179. This places a duty on local housing authorities to provide, or secure the provision of, free information and advice services to any person in the authority's district on preventing and relieving homelessness, the rights of homeless people or those threatened with homelessness, help that is available from the local housing authority or others and how to access that help. The service must be designed with certain listed vulnerable groups in mind, for example care leavers and victims of domestic abuse.

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

- 23 This clause inserts a new duty (section 189A) into the 1996 Act. If they are satisfied that an applicant is homeless or threatened with homelessness, and eligible for assistance, local housing authorities are required to carry out an assessment of the applicant's case. The assessment must look at the circumstances that caused the applicant's homelessness or threatened homelessness, their housing needs and the support they need to be able to have and retain suitable accommodation. The applicant must be informed in writing of the assessment made.
- 24 Following the assessment the local housing authority must work with the applicant to agree the actions to be taken by both parties to ensure the applicant has and is able to retain suitable accommodation.
- 25 If actions are agreed by both parties then the local housing authority must record the actions in writing. If the parties cannot agree the local housing authority must put in writing why they could not agree, what steps they think the applicant should take and what steps the local housing authority will take.
- 26 If the local housing authority's assessment of the applicant's case changes, for example due to new circumstances arising, they must notify the applicant in writing of any changes to the assessment. If the original plan needs to be amended the local housing authority must also notify the applicant in writing. If the local housing authority decides that the steps which were agreed are no longer appropriate then they must disregard any failure to take those steps for the purposes of Part 7 of the 1996 Act.
- 27 If the applicant has not received a copy of an assessment or re-assessment, then they will have been deemed to have received it if a copy has been made available at the local housing authority's office for collection for a reasonable amount of time.

Clause 4: Duty in cases of threatened homelessness

- 28 This clause substitutes a new section 195 into the 1996 Act which requires local housing authorities to take steps to help prevent homelessness for any eligible household threatened with homelessness.
- 29 Subsection (2) places local housing authorities under a duty to take reasonable steps to help the applicant to secure that accommodation does not stop being available for their occupation. The

steps to be taken should be informed by the assessment that is set out in the duty to assess and agree a personalised plan (clause 3). An example of the type of step a local housing authority might take is that they could provide a security deposit enabling the household to secure their own accommodation or mediation to help keep families together.

- 30 The duty on local housing authorities to help secure accommodation for those threatened with homelessness can come to an end in a number of ways (subsection 7(a) to (h)):
- If the local housing authority is 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 local housing authority has complied with their duty to take reasonable steps to help the applicant to secure that accommodation does not stop being available for their occupation for a period of 56 days (the 56 days starts when the local housing authority is first satisfied that the applicant is eligible and threatened with homelessness.)
 - The applicant becomes homeless, that is the prevention support has not been able to stop them losing their accommodation, at which point the ‘relief’ duties, namely the duties owed to those who are homeless apply (see below at clause 5).
 - The applicant refuses an offer of suitable accommodation.
 - The applicant has become intentionally homeless from accommodation provided to the applicant following the local housing authorities exercise of their functions under subsection(2).
 - The applicant is no longer eligible for assistance.
 - The applicant chooses to withdraw their homelessness application.
- 31 The local housing authority may give notice (which must be in writing) to the applicant if any of the above circumstances apply.
- 32 The changes made by clause 7 also allow for this duty to end if an applicant has ‘deliberately and unreasonably refused to co-operate’ with the local housing authority when the local housing authority has been taking action to prevent the applicant’s homelessness. An applicant can only be found to have not co-operated after certain requirements are met (see section on clause 7 for more detail). Statutory guidance will set out the Secretary of State’s view of what it means to ‘deliberately and unreasonably refuse to co-operate’.

Clause 5: Duties owed to those who are homeless

- 33 This clause makes a number of amendments to the 1996 Act including inserting two new sections (189B and 199A). Section 189B places a duty on local housing authorities to take steps for 56 days to relieve homelessness by helping any eligible homeless applicant to secure accommodation.
- 34 Help would be provided for households whether they are in ‘priority need’ under the 1996 Act or not (persons in priority need are, for example, people with dependent children or those who are vulnerable as a result of old age or disability). Local housing authorities will be required to take reasonable steps that are likely to help the applicant to secure accommodation. Reasonable steps could include, for example, providing a rent deposit or access to mediation to keep households

together.

- 35 This duty on a local housing authority to help secure accommodation for those who are homeless can come to an end in a number of ways:
- If the local housing authority is satisfied that suitable accommodation has been secured where there is a reasonable prospect of that accommodation being retained for at least 6 months (or a longer period up to 12 months where prescribed in regulations).
 - The authority has provided help and assistance in compliance with this duty for a period of 56 days.
 - The applicant refuses an offer of suitable accommodation.
 - The applicant has become intentionally homeless from accommodation provided to the applicant following the local housing authorities exercise of their functions under section 189B(2).
 - The applicant is no longer eligible.
 - The applicant chooses to withdraw their homelessness application.
 - The changes made by clause 7 also allow for this duty to end if an applicant has ‘deliberately and unreasonably refused to co-operate’ with the authority when the authority has been taking action to prevent the applicant’s homelessness. An applicant can only be found to have not co-operated after certain requirements are met (see clause 7). Statutory guidance will set out the Secretary of State’s view of what it means to ‘deliberately and unreasonably refuse to co-operate’.
- 36 The local housing authority may inform the applicant in writing that this duty has come to an end.
- 37 Local housing authorities will owe a duty to those in priority need to provide interim accommodation while the local authority is carrying out its duties to relieve the applicant’s homelessness or until settled accommodation is secured.

Clause 6: Duties to help to secure accommodation

- 38 This clause amends section 205 of the 1996 Act to make clear that certain provisions of that Act do not apply when local housing authorities are helping an applicant to secure accommodation rather than securing the accommodation themselves. This means that the local housing authority would be able to give the applicant flexibility to choose their own accommodation if it is helping to secure.

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

- 39 Clause 7 inserts new sections 193A and 193B into the 1996 Act which set out the procedure and duties which apply if an applicant who is homeless or threatened with homelessness deliberately and unreasonably refuses to co-operate with key steps set out in the personalised plan. The key steps are those the applicant is required to take to secure and retain suitable accommodation. If the local housing authority considers that the applicant is deliberately and unreasonably refusing

to co-operate it must give them a warning. The warning must explain that a notice will be served which has consequences for the duties owed to the applicant if the applicant does not begin to co-operate.

- 40 If the applicant continues to refuse to co-operate, the local housing authority can issue a notice which brings the duties to help secure accommodation under section 189B (to take reasonable steps to help secure accommodation for the homeless) and section 195B (duty to take reasonable steps to help the applicant prevent homelessness) to an end.
- 41 Where a duty has been ended under this clause the local housing authority has a further duty to the applicant if they are homeless, eligible for assistance and in 'priority need' and became homeless through no fault of their own. The local housing authority must make a final accommodation offer, as a minimum, of an assured shorthold tenancy of at least six months. They will not be owed the main homelessness duty.
- 42 This clause also allows the Secretary of State to make regulations as to the procedure to be followed by the local housing authority.

Clause 8: Local connection of a care leaver

- 43 This clause amends section 199 of the 1996 Act to provide 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.
- 44 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.

Clause 9: Reviews

- 45 This clause makes amendments to section 202 of the 1996 Act which sets out which decisions of a local housing authority can be reviewed. The clause adds rights of review in relation to new duties in the Bill. An applicant has the right to request a review when a local housing authority :
 - a. makes a decision as to what duty is owed to an applicant under new sections 189B (initial duty owed to all persons who are homeless) and 193B (duties to applicants who have deliberately and unreasonably failed to cooperate);
 - b. makes a decision as to the steps they are to take to help the applicant secure suitable accommodation under section 189B(2) (reasonable steps to help the applicant secure suitable accommodation);
 - c. makes a decision to give notice they will bring the duty to help secure accommodation under section 189B (5) to an end;
 - d. makes a decision to give an applicant notice that they have deliberately and unreasonably failed to cooperate under section 193A(2);
 - e. makes a decision under section 195(2) as to the steps to be taken where an applicant is threatened with homelessness and the local housing authority must take reasonable steps to help the applicant prevent homelessness;
 - f. makes a decision under section 195(5) to give notice they are bringing the above duty

to an end; or

- g. makes a decision as to the suitability of accommodation offered by way of a final Part 6 offer or a final accommodation offer (under section 193B).

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

- 46 This clause inserts a new section 213A to the 1996 Act. This applies to all public authorities specified in regulations if they consider that a person in England to whom they exercise functions may be homeless or at risk of becoming homeless. In those circumstances the public authority must ask that person to agree to a local housing authority being notified and, provided the person agrees, notify a local housing authority and provide them with the persons contact details.
- 47 The person may choose which local housing authority they wish to be referred to.

Clause 11: Code of practice

- 48 This clause inserts a 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.
- 49 The clause provides a non-exhaustive list of areas which might be covered by any code of practice.

Clause 12: Suitability of private rented sector accommodation

- 50 This clause 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 vulnerable households in the private rented sector. This clause 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 195B (duty to take reasonable steps to help the applicant prevent homelessness).
- 51 It also extends the requirement to accommodation secured when an applicant is housed under a “final accommodation offer” (clause 7) of a minimum of six months assured shorthold tenancy which deals with applicants who refuse to co-operate with the local housing authority. These requirements include things like the provision of a valid gas safety certificate and reasonable precautions to prevent the possibility of carbon monoxide poisoning. The accommodation will not be regarded as suitable if any of the requirements are not in place.

Commencement

- 52 Clause 13 covers extent and commencement. The legislation extends to England and Wales only and the clause comes into force on the day the Act is passed. The remaining clauses 1 to 12 will come into force on such day as the Secretary of State may by regulations appoint.

Financial implications of the Bill

- 53 All of the clauses in the Bill set duties on local housing authorities. A new burdens assessment will be published on www.gov.uk.
- 54 The duty to refer puts a duty on other public services to refer people who they come into contact with who they know to be homeless or at risk of being homeless to a local housing authority. This is likely to have a small implementation cost as protocols are delivered and the new duty is communicated to public service staff.
- 55 An impact assessment is being prepared for the whole Bill and will be available at <http://services.parliament.uk/bills/2016-17/homelessnessreduction.html> in due course. This covers the implications on local housing authorities which derive from this Bill.

Parliamentary approval for financial costs or for charges imposed

- 56 The Bill will require a money resolution to cover increased expenditure under the Bill.

Compatibility with the European Convention on Human Rights

- 57 The Bill is considered to be compatible with the European Convention on Human Rights.

Related documents

- 58 The following documents are relevant to the Bill and can be read at the stated locations:
- The first draft of the Bill:
<https://www.parliament.uk/documents/commons-committees/communities-and-local-government/Homelessness-Reduction-Bill.pdf>
 - The Communities and Local Government Select Committee Report on the Bill:
<http://www.publications.parliament.uk/pa/cm201617/cmselect/cmcomloc/635/635.pdf>
 - Crisis expert panel report:
<http://www.crisis.org.uk/data/files/publications/Expert%20panel%20report.pdf>

Annex A - Territorial extent and application in the United Kingdom

This Bill applies to England only.²

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	No	No	No	Yes	Yes	Yes	No
Clause 2	Yes	No	No	No	Yes	Yes	Yes	No
Clause 3	Yes	No	No	No	Yes	Yes	Yes	No
Clause 4	Yes	No	No	No	Yes	Yes	Yes	No
Clause 5	Yes	No	No	No	Yes	Yes	Yes	No
Clause 6	Yes	No	No	No	Yes	Yes	Yes	No
Clause 7	Yes	No	No	No	Yes	Yes	Yes	No
Clause 8	Yes	No	No	No	Yes	Yes	Yes	No
Clause 9	Yes	No	No	No	Yes	Yes	Yes	No
Clause 10	Yes	No	No	No	Yes	Yes	Yes	No
Clause 11	Yes	No	No	No	Yes	Yes	Yes	No
Clause 12	Yes	No	No	No	Yes	Yes	Yes	No

² References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

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