

Health & Wellbeing Scrutiny Panel

Agenda
Item:
A.3

Meeting Date: 11th January 2018
Portfolio: Economy, Enterprise and Housing
Key Decision: No
Within Policy and Budget Framework YES
Public / Private Public

Title: THE HOMELESSNESS REDUCTION ACT
Report of: The Corporate Director of Governance and Regulatory Services
Report Number: GD.78/17

Purpose / Summary:

To give members of the Health and Wellbeing Scrutiny Panel an overview of the Homelessness Reduction Act as requested.

Recommendations:

Members are asked to note key legislative changes and potential impacts of the Homelessness Reduction Act.

Tracking

Executive:	
Scrutiny:	
Council:	

1. BACKGROUND

- 1.1** The Homelessness Reduction Act (HRAct) will significantly reform England's homelessness legislation by placing duties on local authorities (LAs) to intervene at earlier stages to prevent homelessness in their areas (regardless of priority need status, intentionality, and local connection); and to provide homelessness services to all affected, irrespective of their priority need status, as long as they are eligible for assistance.
- 1.2** The HRAct amends Part 7 of the Housing Act 1996 (Homelessness Act 2002) rather than replacing it. There are 13 clauses that add new duties and substantially amend many of the existing duties.
- 1.3** The Homelessness Reduction Bill received Royal Assent on 27th April 2017; the new changes and duties will be enacted on 3rd April 2018.

2. Key Changes to the Current Legislation

2.1 DUTY TO PROVIDE ADVICE

Currently, section 179 of the 1996 Act places a general duty on English LAs to ensure that advice and information about homelessness, and preventing homelessness, is available free of charge to everyone in their district.

Under the 2017 Act, LAs will have a duty to provide free homelessness advice and information services AND provide advice designed with certain vulnerable groups in mind, including:

- Care leavers
- Former armed forces
- People leaving custody
- Victims of domestic abuse
- People with mental health issues

Advice must include:

- Prevention of homelessness
- Securing accommodation when homeless
- The rights of applicants and Local Authorities duties
- Help available to people threatened with homelessness
- How to access the available help

2.2 Currently LAs in England are required to make inquiries to establish what duty, if any, is owed to someone seeking homelessness assistance. As part of LAs investigations, they must determine if an applicant has a 'priority need' for homelessness assistance. Categories of priority need are set out in section 189 of the 1996 Act, and extended by the Homelessness Act 2002.

Those who are found to be in priority need and unintentionally homeless are owed what is referred to as the 'full housing duty' meaning LAs are obliged to ensure that suitable accommodation is made available for them.

The HRAct will legally oblige LAs to assess and provide meaningful assistance to ALL people who are eligible and homeless or threatened with homelessness, irrespective of their priority need status or local connection.

2.3 DUTY TO ASSESS ALL ELIGIBLE APPLICANTS CASES AND AGREE A PLAN

The first step in the amended framework is once LAs are satisfied that someone is homeless or threatened with homelessness and also eligible for assistance, to carry out an assessment of the applicants case. These assessments should include the circumstances that have caused homelessness and the housing and support needs of the applicant and their household.

LAs must aim to reach an agreement with applicants on a personalised plan which must be recorded and should set out the steps the applicant and the authority are required to take to ensure accommodation is secured and / or retained.

Applicant's assessments and agreements must be kept under constant review until the LA has determined that no other duty is owed to the applicant under part VII of the 1996 Act.

2.4 THE PREVENTION DUTY: INCASES OF THREATENED HOMELESSNESS

If an LA is satisfied that an applicant is threatened with homelessness and is eligible for assistance, they must take 'reasonable steps' – with reference to the applicant's assessment – to help them avoid becoming homeless.

Once triggered, the prevention duty would continue for 56 days – or longer if a valid section 21 notice has expired and no alternative accommodation has been secured – unless it is brought to an end via one of the prescribed conditions where:

- a) The LA is satisfied that the applicant has suitable accommodation available for occupation and a reasonable prospect of suitable accommodation being available for at least six months from the date of the notice

- b) The LA has complied with the prevention duty and 56 days has passed
- c) An applicant who was owed the prevention duty has become homeless
- d) The applicant has refused an offer of suitable accommodation and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for the minimum prescribed period
- e) The applicant has become homeless intentionally from any accommodation that has been made available to them as a result of reasonable steps taken by the housing authority
- f) The applicant is no longer eligible for assistance
- g) The applicant has withdrawn their applicant for homelessness assistance
- h) Deliberate and unreasonable refusal to cooperate

Applicants will have a right to request a review of a decision to end this duty.

2.5 THE RELIEF DUTY: IN CASES WHERE THE APPLICANT IS HOMELESS

Under this clause, LAs must take 'reasonable steps' – with reference to the applicants assessment – to help all homeless eligible applicants to secure accommodation for at least six months unless the applicant is referred to another local authority due to having no local connection to the authority they have applied to.

Once triggered, the relief duty would continue for 56 days unless it is brought to an end via one of the prescribed conditions (outlined in 2.4 above). Applicants will have a right to request a review of a decision to end this duty.

Interim accommodation duties owed to people under the existing provisions (section 188) continue to apply during this stage – the duty to provide accommodation to people who the LA have reason to believe may be homeless, eligible for assistance and in priority need – pending a decision on whether the council is obliged to provide some form of longer term settled accommodation.

Even where a LA believes a non-priority or intentionally homeless decision can be made, this will not be able to be issued until the 56 day relief period has elapsed.

2.6 FAILURE TO CO-OPERATE BY AN APPLICANT FOR ASSISTANCE

This provision will place a requirement on all applicants to cooperate with LAs attempts to comply with their prevention and / or relief duties. If an LA considers that an applicant has 'deliberately and unreasonably refused' to cooperate or take any of the steps set out in the personalised plan, they can serve a notice on the applicant to notify them of their decision as long as the notice explains, what the

consequences of the decision are and that they have a right to request a review of the decision.

Notice can only be served if LAs have provided a 'relevant warning' to the applicant and a 'reasonable period' has elapsed since the warning was given.

Consequences of deliberately and unreasonably refusing to cooperate include the ending of the prevention and / or relief duties and in cases where the applicant would normally be owed the full housing duty (section 193), this duty would be limited to securing that accommodation is made available for their occupation for a temporary period until the applicant either:

- Ceases to be eligible for assistance
- Becomes homeless intentionally from accommodation made available for the applicants occupation
- Accepts an offer of an assured tenancy from a private landlord, or
- Decides to cease occupation of the accommodation made available to them
- Accepts or refuses a 'final' offer of accommodation

In deciding whether an applicant has deliberately or unreasonably refused to cooperate, LAs must take into account the applicants particular circumstances and needs.

2.7 CARE LEAVERS

All care leavers under the age of 21 will be considered as having a local connection with an area if they were looked after, accommodated or fostered for a continuous period of at least two years, where some or all of which falls before they turned 16. Where the young person was looked after by a County Council a local connection would apply to any district in that County.

2.8 MANDATORY CODE OF PRACTICE

Currently LAs are required to have regard to the Homelessness Code of Guidance when carrying out their part VII functions. The HRA Act includes a provision that would allow the Secretary of State to provide LAs with 'one or more' codes of guidance, that LAs must have regard to, on how they exercise and monitor their functions under Part VII and staff training. (The Code of Guidance is not yet published).

2.9 PUBLIC AUTHORITY DUTY TO REFER

Where a 'specified public authority' considers that someone they are working with is or may be homeless or threatened with homelessness, they must refer that persons

details to any local housing authority of the persons choice, but only if the person agrees to the notification being made. (This duty will come into effect on the 1st October 2018.)

Further details about what is meant by 'specified public bodies' will be defined in the regulations once published, however it is expected that these are likely to include:

- Schools
- Hospitals
- GPs
- Prisons
- Police
- Adult Social Care
- Children and Family Services

2.10 ADDITIONAL RIGHTS OF REVIEW

The current legislation gives applicants the rights of review regarding the homelessness application decision and the suitability of accommodation. The HRAct adds rights of review in relation to all new duties in the act. Therefore an applicant has the right to request a review when a LA makes a decision as to:

- (i) What duty is owed to an applicant under the new initial duty owed to all persons who are homeless;
- (ii) Duties to applicants who have deliberately and unreasonably failed to cooperate;
- (iii) The steps they are to take to help the applicant secure suitable accommodation;
- (iv) Give notice they will bring the duty to help secure accommodation to an end;
- (v) Give an applicant notice that they have deliberately and unreasonably failed to cooperate;
- (vi) The steps to be taken where an applicant is threatened with homelessness and the LA must take reasonable steps to help the applicant prevent homelessness;
- (vii) Give notice they are bringing the above duty to an end; or
- (vii) The suitability of accommodation offered by way of a final accommodation offer.

LAs have the power to accommodate applicants pending a review or appeal to the county court. When an applicant who is being provided with interim accommodation

requests a review of the suitability of accommodation offered to end the relief duty, the authority has a duty to continue to accommodate them pending a review.

3. POTENTIAL IMPACTS AND RISKS

3.1 The Welsh Government introduced similar legislation in April 2015, and this has provided a valuable source of data to assess the potential impacts, alongside the key findings of the early adopter trailblazer authorities in England.

3.2 Homelessness applications, acceptances and reviews are predicted to increase by half based on findings across Wales and the early adopters in England. LAs are advised of potential impacts and risks in relation to:

- Increase in Legal challenges and judicial review particularly as a result of the additional rights of review (outlined in 2.10 above)
- Increased bureaucracy and administrative burden as more legal notices will need to be served to applicants
- Skilled officers spending considerably more time with customers on an ongoing basis until housing needs are met
- Increased numbers of people in temporary accommodation and storage costs; as lengths of stay are likely to be for longer and increase to cover non-priority households
- The number of Temporary Accommodation units may need to increase to meet demand, as placements are made earlier and for longer
- To fully utilise Government funding for homelessness to meet the requirements of the HRA Act
- Difficulties in accessing private rented accommodation to prevent homelessness
- IT framework requirements need to match the day to day operational service requirements of meeting the new legislation as this is critical in reducing the increased administrative aspects and meeting the new reporting requirements of the Act
- Joint protocols and information sharing protocols need to be in place with a wide range of public authorities that are likely to be specified under the regulations
- Potential increase in complex cases, such as prison release, hospital discharge etc.
- Increase in applicants seeking advice and accommodation away from their own Local Housing Authority area (Prevention Duty)
- Increase in care leavers requiring temporary accommodation placements

4. CONSULTATION

- 4.1** Carlisle City Council is arranging training sessions for all local key partners and stakeholders to take place in February 2018; all Members will be invited to a future session.

5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

- 5.1** Addressing Carlisle's current and future housing needs

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Appendices None
attached to report:

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- None

CORPORATE IMPLICATIONS/RISKS:

Community Services -

Corporate Support and Resources –

Economic Development –

Governance and Regulatory Services -