National Practitioner Support Service

HOMELESSNESS REDUCTION ACT TOOLKIT

FOR LOCAL AUTHORITIES AND THEIR PARTNER AGENCIES

Version 1: September 2017

Supporting you to prevent homelessness

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FEEDBACK AND SUGGESTIONS:
Feedback and suggestions on our toolkits are always welcome. Please email these to support@npsservice.org.uk or telephone 01962 851 747

ONLINE:
www.npsservice.org.uk

The National Practitioner Support Service

The Gold Standard Programme was developed as a result of the “Making every contact count” report published on 16th August 2012 by the Ministerial Working Group (MWG) on Homelessness. This report introduced the 10 Local Challenges aimed at supporting local authorities to improve their frontline housing services and increase opportunities for early intervention and prevention of homelessness.

The programme focuses on peer support. With the support of NPSS practitioners, local authorities share good practice across the sector and assist each other to improve their own services, it follows a 10 step process with free resources, tools, training and support available at each step, culminating in applications for the 10 local challenges.

In April 2013, the National Practitioner Support Service (NPSS) was set up to develop the programme and to provide support to local authorities to meet the 10 Local Challenges. The programme had credibility from the onset being directly recommended by the MWG. This credibility has been built on by the experience of the team delivering the programme, all of whom are front line practitioners seconded from local authorities across the country and who remain embedded in local services; recognising the need for a local approach within a nationally recognised programme.

In September 2016, recognising the importance of the role that the team plays in supporting all 326 local authorities in England, the Communities and Local Government Select Committee invited the National Practitioner Support Service to give evidence the scrutiny of the Homelessness Reduction Bill. You can read a transcript of the evidence session **here**. The evidence provided by NPSS features heavily in the Select Committee’s final report which can be downloaded **here.**

Background

In June 2016, Bob Blackman MP, drew second place in the Private Members' Bill Ballot and introduced the Homelessness Reduction Bill. In a pioneering approach, the Communities and Local Government Select Committee heard evidence on the draft Bill ahead of its formal publication and whilst generally supportive of the Bill's aims and objectives, recommended a series of amendments.

The focus of the Homelessness Reduction Bill is homelessness prevention. It seeks to amend Part VII of the Housing Act 1996 through a series of measures including:

- An extension of the period during which an authority should treat someone as threatened with homelessness from 28 to 56 days
- Clarification of the action an authority should take when someone applies for assistance having been served with a section 21 notice of intention to seek possession from an assured shorthold tenancy
- A new duty to prevent homelessness for all eligible households threatened with homelessness
- A new duty to relieve homelessness for all eligible homeless applicants
- A new duty on public services to notify a local authority if they come into contact with someone they think may be homeless or at risk of becoming homeless

NPSS Toolkit and HRA Implementation Events

The National Practitioner Support Service (NPSS) is delivering a series of awareness raising events for local authority housing options teams and their partners commencing in May 2017. This toolkit is designed to support the presentation delivered during these sessions.

At the time of publication, 80% of all Local Authorities in England had booked to attend the NPSS Homelessness Reduction Act Implementation training with NPSS Practitioners delivering over 100 courses nationally.

Details of these courses can be found online at **www.npsservice.org.uk**

If you would like to enquire about booking an in-house course for up to 30 delegates, please contact us at support@npsservice.org.uk

Disclaimer

This is not legal training; your own Local Authority will have their own legal team who can give expert advice on the law. The role of NPSS is to highlight the key issues and raise awareness for Housing Options Teams in their day to day work.

Legislative amendments

Introduction

The Homelessness Reduction Act was developed from a Private Members Bill that was introduced to Parliament in June 2016. A bill was published following a detailed inquiry into homelessness by the Communities and Local Government (CLG) select committee, and this received royal assent and become an Act on 27th April 2017

This section of the toolkit looks at the Act in detail, going through each clause and explaining the changes to the current legislation in Pt VII Housing Act 1996 (HA 1996) and how local authorities will need to respond to these.

Homelessness Reduction Act Clauses: Summary

Clause 1

A change to the meaning of "threatened with homelessness". The period at which a person is threatened with homelessness is changed from 28 days to 56 days.

Clause 1 also clarifies the position with regard to households who are threatened with eviction from a PRS tenancy. If a valid s.21 is served and it expires within 56 days the household will be threatened with homelessness.

Clause 2

All people in the local authority's district shallhave access to free advice and information, including information on preventing homelessness and securing accommodation if homeless.

Clause 3

Local Authorities are required to carry out a detailed assessment on each household who is homeless or threatened with homelessness, setting out clear information on the circumstances leading to homelessness, and agreeing meaningful steps to remedy this in a written plan.

Clause 4: The 'Prevention Duty:'

Where households are threatened with homelessness, local authorities are required to take reasonable steps to help to secure that accommodation does not cease to be available for their occupation. This applies to all eligible households who are threatened with homelessness.

Clause 5: The 'Relief Duty:'

Where a household is homeless, local authorities are required to take reasonable steps to help to secure that suitable accommodation becomes available to them for at least 6 months. This duty to take steps to help to secure accommodation applies to **all** homeless households, and will apply for a 56-day period, unless the applicant is referred to another local authority.

Clause 6: Duties to secure accommodation

Local authorities are able to take action to help to secure accommodation under the new duties to help homeless households. The action must have regard to the personal housing plan (Clause 3)

Clause 7: Provisions on failure to cooperate

The Act contains a provision to bring the prevention duty and the relief duty to an end where the local authority is satisfied that the applicant is both deliberately and unreasonably refusing to cooperate with the steps set out in the personal housing plan.

Clause 8: Local connection for care leavers

All young people leaving care will be deemed to have a local connection in the area of the local authority that is responsible for providing them with leaving care services under the Children Act 1989. Care leavers will also be able to demonstrate a local connection via residence

Clause 9: Reviews

Applicants are provided with the right to request a review on the decisions made in relation to the new prevention and relief duties.

Clause 10: Duty on public authorities to refer cases to the local housing authority

The Act places a duty on specified public bodies to refer those household who are either homeless or at risk of being homeless to local authority housing service.

Clause 11: Code of Practice

The secretary of state has a power to produce a statutory code of practice to raise the standards of local authority homelessness services across the country.

Clause 12: Suitability of Accommodation

The local authority must satisfy itself that the suitability requirements from the Homelessness (Suitability of Accommodation) (England) Order 2012 are in place where it secures accommodation for vulnerable households in the private rented sector.

Homelessness Reduction Act Clauses: Detail

Clause 1

What does the Act say?

The Act amends s.175(4) HA 1996 to note that;

"*a person is threatened with homelessness if it is likely that he will become homeless within 56 days*"

This amendment doubles the length of time required for a person to be threatened with homelessness, from 28 days to 56 days. This is one of the more noticeable, and significant changes to the legislation from the Homelessness Reduction Act.

Why does it say this?

The aim of this change is to increase homelessness prevention opportunities and successful prevention outcomes, by requiring local authorities to act and intervene at a much earlier stage.

What you need to do

Local authorities will have to adapt services to respond at a much earlier stage, with both homelessness applications and a duty to prevent homelessness (see Clause 4 below) commencing at a much earlier point.

Please note; the issues to consider when making a decision on whether a person is homeless or threatened with homelessness otherwise remain the same, with no changes to ss.175(1) – s.175(3) HA 1996.

The test to apply under s.183(1) when considering whether a homelessness application has been triggered remains the same, the only change is to the length of time that a person can be considered to be threatened with homelessness.

The test for triggering an application is a two stage one and the questions to ask remain as:

1) Is the person applying for accommodation or assistance in obtaining accommodation?

2) Does the local authority have a reason to believe the person is homeless or threatened with homelessness?

If the answer to both these questions is 'yes' then an application under Pt VII HA 1996 has been triggered. 'Threatened with homelessness' will now mean within 56 days, however all other facts remain the same, with the threshold for a 'reason to believe' being very low.

What else does the Act say?

The Homelessness Reduction Act also makes some additions to s.175 in respect to when a person should be considered to be threatened with homelessness after being issued with a notice setting out intention to seek possession of a privately rented property under s.21 Housing Act 1988. The act inserts s.175(5), which notes that a person will be threatened with homelessness if they have been served with a **valid** notice under s.21, and that the notice will expire within 56 days. A valid s.21 notice will be sufficient to trigger an application and investigations under Pt VII Housing Act 1996.

Why does it say this?

The purpose of these additions is to clarify and harmonise the approach taken to households who require assistance due to a private sector tenancy coming to an end. The current approach can often be an inconsistent one, where in some local authority areas a person is treated as homeless at the point that a s.21 notice expires, whereas in other areas a person will not be considered to homeless until a possession notice is executed.

The intention is to introduce a more consistent approach towards households who are homeless or threatened with homelessness due to the loss of a private sector tenancy. The clause has gone through a number of changes since the bill was first drafted, in order to strike the correct balance between landlords being able to quickly recover possession of a property, and enabling local authorities to take action to prevent homelessness. It now reads as a brief clause, but is a significant amendment to the existing legislation.

What you need to do

Local authorities need to ensure that they have systems in place to identify and respond to notices served on private tenants.

Local authorities should ensure that training in place for all housing options staff and any other relevant front facing staff to support the identification of a valid s.21. This training should form part of the induction programme for new members of staff and refreshed regularly as part of the team training matrix.

In order for a s.21 notice to be valid, there are a number of requirements that a landlord must follow and prescribed information they must issue to tenants, both at the start of the tenancy and the point at which the notice is served. If these requirements are not met any notice will not be valid.

Private sector housing teams and PRS access services / bond schemes should ensure that they have clear lines of communication with landlords, and are able to use effective negation skills so all prevention options can be explored with the aim of retaining the tenancy, wherever possible.

Clause 2 – Duty to provide advisory services

What does the Act say?

The Act amends and expands the current general duty in s.179 HA 1996 for local authorities to secure that advice and information about homelessness, and the prevention of homelessness, is available free of charge to any person in their district. It substitutes a completely new draft for s.179 which significantly extends the existing duty to secure the provision of advisory services by placing a duty on local housing authorities in England to provide or secure free information and advice to any person in the district 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 anyone else for persons in the district who are homeless, and
- how to access that help

s.179(2) specifies that the advisory service(s) should be designed with certain listed vulnerable groups in mind, and prescribes who these groups are:

- people who are released from prison or youth detention
- care leavers
- former members of the armed forces
- victims of domestic abuse
- persons leaving hospital
- persons suffering from a mental illness or impairment

This is not an exhaustive list, as advice must also be tailored to meet the needs of “any other group that the local authority identify as being as particular risk of homelessness in their district” The Act also permits local authorities to outsource advisory services as a way of meeting this duty.

Why does it say this?

The aim is to ensure that all people in the local authority’s district are able to access free advice and information on preventing and relieving homelessness. Those households who are homeless or threatened with homelessness will be able to use the free advice and information to develop solutions to problems and maximise homelessness prevention opportunities. All people, including single homeless people who seek support will be issued with relevant, meaningful advice that is tailored to meet the needs of specific groups.

This measure aims to ensure that all people have access to the same help in the first instance when homeless or threatened with homelessness, and helps to set the expectations of the quality and type of information that is needed.

What you need to do?

Local authorities will need to ensure that services are designed to meet the needs of particular groups who are homeless or threatened with homelessness. They also need to ensure that services are appropriate to meet the need of specific classes of persons and any particular area of risk and pressure in the local area.

It would be sensible for local authorities to conduct a service mapping and gap analysis exercise on advice services in the district, and to review any advice function they deliver directly. The service mapping should look closely at the areas prescribed in the Act and as:

- Where is this advice already provided?
- How is this delivered?
- What works well?
- What needs to be improved?
- Where are the gaps?

It is also possible to outsource the delivery of advice services, so it is wise to consider how advice will be delivered, and by whom. It is likely to be necessary to review joint working arrangements and service level agreements with key partners and advice agencies. The NPSS Diagnostic Review tools and local challenge criteria will be useful for this work.

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

What does the Act say?

The Act includes s.189(A) as a duty to assess every applicant's case and agree a plan.

The existing s.189 sets out the categories of priority need, and these categories determine for whom the local authority must secure suitable accommodation. Those people who are not in priority need are owed advice and assistance only. The addition in the Act at s.189(A) requires that local authorities must assess and provide meaningful assistance to every person who is homeless or threatened with homelessness, regardless of any priority need

s.189(A) specifies that, as soon as a local authority is satisfied that an applicant is homeless or threatened with homelessness, it must carry out an assessment on every eligible applicant's case and agree a plan. This assessment must include an assessment of:

- the circumstances that cause the applicant to become homeless
- the housing needs of the applicant, including suitable accommodation
- what support is required to help obtain and retain suitable accommodation

The applicant must be notified in writing of the assessment that is made.

The assessment under s.189A must inform what the reasonable steps in the personalised housing plan are. So, following the assessment, the local authority must try to reach agreement on:

- the steps the applicant will take to obtain and retain suitable accommodation
- the steps the local authority will take to retain or help to secure accommodation

If agreement on the next steps cannot be reached, the local authority must record why there was a failure to agree, and record what steps they consider to be reasonable to ensure that accommodation can be obtained and retained. All outcomes must be recorded in writing, and a copy given to the applicant. It is also necessary for the local authority to keep the assessment and the agreed actions under review throughout the lifetime of any case, and notify of any changes to these, until no duty under any part of Pt VII HA 1996 is owed to the applicant.

The Act also amends s.190(4) HA 1996 to specify that in deciding on the advice and assistance that is provided to intentionally homeless households, the local authority must have regard to the assessment of the case made under s.189(A).

Why does it say this?

The existing legislation requires inquiries into a case to centre on whether the applicant is eligible for assistance and then on what type of assistance they are eligible for. There is no requirement to assess the circumstances that led to homelessness, nor is there a requirement to complete a personalised plan. By including provisions to do this, the Homelessness Reduction Act aims to provide for a more personalised approach to advice and assistance for all applicants who are homeless or threatened with homelessness and ensure that tailored support that will prove more effective in preventing and relieving homelessness is provided. There is now a duty to assess the circumstances that caused a household to become homeless, so the Act should help to address the underlying issues that lead to homelessness, and reduce instances where households repeatedly become homeless.

What you need to do

The requirement to carry out a detailed, specified assessment on every household who approaches for assistance and is homeless or threatened with homelessness is likely to be a significant increase in the resource burden on most local authority homelessness services. Local authorities should closely monitor existing demand, footfall and the number of applications they deal with and look to estimate the number of assessments that they will need to conduct.

The length of time taken to carry out an assessment under s,189A on every household who is homeless or threatened with homelessness is likely to be longer than the existing time it takes to complete a homelessness or housing options interview (generally 45 – 60 minutes) The outcome of the assessment has to be issued in writing. Factor in the time that it will then take to complete and issue in writing the personalised housing plan, either at the same time or immediately following the assessment, and it may take significantly longer than the current practice to deal with any one application. Services need to closely consider how they will resource this additional demand and the extended time it is likely to process applications at the initial point of contact.

The section of this toolkit on personalised housing plans sets out the approach to take regarding the duty to assess and developing plans, including some example templates.

It will be prudent to review your operational practices and consider how personalised housing plans will be delivered and resourced. If you are already issuing confirmation of advice letters, this is a good start, however work will need to take place to develop and expand on this.

Detailed guidance on personal housing plans is likely to be included in the updated Code of Guidance for Local Authorities.

The government have confirmed that they are committed to funding the cost of any new administrative burdens that result from the new duty to assess all applicants and agree a plan.

Clause 4
Duty in cases of threatened homelessness

What does the Act say?

The Act redrafts s.195 HA 1996 to include a duty on local authorities to prevent homelessness. Authorities must take reasonable steps to help the applicant ensure that accommodation does not cease to become available to them (s.195(2)) This duty will take effect for a period of 56 days, from the date that the local authority are satisfied that the applicant is threatened with homelessness and eligible for assistance (s.195(8)(b))

The Act allows for the situation where a valid s.21 notice has been served, and a 56-day period has elapsed, but the applicant remains threatened with homelessness. In this situation, the duty to prevent will stay in place beyond the 56-day period (s.195(6))

In deciding which steps to take to prevent homelessness the authority must have regard to the assessment of the applicant's circumstances, under 189A. .

The Act specifies that the duty to prevent can be brought to an end when the local authority is satisfied that that any of the following apply:

- The applicant has suitable accommodation available to them for a period of at least 6 months.
- The authority has taken reasonable steps to prevent homelessness, but a period of 56 days has ended
- The applicant has become homeless
- The applicant has refused an offer of suitable accommodation
- The applicant has become homeless intentionally from any accommodation that has been made available to them as a result of the reasonable steps to prevent (under s.195(2))
- The applicant is no longer eligible for assistance

If the prevention duty is brought to an end the decision must be put in writing, setting out which of the above circumstances apply and informing the applicant of the right to review.

Changes are also made to s.195A with regard to re-application after a PRSO, offer. s.195A(3) and s.195A(4) are removed; s.195A(3) will be redundant as the duty to take reasonable steps to prevent homelessness will now apply to all applicants, including those who reapply following acceptance of a PRSO offer, and s.195A(4) is removed as the effect of this is now covered in amendments to the definition of threatened with homelessness at s.175(5).

The Act also wholly removes s.196 from the existing legislation (*Becoming threatened with homelessness intentionally)* as the duty to prevent will now apply to all households who are threatened with homelessness.

The Act also makes minor amendments to s.204, regarding the power to accommodate intentionally homeless households, to s.213 regarding co-operation in certain cases involving children and to s.218 where the entry on 'intentionally threatened with homelessness' is removed.

The Act also makes minor amendments to s.183(3A) in respect of duty owed to a restricted person who is threatened with homelessness.

Why does it say this?

The Act has already extended the period for which people are considered threatened with homelessness from 28 days to 56 days before they are likely to become homeless, ensuring that local housing authorities can intervene earlier to avert a crisis.

This measure in Clause 4 will extend homelessness prevention so that help is provided at an earlier stage to all eligible households, regardless of priority need, intentionality or local connection.

Although many local authorities already carry out prevention work for all households who are threatened with homelessness, there is no statutory obligation to do this. The Act extends the help to applicants who are not in priority need by placing a duty to take steps to prevent homelessness for all households.

To ensure that prevention action is effective, this new duty will sit alongside other measures in the Act, in particular the non-cooperation measures in Clause 7. There is a clear onus on the local authority and the applicant working together and each taking steps to prevent homelessness, and the deliberate and unreasonable refusal to cooperate measures will encourage those who are homeless or threatened with homeless to work proactively with the local authority to find a resolution to the issues.

What you need to do

When you are satisfied that an applicant is eligible and threatened with homelessness, there will be a duty in place on the authority to take reasonable steps to prevent the person from becoming homeless. This will be achieved by either helping the applicant to stay in their current accommodation or by helping them to find new accommodation.

It would be useful to review your current practice and consider the prevention tools and prevention outcomes that you are achieving. Does the prevention profile in your P1E data show that you achieve a greater percentage of prevention outcomes by either taking action to allow applicants to remain in their home, or by assisting them to find alternative accommodation?

Prevention measures that allow people to remain in their own home should, in theory, be easier to achieve where there is a focus on earlier intervention at 56 days, so review the tools that you use to achieve these outcomes, and consider where you may need to develop new options or expand on existing provision. Options to consider can include:

- Mediation services
- Home visits / visiting officers
- Prevention fund / financial payments

- Joint working with partners – particularly Housing Benefit services
- Specialist advice services
- Mortgage rescue

Clause 5: Duty owed to those who are homeless

What does the Act say?

The Act makes an addition as s.189B which brings an initial duty owed to all eligible people who are homeless. Unless the applicant is referred to another authority at this stage, the authority must take reasonable steps to help the applicant ensure that accommodation becomes available to them for at least six months (s.189B(2))

In deciding what reasonable steps to take to relieve homelessness the authority must have regard to the assessment of the applicant's circumstances, as set out in Clause 3 at s.189A.

The Homelessness Reduction Act ensures that local authorities will have a duty to relieve homelessness for all eligible households who are homeless. How local authorities will meet this duty will be informed by the assessment (s.189A) and the steps in the personalised housing plan. The relief duty comes to an end after a 56 day period from the date of application when the authority are satisfied that the applicant is in priority need and is not intentionally homeless, i.e. if the local authority are unable to relieve homelessness within 56 days, and the household would be owed the main homelessness duty under s.193, they must accept the main duty for the household at that point. The Homeless Reduction Act ensures that the relief duty will apply to all households, and only when this duty cannot be met after a 56 day period, will a local authority go on to accept the main duty should it apply

The Act specifies that the relief duty can also be brought to an end when the local authority are satisfied that that any of the following apply:

- The applicant has suitable accommodation available for occupation with a reasonable prospect of having the accommodation available for at least 6 months
- At the end of a 56 day period and the authority has complied with the relief duty, whether or not the applicant has managed to secure suitable accommodation.
- The applicant has refused an offer of suitable accommodation where there was a reasonable prospect of the accommodation being available to them for at least 6 months
- The applicant has become homeless intentionally from any accommodation that has been made available to them as a result of the reasonable steps to relive homelessness (under s.189B(2))
- The applicant is no longer eligible for assistance
- The applicant withdraws there application

The relief duty can also be brought to an end at the relief stage due to:

- The applicant refusing a final accommodation offer, (s.193A)
- The applicant refusing a final Part 6 offer (s.193A)
- Serving a notice in case of a deliberate and unreasonable refusal to cooperate (s.193B / Clause 7)

Whenever the relief duty is brought to an end the decision must be put in writing, setting out which of the above circumstances apply and informing the applicant of the right to review.

Interim accommodation duties owed under s.188 HA 1996 continue to apply throughout the relief stage, so those applicants where there is a reason to believe they are in priority need will be provided with accommodation whilst the authority carries out the reasonable steps to relieve homelessness.

Where an applicant requests a review of the suitability of an offer of accommodation as a final accommodation offer or a final Part 6 offer to meet the duty under s.189B, the duty will remain in place until the review is completed (s.188(2A)

Where a suitable offer of accommodation as a final accommodation offer or a final Part 6 offer to relieve homelessness is refused, the applicant cannot go on to be owed the main duty under s.193.

The Act also includes an additional section under the existing s198 (Referral of case to another local housing authority) s.198A1 now allows the LA to make a referral to another local authority if they would be subject to the relief duty under s.189B, and the conditions for a referral of the case to another authority in s.198(2) HA 1996 are met.

The conditions for a referral under s.198(2) remain the same; that is, the applicant does not have any local connection to the LA where the application was made, but they do have a **safe** local connection with another local authority.

Under the existing legislation, a referral under s.198 can only be made once the main duty under s,193 was determined. The Act now allows for a referral to be made at the point that the applicant becomes homeless and the relief duty is owed, as long as the conditions in s.198(2) are met.

This does not mean that an authority can simply advise an applicant to approach another LA at the point they become homeless, or refuse to entertain an application due to a lack of a local connection. The referral must be made via the standard notification process set out in the updated code of guidance, and the LA must notify the applicant in writing that it intends to refer the case to another local authority. Referrals under s,198 remain discretionary, and LA's must ensure that they exercise their discretion when deciding on whether to refer a case to another area.

Why does it say this?

The current provision in HA 1996 Part 7 can result in the fact that, if a homeless applicant is not in priority need, they may receive very limited help. When applicants are in priority need, they tend to move to the main homelessness duty as soon as it was established they were owed it. The relief duty means that the local authority will have a duty to relieve homelessness for homeless households, rather than quickly accepting the main s.193 duty where it applies, and offering limited assistance to those households where it does not. The relief duty ensures that both the local authority and the applicant work together to find a solution that is tailored to the applicant's circumstances, regardless of whether the applicant is in priority need. The aim is that the relief duty will result in more people getting the help and assistance they need to resolve homelessness if prevention does not work or if they only seek help at a later stage.

What you need to do

The relief duty requires local housing authorities to take reasonable steps to help secure accommodation for any eligible person who is homeless. The reasonable steps will be similar to those at the prevention stage. Options to consider can include:

- Rent deposit / PRS access scheme
- Joint working with partners – particularly housing providers
- Specialist advice services

Clause 6: Duties to help secure accommodation

What does the Act say?

Clause 6 is the Act is a relatively brief section, which makes an addition to s.205 HA 1996 regarding the discharge of the authorities housing functions. The additional section ensures that action taken under the prevention and relief are not included under the function to secure accommodation. The reasonable steps in the prevention duty and relief duty are limited to 'help to secure' accommodation, rather than to secure in each case. The local authority does not have to source and provide the accommodation itself, although in some cases it may decide to discharge the duty by providing accommodation.

Why does it say this?

The intention is that, once applicants are in receipt of the information and support required, informed by an assessment of their needs and agreed in the personal housing plan, they will be able to take action to secure accommodation themselves, allowing local authorities to make more efficient use of their resources. Local authorities will be able to undertake work to prevent homelessness without the requirement to find accommodation for all applicants. Taking reasonable steps to help all applicants secure accommodation will be enough to meet the duty.

What you need to do

Housing options and homelessness services will need to review provision and ensure that effective, up to date advice is in place that is appropriate to meet the needs of the local population.

Review joint working arrangements with other housing providers – both social landlords and registered providers, support housing providers and private sector housing providers.

It is still open for local housing authorities to secure accommodation themselves under the prevention and relief duties, when they think it is a sensible approach to do so, so consideration and review of the use of your own housing stock or leased accommodation arrangements and support to access to the PRS will be required in order to help you successfully meet the prevention and relief duties.

The duties to help secure accommodation works hand in hand with the suitability of accommodation requirements in the Homelessness (Suitability of Accommodation) (England) Order 2012. This order is subject to amendment in Clause 12 of the Act, and careful regard

should be given to both when working to fulfil the duty under this part. All accommodation accessed to meet the duty to prevent or relieve homelessness will need to be suitable for the household. The Homelessness (Suitability of Accommodation) (England) Order 2012 will apply to any PRS property secured for priority need households, as set out in Clause 12 below.

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

What does the Act say?

The Act includes two additions to s.193 HA 1996, as s.193A & s.193B. These sections place a requirement on applicants to co-operate with the reasonable steps that the local authority takes to meet the prevention duty and the relief duty.

If, following the assessment of an applicant and the agreement on a personal housing plan, the local authority believes that the applicant is both deliberately and unreasonably refusing to co-operate to prevent or relieve their homelessness, the authority can take the steps outlined in Clause 7 in order to bring the duty owed to an end.

- s.193A sets out the process for issuing a notice for deliberate and unreasonable refusal to co-operates.
- 193B sets out the consequences of a notice being issued under s.193A

s.193A(2) allows a local authority to issue a notice to an applicant if they consider that they have deliberately and unreasonably refused to co-operate with the authority to prevent or relieve their homelessness, or to take any step that was agreed in the applicants personal housing plan. The notice must;

- Explain why it is being issued, and the effect of the notice
- Inform the applicant of a right to request a review of the decision

Before a notice is issued, the authority must give a relevant warning to the applicant (essentially, a 'minded to' letter), and allow a reasonable period to elapse once the warning is given. The warning should:

- Warn the applicant that the authority intends to give notice under s.193A(2) if they deliberately and unreasonably refuse to co-operate
- Explain the consequences of a notice being issued

s.193A(6) notes that local authorities must have regard to the applicants particular circumstances and needs when deciding if an applicant has deliberately or unreasonably refused to co-operate.

s.193B sets out the consequences of a notice being issued. These are:

- the ending of the duty to prevent or relieve homelessness (s.193(2)), and
- any households who are in priority need and not intentionally homeless will not be able progress to the main duty under s.193

Where the prevention duty at s.195 is brought to an end via this process, should the household go on to become homeless, it is very likely that a local authority will then owe the household the relief duty under s.189B

Any applicants who would have progressed to the main duty under s.193, but who is now unable to do so following the issuing of a notice, will still be entitled to receive an offer of accommodation and the local authority must secure that accommodation is available for occupation by them (s.193B(4)) This will be, as a minimum, an AST of at least 6 months. This limited duty to secure accommodation would come to an end when the applicant:

- ceases to be eligible for assistance
- becomes homeless intentionally from accommodation made available to them
- accepts an offer of an assured tenancy from a private landlord
- ceases occupation of the accommodation made available to them
- accepts or refuses a 'final' offer of accommodation

The bar is set very high, and the applicant must both deliberately and unreasonably refuse to co-operate in order for the duty to be brought to an end, The Act is framed in this way so that it does not penalise those who have difficulty co-operating because of poor mental health or complex needs. The Act also notes that the Secretary of State may set out regulations to the procedure to be followed by the authority when issuing notices due to an unreasonable refusal to co-operate.

Why does it say this?

In this section, the Act looks to create an environment where the applicant who is homeless or threatened with homelessness will have to undertake proactive work with the local authority in order to prevent or tackle their homelessness. Where the applicant both deliberately and unreasonably refused to cooperate with the reasonable steps set out tin the plan, the local authority can bring the prevention or relief duty to an end. The personal housing plans (Clause 3) should contain reasonable and achievable actions that an applicant can be expected to undertake, helping to encourage applicants to take a reasonable level of responsibility to resolve their own housing situation. The personal housing plans are informed by an assessment of an applicant's needs, so any actions in them should be reasonable for the applicant to be expected to achieve.

What you need to do

Create or review any template letters – particularly those giving a notice under s.193A and the 'minded to' notices

Adapt your operational procedures (including any guidance / manuals) to include the steps around assessment of needs, personal housing plans and notices due to non-cooperation.

Clause 8: Local connection of a care leaver

What does the Act say?

Clause 8 makes a straightforward addition to s.199 HA 1996 to include subsections 8, 9 10 & 11. The current provisions in s.199 set out the general rules for establishing a local connection, and contain specific provisions for people who are serving in the armed forces and asylum seekers. This clause in the Act adds in specific provisions relating to care leavers.

The Act ensures that any care leaver who becomes homeless will be able to demonstrate a local connection to either:

- the area of the local authority where they were looked after and owes them leaving care duties, or
- for a care leaver under 21 years old - an area different to that of the authority who owed them the leaving care duties, where they have lived for at least 2 years, including some time before they were 16 years old.

This will make it easier for the care leaver to demonstrate a connection and receive help in the area where they choose.

Why does it say this?

Care leavers can often have a complicated and unique housing history, due to being placed in multiple locations, and this can pose difficulties when looking to establish a local connection in an area where they ask for homelessness assistance.

The current requirements in the Act and the Code of Guidance provide that a local connection must be 'normal residence of the persons' choice', so accommodation placements for care leavers will generally not meet this criteria. It is often also difficult for care leavers to establish a local connection via employment or family association.

The Act makes an exception to the current position, and makes it easier for care leavers to demonstrate a local connection to the area where they would feel at home and would want to access assistance.

What you need to do

Ensure that careful regard is given to the unique housing history of care leavers during any assessment of their needs and circumstances leading up to their homelessness.

Review operational procedures and staff guidance / training to ensure that all staff who deal with applications from young people and care leavers are fully aware of the new legislation, and how to apply this.

In two tier local authority areas, a care leaver will be able to demonstrate a local connection to any of the local housing authorities at the lower tier district level, where the leaving care duties are owed by the upper tier county authority.

Clause 9: Reviews

What does the Act say?

Here, the Act includes amendments and additions to the existing provisions in s.202 HA 1996.

This measure means that new prevention and relief duties brought in by the Act will now be covered under the existing review legislation; applicants will be able to challenge decisions relating to these new stages of the homelessness application process.

The Act extends the scope of which decisions are subject to review. In addition to the existing areas where an applicant can request a review, they will now be able to request a review when the local authority makes a decision on:

- The steps taken to prevent the applicant from becoming homeless
- The steps taken to help to relieve homelessness
- The duty owed to the eligible applicant who is homeless or threatened with homelessness
- To end the duty to prevent or relieve homelessness
- Serving a notice due to unreasonable refusal to co-operate (s.193A)
- The suitability of any accommodation offered under s.193B (following a notice in case of unreasonable refusal to co-operate)

Why does it say this?

The measure in this clause of the Act do not amend the existing review process, it simply extends the areas that are subject to a s.202 or s.204 review to include each of the new decisions that the Act requires a local authority to make; assessment of support needs & agreement on personal housing plans, the duty to prevent homelessness and the duty to relieve homelessness.

The Act recognises that the review process is necessary to ensure a fair and transparent service, so it is essential that it covers all of the decisions that can be made as part of a homelessness application.

The Homelessness Reduction Act 2017 has not made any amendments to the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999, so these regulations do not cover the amended areas in s.202 from the HRA. As such, the regulations do not currently apply when a s.202 review is requested on any of the decisions made by the local authority to prevent homelessness under s.195 or to relieve homelessness under s.189B.

What you need to do

Review the capacity and operation of the current review process. Ensure that it is adequately resourced to respond to and deal with reviews of decisions across all aspects of an application, including the duties to prevent and relieve homelessness.

Although the expanded duties to prevent and relieve homelessness are not covered by the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999, so it is likely that a quicker, more 'light touch' approach can be taken to dealing with a s.202 review on a decision made under s.195 or s.189B, local authorities should still expect to receive an increase in the amount of s.202 review requests they receive.

The updated Code of Guidance for Local Authorities is likely to include some detail on how s.202 reviews on decisions made to prevent and relieve homelessness should be dealt with, so local authorities should ensure that they respond to the consultation when the new draft of the updated Code of Guidance is published.

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

What does the Act say?

The Act includes s.213B as an addition to s.213 of the existing legislation, to bring the new provisions relating to the duty to prevent and the duty to relieve homeless into the provisions on co-operation between housing authorities.

s.213B will require all public bodies to notify a local housing authority if they identify any person whom they believe is homeless or threatened with homelessness. S.213B(3) sets out the conditions for any referral. A public body **must** make the referral, if they consider that the person is homeless or threatened with homelessness where:

- the if the person agrees for the referral to be made, and
- they identify a local housing authority in England where they would like the referral to be sent,

Why does it say this?

The Act aims to ensure that a person's housing situation is considered whenever they come into contact with any wider public service. If the public service considers that the person is homeless or threatened with homelessness a referral to a housing authority must be made, subject to the conditions in s.213B(3)

This should ensure that housing services are able to intervene to prevent homelessness at an earlier stage, and are also able to give meaningful advice and assistance to prevent or relive homelessness to persons who may otherwise have not made contact with the housing service.

The Act will encourage local authorities to build on or develop relationships, protocols or joint working arrangements with partners in order to best meet local need provide effective prevention services to residents.

What you need to do

Review any existing protocols, joint working arrangements, referral agreements and housing and support pathways that are in place in your local authority.

Consider where there are any gaps with referral protocols and notification arrangements with local partners and other public services.

Start a process of briefing engagement with all public bodies in your district, to make them aware of the duty to refer, and agree some procedures and operational agreements as to how these referrals will be monitored and managed.

Clause 11: Codes of practice

What does the Act say?

The Act includes an addition of s.214A to the existing legislation, and relates to a code, or codes, of practice.

This measure gives the Secretary of State a power to issue statutory codes of practice, providing further guidance on how local authorities should deliver and monitor their homelessness and homelessness prevention functions.

Any code of practice that is issued will not replace the current Code of Guidance for local authorities. Local authorities will have to have regard to both the code(s) of practice and the existing code of guidance when dealing with any application for assistance.

Why does it say this?

The aim of any code of practice is to improve standards of the homelessness services in England to be the best. The Act allows for flexibility for the Secretary of State to issue a general code of practice, or codes relating to specific aspects of the process of preventing and tackling homelessness, if and when they decide that this will be necessary.

The aim is to ensure that all local authorities will deliver the same level of high quality support to any household who is homeless or threatened with homelessness.

What do you need to do

There is no need to response to the changes in this section of the Act straight away, as a code of practice has not been drafted. Local authorities should be aware that a code of practice may be issued at some point. This could be either a general code covering all aspects, or a briefer code relating to a specific part of homelessness provision. Local authorities could expect to see a code of practice put in place where standards of service to prevent and relieve homelessness are not where the Secretary of State would expect them to be, In this circumstance LAs will need to ensure their services are able to respond to this.

All local authorities should continue to have regard to the existing code of guidance for local authorities when making any decision on a homelessness application.

Clause 12: Suitability of private rented sector accommodation

What does the Act say?

Amends Article 3 of the existing Homelessness (Suitability of Accommodation) (England) Order 2012, and brings this part of the statutory instruments into the act itself. This ensures that the suitability checks that are required to take place for any private rented sector offer made to discharge the main duty under s.193 will be extended to include any accommodation offer in the

private rented sector that is secured for a priority need household under the prevention duty (s.195) or the relief duty (s.189B) The Suitability Order will also apply to any final offer of accommodation made following a notice served due to deliberately and unreasonably refusal to cooperate.

Good practice should ensure that the suitability requirements set out in the Homelessness (Suitability of Accommodation) (England) Order 2012 apply to all PRS properties that are used to discharge the duty under the Act, and any accommodation secured to meet the duties under the Act will need to be suitable for the household.

Why does it say this?

This addition in the Act ensures that when offers of PRS accommodation are made to meet the duty to prevent homelessness under s.195 or the duty to relieve homelessness under s.189B for a priority need household, the requirements in the Homelessness (Suitability of Accommodation) (England) Order 2012 will apply. This ensures that the standards of accommodation offered to meet the duties are of the appropriate level, it also ensures that that the impact of the location of the property on the household is carefully considered, particularly for those households who have children in education.

If PRS accommodation is offered to a household who would not be in priority need, the requirements in the Homelessness (Suitability of Accommodation) (England) Order 2012 will not apply, however local authorities will still need to ensure that any offer is suitable for the household.

Where a household would otherwise have been owed the main duty under s.193, but the duty has been limited to s.193B due to a notice being served due to an unreasonable refusal to co-operate, the suitability requirements will apply to any PRS tenancy that is secured for the household.

What you need to do

Amend operational practices to ensure that the suitability requirements set out in the Homelessness (Suitability of Accommodation) (England) Order 2012 apply to **all** PRS properties that are used to meet or discharge the duty under the legislation for priority need households.

Please note that the Act only amends Article 3 of the suitability order, the conditions relating to condition of accommodation, and not the conditions in Article 2 of the order relating to the location of the property. This is because the Act recognises that the suitability conditions relating to the location of the property already apply to all accommodation that the local authority secures.