

Homelessness Reduction Act 2017

Policy and Practice Briefing

Shelter

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1. Introduction

From 3 April 2018, there will need to be a major change in the way local housing authorities respond to homeless people. So being aware of this change is very important for those who advise and support homeless households.

This briefing is aimed at local housing authorities, local councillors with housing responsibilities and those who advise and support people who are homeless or threatened with homelessness.

It summarises the Act's main changes and gives Shelter's overall view of these in terms of opportunities of, and threats to, successful implementation.

It then provides more detail on the Act's three main new duties, including what is recommended in statutory guidance, along with Shelter's initial suggestions for best practice.

Secondary documents

In addition to the Homelessness Reduction Act 2017 itself, there are two sets of regulations:

- The Homelessness Reduction Act 2017 (Commencement and Transitional and Savings Provisions) Regulations 2018¹
- The Homelessness (Review Procedure etc.) Regulations 2018², which set out the procedures for conduct of reviews under the Act and list the public authorities to which the duty to refer applies.

Plus, a new statutory Homelessness Code of Guidance³, which local housing authorities must have regard to when exercising their functions under the homelessness legislation.

And a series of 15 Government fact sheets⁴, providing background information on the new measures.

Further Shelter publications

This briefing follows the following Shelter publications on the new legislation:

- [Parliamentary briefing: Homelessness Reduction Bill - Report Stage](#) (January 2017)
- ["It's a personal thing" What service users need from assessments and personalised housing plans - Homelessness Reduction Act 2017](#) (November 2017)
- [Response to the Draft Homelessness Code of Guidance for Local Authorities](#) (December 2017)

Further information is available from:

- [The National Homelessness Advice Service](#)
- [Shelter Legal](#)
- [Shelter Get Advice Online](#)
- [Shelter Local Hubs](#)
- [Shelter Homelessness and Housing Advice Consultancy Services](#)

¹ [Statutory Instrument 2018, No.167 \(C19\)](#) Made 8 February 2018

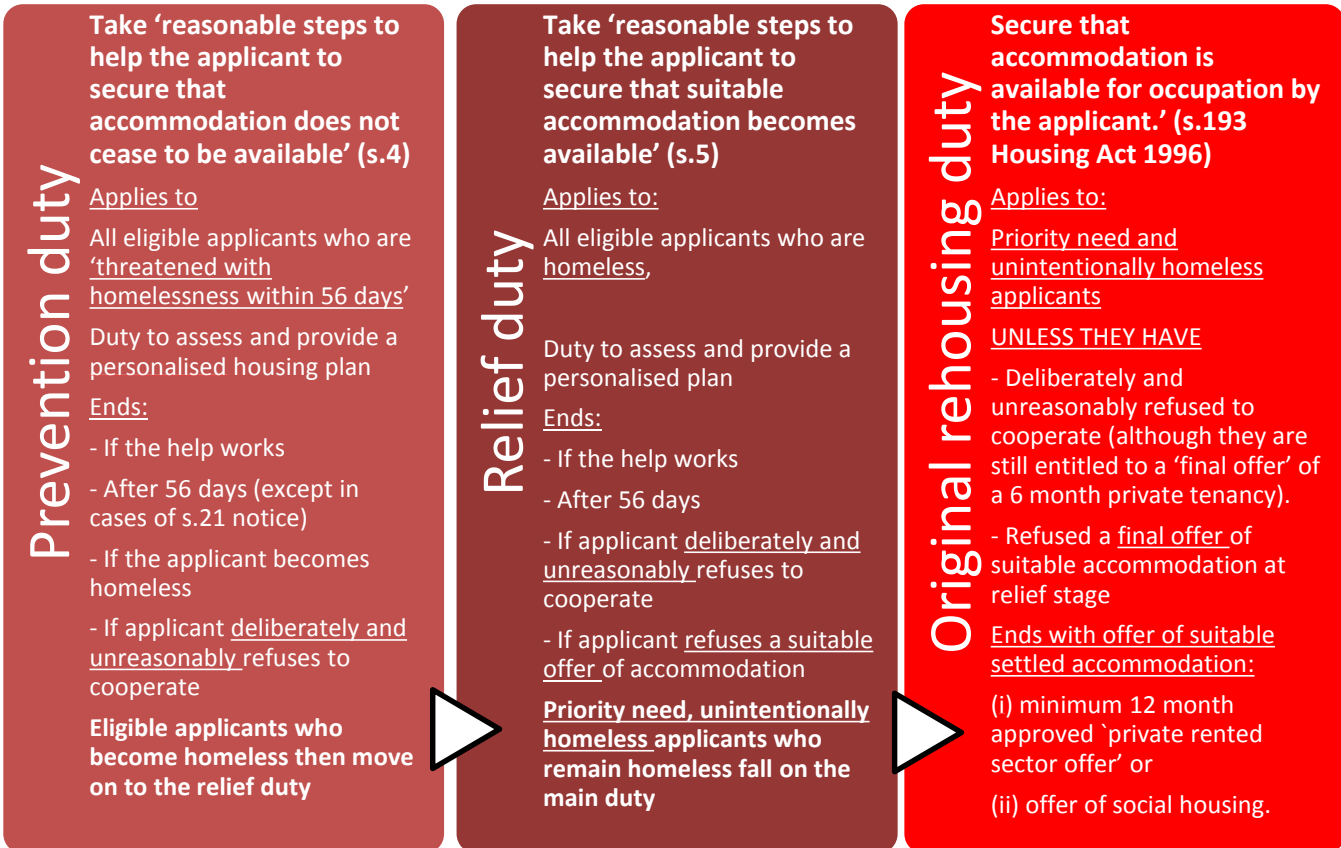
² [Statutory Instrument 2018, No.223](#) Laid before Parliament on 22 February 2018

³ [Homelessness code of guidance for local authorities](#), MHCLG, 22 February 2018

⁴ [Homelessness Reduction Act: policy factsheets](#), MHCLG, 22 February 2018

2. Summary of the changes introduced by the Act

The Homelessness Reduction Act 2017 is one of the biggest changes to the rights of homeless people in England for 15 years⁵. It effectively bolts two new duties onto the original statutory rehousing duty.



It places new legal duties on local housing authorities and amends the existing homelessness legislation in the Housing Act 1996⁶. These new duties apply to all eligible applicants (i.e. on the basis of immigration status) and are blind to intentionality and priority need. The prevention duty is also blind to local connection.

It requires thorough assessment and a personalised response:

- Placing new duties on local authorities to properly assess the cause of homelessness, circumstances and needs of all household members, including children (s.3).
- Placing new duties on local authorities to develop and agree with applicants a personalised plan of the steps that will be taken to prevent or relieve homelessness (s.3).

⁵ The last major change was the Homelessness Act 2002, which shifted the emphasis from responding to homelessness when it occurred to strategic prevention via new duties on local housing authorities to review the causes of homelessness in their area and publish a Homelessness Strategy

⁶ [Housing Act 1996](#), Part VII: Homelessness

It places renewed emphasis on prevention of homelessness:

- Extending from 28 to 56 days the period in which a household is defined as 'threatened with homelessness' (s.1).⁷
- Placing a new 'prevention' duty on local authorities to 'take reasonable steps' to prevent the threatened homelessness of anyone who is eligible (s.4).
- This does not mean the applicant has to be helped to prevent the loss of their current home – they can be helped to find a suitable alternative.
- The duty can be ended if the applicant has a reasonable prospect of having suitable accommodation for at least six months (e.g. six-month private rental).

It aims to help to all those who are homeless and eligible:

- Placing a new 'relief' duty to 'take reasonable steps' to help homeless applicants to secure suitable accommodation, which again applies to anyone who is eligible (s.5).
- The accommodation the applicant must be helped to secure must be available for at least six months (e.g. a six-month private rental).

It requires applicants to cooperate with the housing authority if they want help:

- Both the new 'prevention' and 'relief' duties can be brought to an end if the housing authority consider that the applicant has 'deliberately and unreasonably refused' to take any step required of them in the personalised plan.
- In this case, homeless applicants deemed to be unintentionally homeless and in priority need are required to be given a final offer of accommodation.

It doesn't require housing authorities to offer accommodation in all cases:

- The new 'relief' duty does not require the local housing authority to provide accommodation (e.g. an offer of 2 Bridge Street), but to help the applicant to find suitable accommodation.
- But this help can involve an offer of suitable accommodation: either a private tenancy or an offer of social housing.

It continues to require authorities to accommodate some applicants:

- If the authority has reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, then existing duties to secure that 'interim' accommodation is available for the applicant's occupation⁸ apply.

⁷ Amendment of [Section 175\(4\) Housing Act 1996](#)

⁸ [Housing Act 1996](#), Section 188(1)

- If the relief duty expires (after 56 days) and the household is unintentionally homeless and in priority need, then the existing main rehousing duty applies and they must be offered suitable settled accommodation (or temporary accommodation until a suitable offer of settled accommodation has been made).

Accommodation applicants are helped to keep or find must be suitable:

- Accommodation which housing authorities help people to keep or find under their new duties, must be suitable in every legal sense (affordability, location) or the applicant can challenge.
- To be suitable, accommodation must be located in the authority's own area⁹ or, where this isn't reasonably practicable, as close to this area as possible¹⁰. The Act doesn't change this requirement.
- Where the housing authority offers a private rental to an applicant who would be in priority need then the landlord must be a 'fit and proper person' and the accommodation must meet certain standards¹¹ (e.g. safe from hazards).

It aims to encourage joint working to tackle homelessness:

- Placing a new duty on public authorities, such as hospitals and prisons, requiring them to make a referral, with the individual's consent, to the local housing authority if someone they're working with appears to be homeless or threatened with homelessness.

⁹ [Housing Act 1996](#) Section 208

¹⁰ Garvey, K. [Offering Temporary Accommodation Out of Area](#), Shelter, 2015

¹¹ Under [Article 3 of the Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#)

3. Implementation of new duties to assess and agree a plan

Subsection under new Section 189A Housing Act 1996	New duties to assess applicants and develop a personal plan
(1)	The authority <u>must make an assessment</u> of the applicant's case
(2)	This assessment <u>must include an assessment of—</u> (a)the <u>circumstances that caused</u> the applicant to become homeless or threatened with homelessness, (b)the housing needs of the applicant including, in particular, <u>what accommodation would be suitable</u> for the applicant and any household members, and (c) <u>what support would be necessary</u> for the applicant and any other relevant persons to be able to have and retain suitable accommodation.
(3)	The authority <u>must notify the applicant</u> , in writing, of the assessment
(4)	The authority <u>must try to agree</u> with the applicant: <ul style="list-style-type: none"> • any steps the applicant is to be required to take to have and retain suitable accommodation • the steps the authority are to take
(5)	If the authority and the applicant reach an agreement, the authority <u>must record it in writing</u>
(6)	If the authority and the applicant cannot reach an agreement, the authority <u>must record in writing:</u> (a) why they could not agree, (b) any steps the authority consider it would be reasonable to require the applicant to take and (c) the steps the authority are to take.
(7)	The authority <u>may include in a written record produced under (5) or (6) any advice for the applicant</u> that the authority consider appropriate (including any steps the authority consider it would be a good idea for the applicant to take but which the applicant should not be required to take)
(8)	The authority <u>must give to the applicant a copy</u> of any written record produced under subsection (5) or (6)
(9)	Until such time as the authority consider that they owe the applicant no duty, they must keep under review— (a)their assessment of the applicant's case, and (b)the appropriateness of any agreement reached

At the heart of the legislation is a new duty to assess all eligible applicants' cases and agree a plan. Shelter strongly supports this approach. The requirement for housing authorities to properly assess the circumstances and needs of all household members, including children, is a big improvement.

It should ensure that the housing authority fully understands and records:

- the causes of homelessness
- the housing and support needs of all members of the applicant's household
- the preferences and desired outcomes of the household
- the steps that are to be taken to help prevent or relieve homelessness in light of the above.

In 2017, an expert panel of Shelter services users with lived experience of statutory homelessness services worked with members of Shelter's legal and policy teams to develop recommendations for MHCLG and local housing authorities on how they should implement these new duties.

["It's a personal thing" What service users need from assessments and personalised housing plans - Homelessness Reduction Act 2017](#)

We suggest that local authorities and others working with homeless people take note of these recommendations.

Key aspects of implementing these duties

Don't turn away people at risk – even before 56 days

The statutory guidance (11.3) is clear that if there is **reason to believe** that an applicant may be homeless or threatened with homelessness within 56 days the housing authority **must** carry out an assessment to determine if this is the case, and whether they are eligible for assistance.

It also encourages authorities (11.6) to take a flexible approach toward applications for assistance where there is an **evidenced risk of homelessness**, which might not necessarily result in homelessness within 56 days. Rather than advise the applicant to return when homelessness is more imminent, **the authority may wish to accept a prevention duty** and begin to take reasonable steps to prevent homelessness.

We fully support this approach. If a person presents who appears to be at risk of homelessness, they should not be turned away, but should be assessed and assistance should start to be given.

Avoid on-line assessment unless this is the preference of the applicant

The statutory guidance states that while advice and information services could be provided via an online process, housing authorities should not rely solely on such means to complete assessments (11.13). In most circumstances **assessments will require at least one face-to-face interview** (11.14). It suggests using partner agencies or video link where a face-to-face assessment may not be possible (e.g. where an applicant is in hospital).

We support this approach. It encourages a more personal service and builds trust and rapport. It takes a trained and skilled assessor to make a thorough, personalised assessment. However, where an applicant prefers not to attend in person (e.g. because of mobility problems or long travel distances in rural areas), then their preferences should be accommodated.

Face to face assessment should take place in a private area, to allow people to provide personal, sensitive and traumatic information, which they wouldn't want others to overhear. So this requires the need to ensure there are enough interview rooms available to meet demand.

Offer a professional, non-judgmental service

The statutory guidance (11.9) states applicants should be encouraged to share information without fear that this will reduce their chances of receiving support, and questions should be asked in a **sensitive way** and with an awareness that the applicant may be reluctant to disclose personal details if they lack confidence that their circumstances will be understood and considered sympathetically.

We fully support this approach. Assessors should not patronise or appear to judge applicants at what is an incredibly stressful time. Instead, they should act in the manner of a professional service provider: with empathy, dignity and respect, rather than an approach which compounds feelings of failure and shame.

In busy localities, people should not have to wait for lengthy periods at the local authority's offices but instead be given an appointment or be contacted by phone or email to let them know when help is available.

Furthermore, applicants should be reassured that their assessment and information they provide will not be shared with others, e.g. family or other professionals, without their permission (unless safeguarding duties apply).

Take a full housing history when assessing what accommodation would be suitable

The statutory guidance (11.8) recommends that assessing the circumstances which led to the applicant's homelessness will usually include enquiring into their accommodation history **at least as far back as their last settled address**, and the events that led to them being threatened with or becoming homeless.

We don't think the statutory guidance goes far enough. We strongly recommend that assessors should go further and take a much fuller housing history to ensure that the personalised plan contains an appropriate and sustainable response.

For example, where a family have experienced frequent repeat homelessness, involving children having to move schools as a result, a further six-month tenancy, putting them at risk of no-fault eviction, may not be an appropriate response and they are very likely to need more stable housing, such as a permanent or longer term social tenancy.

Make the desired outcomes and preferences of the applicant the starting point

The assessment shouldn't be seen as a way to 'manage the expectations' of the applicant in terms of wanting a secure, affordable home in the area where they have been living. This would go against the required culture change of 'how can I help?'

The statutory guidance (11.10) states that **the applicant's wishes and preferences should be considered and recorded** within the assessment; whether or not the housing authority believes there is a reasonable prospect of accommodation being available that will meet those wishes and preferences.

We fully support this approach but recommend assessors should go further. We recommend that the desired outcomes and preferences of the applicant should be used as a starting point and that authorities should seek to meet these preferences wherever possible.

Make sure steps required of the applicant are realistic

The statutory guidance states (11.18) that housing authorities should work alongside applicants to identify **practical and reasonable steps** for the housing authority and the applicant to take **to help the applicant to retain or secure suitable accommodation**.

These steps should be **tailored to the household**, and **follow from the findings of the assessment**, and must be provided to the applicant in writing as their personalised housing plan.

The guidance also states (11.31) that **mandatory steps** (i.e. those required of the applicant) should be limited to those which the housing authority considers are required in order to prevent or relieve homelessness.

MHCLG's policy guidance note clarifies that there will be **a small number of key steps** the individual would be required to take. These actions must be **reasonable** and **achievable**.

No examples are given in the statutory guidance of what the steps required of the applicant might be. However, the nature of these steps is important because a **deliberate and unreasonable refusal** to take them could result in no further help.

Shelter's view is that these should be straightforward steps and easily achievable actions, which relate directly to the applicant's housing situation, such as:

- providing the necessary documentation, or responding to requests, within a reasonable timeframe
- attending appointments or viewings which have been arranged at a previously agreed time
- contacting and reasonably cooperating with agencies to which the applicant has been referred.

Reasonable steps must not set applicants up to fail, for example by requiring them to undertake onerous, meaningless or futile actions, such as contacting every letting agent on a list which is out of date and where it's unlikely that landlords will accept local housing allowance without reassurance from statutory agencies.

Don't use a standard template for the personalised plan

The statutory guidance (11.19) recommends that housing authorities will wish to develop resources and tools that can be used regularly to address common issues, while also ensuring genuine personalisation in response to the wide range of circumstances and needs experienced by applicants.

In our view, a standard form plan, based on too rigid a template and amended with just a few pieces of personal information, is unlikely to be sufficient and may trigger reviews by applicants. The plan should be personally tailored to include appropriate advice and support.

Shelter's Advice Aid tool allows advisers to use 'snippets' of advice to create a genuinely tailored plan: www.adviceaid.uk.

4. Implementation of new duties to prevent homelessness

Subsection under new Section 195 Housing Act 1996	New duties when an applicant is threatened with homelessness within 56 days
(1)	<p>Who it applies to:</p> <p>Where the local housing authority are satisfied that an applicant is—</p> <p>(a) <u>threatened with homelessness</u>, and</p> <p>(b) <u>eligible</u> for assistance.</p>
(2)	<p>What the authority must do:</p> <p>The authority must <u>take reasonable steps to help the applicant to secure that accommodation does not cease to be available</u> for the applicant's occupation.</p>
(3)	<p>In deciding what steps they are to take, the authority <u>must have regard to their assessment</u> of the applicant's case</p>
(5)	<p>How the duty comes to an end:</p> <p>If any of the circumstances in subsection (8) apply, the authority may give notice to the applicant bringing the duty to an end.</p>
(8)	<p>The circumstances are that the authority are satisfied that—</p> <p>(a) the applicant has <u>suitable accommodation available</u> for occupation, and a reasonable prospect of having suitable accommodation available for occupation for at least 6 months, or such longer period not exceeding 12 months as may be prescribed</p> <p>(b) the authority have complied with the duty under (2) and the <u>period of 56 days</u> beginning with the day that the authority are first satisfied as in (1) <u>has ended</u> (whether or not the applicant is still threatened with homelessness) - unless a valid s.21 notice has been served and has expired or will do so within 56 days</p> <p>(c) the applicant has <u>become homeless</u>,</p> <p>(d) the applicant has <u>refused an offer of suitable accommodation</u> and, on the date of refusal, (a) applied</p> <p>(e) the applicant has <u>become homeless intentionally</u> from any accommodation that has been made available under (2),</p> <p>(f) the applicant is <u>no longer eligible for assistance</u>, or</p> <p>(g) the applicant has <u>withdrawn the application</u>.</p>
(10)	<p>The duty under (2) can also be brought to an end under sections 193B and 193C (notices in cases of <u>applicant's deliberate and unreasonable refusal to co-operate</u>).</p>

Key aspects of implementing this duty

Prioritise preventing the loss of the existing home if this is the applicant's preference

The statutory guidance (12.4) states that the first option to be explored with the applicant should be **enabling them to remain in their current home**, where suitable.

Where this is not possible, the focus should be on helping to secure alternative accommodation to move in a **planned way**. This will often involve taking steps to extend an applicant's stay in their existing accommodation until they can move.

We strongly support this approach. Help to prevent homelessness should, first and foremost, be help to prevent the loss of the current home (if this is the applicant's preference) rather than a move to a suitable alternative, which will inevitably cause upheaval and stress to the applicant's household, and particularly to children.

Reasonable steps to prevent homelessness

The statutory guidance (11.23) gives a few examples of reasonable steps that could be taken by the authority to save the applicant's home:

- attempting mediation/conciliation where an applicant is threatened with parent/family exclusion;
- assessing whether applicants with rent arrears might be entitled to discretionary housing payments
- assisting people at risk of violence and abuse wishing to stay safely in their home through provision of 'sanctuary' or other measures.

In our view, it's an oversight that the statutory guidance fails to mention **high-quality housing advice and advocacy** to avoid court action or defend possession, including:

- negotiation with landlords or mortgage lenders to discontinue possession action
- advice on how to deal with rent arrears and debt, including referral to specialist agencies
- where support needs are unmet, referral to tenancy sustainment and other support services.

Until further practice guidance is made available by MHCLG, we recommend that authorities continue to refer to Annex 7 of the previous statutory guidance¹² and the previous government practice guidance.¹³

If authorities don't have the capacity or skills to provide housing advice and advocacy or tenancy sustainment support in-house, then they should commission local specialist services to which they could refer applicants via their personalised housing plan.

¹² [Homelessness code of guidance for councils](#), DCLG, July 2006, Annex 7: Tackling common causes of homelessness

¹³ [Homelessness Prevention: a guide to good practice](#), DCLG 2006

Shelter is now working with a number of local authorities to ensure people receive independent advice and support when they need it the most.

For example, we are working in the London Borough of Southwark, to deliver housing and homelessness advice, support and guidance to up to 800 people a year. Southwark is a MHCLG trailblazer area and learning from the early adoption of the new legislative approach will be used to inform how other authorities implement the Homelessness Reduction Act.

5. Implementation of new duties to relieve homelessness

Subsection under new Section 189B Housing Act 1996	New duties when an applicant is homeless
(1)	<p>Who it applies to:</p> <p>Where the local housing authority are satisfied that an applicant is—</p> <p>(a) <u>homeless</u>, and</p> <p>(b) <u>eligible</u> for assistance.</p>
(2)	<p>What the authority must do:</p> <p>Unless the authority refer the application to another local housing authority (to which they have a local connection), the authority <u>must take reasonable steps to help the applicant to secure that suitable accommodation becomes available</u> for the applicant's occupation.</p>
(3)	<p>In deciding what steps they are to take, the authority <u>must have regard to their assessment</u> of the applicant's case</p>
(4)	<p>How the duty comes to an end:</p> <p>Where the authority are satisfied that the applicant <u>has a priority need, and are not satisfied that the applicant became homeless intentionally</u>, the duty (2) comes to an end at the <u>end of the period of 56 days</u> beginning with the day the authority are first satisfied as mentioned in (1).</p>
(5)	<p>If any of the circumstances in subsection (7) apply, the authority <u>may give notice</u> to the applicant bringing the duty to an end.</p>
(7)	<p>The circumstances are that the authority are satisfied that—</p> <p>(a) the applicant has <u>suitable accommodation available</u> for occupation, and a reasonable prospect of having suitable accommodation available for occupation for at least 6 months, or such longer period not exceeding 12 months as may be prescribed</p> <p>(b) the authority have complied with the duty under (2) and <u>the period of 56 days</u> beginning with the day that the authority are first satisfied as in (1) <u>has ended</u> (whether or not the applicant has secured accommodation)</p> <p>(c) the applicant has <u>refused an offer of suitable accommodation</u> and, on the date of refusal, (a) applied</p> <p>(d) the applicant has <u>become homeless intentionally</u> from any accommodation that has been made available under (2),</p> <p>(e) the applicant is <u>no longer eligible for assistance</u>, or</p> <p>(f) the applicant has <u>withdrawn the application</u>.</p>
(10)	<p>The duty under (2) can also be brought to an end under sections 193B and 193C (notices in cases of <u>applicant's deliberate and unreasonable refusal to cooperate</u>).</p>

Key aspects in implementing this duty

Definition of homelessness

Because the 'relief' duty is owed to people who are homeless, the definition of homelessness is very important.

There is an already well-established legal definition of homelessness in existing homelessness legislation.¹⁴ This definition remains.

However, this definition doesn't deal adequately with tenants who are facing no-fault eviction, having been served with a valid s.21 possession notice. In such cases, the only possible way to save the home is if the landlord can be persuaded not to apply to the court for possession. If the tenant is unable to secure alternative accommodation, repossession, eviction and homelessness are usually inevitable. Therefore, it's unlikely to be reasonable for them to continue to occupy beyond the date of expiry of the s.21 notice.

However, at present, local housing authorities routinely advise applicants served with a notice to return for assistance once the court has granted possession or even on the day of eviction. This causes a great deal of stress, particularly to families with children, wastes precious time to help them find an alternative home and can lead to the use of costly emergency and temporary accommodation.

The statutory guidance has been made slightly stronger than previous guidance to clarify at what point an applicant should be regarded as homeless on the basis that it's no longer reasonable for them to continue to occupy accommodation.

- It is unlikely to be reasonable for the applicant to continue to occupy beyond the expiry of a valid section 21 notice (unless the housing authority is taking steps to persuade the landlord to allow the tenant to continue to occupy the accommodation for a reasonable period to provide an opportunity for alternative accommodation to be found) (6.35).
- It is highly unlikely to be reasonable for the applicant to continue to occupy beyond the date on which the court has ordered them to leave the property and give possession to the landlord (6.36).
- Housing authorities should not consider it reasonable for an applicant to remain in occupation up until the point at which a court issues a warrant or writ to enforce an order for possession (6.37).
- Housing authorities should ensure that homeless families and vulnerable individuals who are owed a duty to be given interim accommodation or settled accommodation are not evicted because the authority has failed to give them suitable accommodation.

We support the slightly strengthened guidance but if housing authorities continue to flout it, and advise families to wait for court possession and eviction, we'll campaign for statutory regulations on whether it is reasonable to occupy beyond the service of a valid s.21 notice.

¹⁴ [Housing Act 1996](#) Section 175(1)

We recommend that at the latest, once the court has granted an order for possession, applicants should be regarded as homeless and offered emergency accommodation if no suitable alternative is available. However, preferably they should be helped to move to alternative accommodation before court costs are incurred, as these are usually deducted from the tenancy deposit.

Reasonable steps to relieve homelessness

Again, the statutory guidance (11.23) gives few examples of the reasonable steps that could be taken by the authority to help the applicant find suitable accommodation. These include:

- providing support to applicants, whether financial or otherwise, to access private rented accommodation
- helping to secure or securing an immediate safe place to stay for people who are sleeping rough or at high risk of sleeping rough.

Much further detail is needed of how MHCLG expect local authorities to implement this duty, especially given the significant structural barriers outlined below, and in the Shelter's briefing on barriers to accessing the private rented sector.¹⁵

Consider social housing if a desired outcome and the most appropriate response

The statutory guidance states (11.20) the personalised plan might enable the applicant to review accommodation prices in their preferred areas as well as extending their home search to more affordable areas and property types. Housing authorities are encouraged to provide sufficient information and advice to enable informed and realistic choices to be identified and agreed for inclusion in the plan.

We are concerned this might be interpreted as encouraging housing authorities to steer applicants away from an allocation of social housing in the area and into the housing market, possibly out-of-area. While a private rental may be an appropriate response, and indeed preference, for some applicants, it will not be appropriate for those who are unlikely to find a settled, affordable home in the local market.

Housing authorities should be reminded that homeless households are legally entitled to reasonable preference in the allocation of social housing. They must not apply qualification criteria which would exclude from their allocation schemes people who would be entitled to reasonable preference in the allocation of housing¹⁶. They may adopt policies which provide for different levels of priority according to local criteria, provided that a reasonable preference is given to homeless persons and others in the classes of housing need.¹⁷

We recommend that where an allocation of social housing is likely to be the most realistic, appropriate, sustainable, and preferred, outcome, this should be included. So information on entitlement and prospects of an allocation of social housing should also be given. In Wales, where applicants were successfully assisted to obtain alternative accommodation, this was social housing in 42% of prevention cases and 33% of relief cases in 2016/17.¹⁸

¹⁵ Spurr, H. [Shut out: The barriers low-income households face in private renting](#), Shelter, 2017

¹⁶ See *R (Jakimavicute) v Hammersmith and Fulham LBC*

¹⁷ Housing Act 1996 Section 166A

¹⁸ Stats Wales, [All cases where positive action succeeded in preventing/relieving homelessness](#), 2016/17

Opportunities of, and threats to, successful implementation

We support the legislation because it extends entitlements to help, places a renewed focus on prevention and local joint-working and has the potential to provide more client-focused, personalised statutory homelessness services.

But its laudable aims to reduce homelessness will be undermined without improvements to wider housing and welfare policy, to address both the causes of homelessness and to ensure that homeless households have access to settled, affordable and suitable housing in each local authority area.

Without these improvements, there could be unintended consequences, such as ‘gate-keeping’ of services, unlawful decisions, increased out-of-area moves and repeat homelessness, with damaging consequences for children and other vulnerable applicants and little improvement in meaningful outcomes for single adults.

Opportunities

More people entitled to help

We support the legislation because it means that far more people will be entitled to statutory help to keep their home or find a suitable alternative.

This is a big improvement on previous homelessness legislation, which restricts councils’ duties to accommodate to cases where they are satisfied that a homeless and eligible applicant has a priority need and did not become homeless intentionally.

It means meaningful, personalised help should be available to households who were poorly served by the previous legislation, including:

- ‘single homeless’ people (those without dependent children in their household who are not considered vulnerable), who are often turned away without meaningful assistance¹⁹
- ‘intentionally homeless’ families (e.g. those who were evicted for rent arrears), who are not owed a rehousing duty and may have to turn to social services for support.

Earlier help to save the existing home and prevent homelessness

We strongly support the extension of the period of being ‘threatened with homelessness’ from 28 to 56 days. This means that private renters who have been served by a notice by their landlord will be entitled to help within a few days of a notice being served.

If people apply for help straight away, and receive meaningful advice and assistance, it should allow more time for problems (such as rent arrears) to be resolved to save the home, or – where

¹⁹ Dobie, S., Sanders, B. & Teixeira, L. [Turned Away: The treatment of single homeless people by local authority homelessness services in England](#), Crisis, 2014

repossession can't be avoided – for a suitable alternative to be found before court costs are accrued and eviction is looming.

Potential for a culture shift in service provision

We support the emphasis on a personalised, 'how can I help', approach to service provision. This is intended to shift the culture in statutory services away from people being asked to prove that they meet the various tests to qualify for rehousing, and being turned away if they don't, to one where statutory homelessness services take a person-centred approach.

This should also mean that, at one of the most stressful points in their lives, applicants are treated with empathy, dignity and respect. Our recent work has shown that, even if the outcome remains the same, this makes a big difference in helping people cope with the crisis they are facing.

If the desired outcomes and preferences of the applicant are taken as the starting point, even where there are challenges in fully meeting them because of lack of resources or housing options, there is more scope for authorities to develop trust and a better working relationship with applicants, which should lead to more satisfactory and sustainable outcomes.

Potential for local improvements to joint working

Preventing and relieving homelessness should not solely fall to local housing authorities. It requires all local agencies to work together both strategically and on a case by case basis to prevent homelessness for their service users and achieve the best outcomes. Often access to suitable, settled housing can be the key to improvements to health and other needs, while support and early referral from other agencies can also be the key to tenancy sustainment.

We therefore support the new duty on public authorities to refer. Building on existing duties to strategically tackle homelessness²⁰, it should encourage public bodies to work together to ensure everyone in need of help is identified as early as possible, fully assessed and given appropriate assistance and support.

If implemented in the spirit in which it is intended, and public authorities take their new duties seriously, it should ensure meaningful help is available to people threatened with homelessness on discharge from hospital or release from custody. We know from our prison and hospital discharge services that this is vital if their recovery or rehabilitation is not to be undermined. It can also save a great deal of public money.

However, it's unclear who will enforce this duty and so it may lack teeth. We would also like to have seen this go further and create a duty on public authorities to cooperate.

There are also key public authorities omitted from this duty, such as GPs, the police, and others who should be expected to refer in the same manner, such as social housing providers. In our view, they should all commit to good practice in making referrals.

²⁰ [Homelessness Act 2002](#)

Potential for greater autonomy in the solution to homelessness

A more personalised approach to help also has the potential to give people more autonomy over the help they want or need to keep their home, or – where this isn't possible or desirable – to find a suitable alternative.

This compares favourably with the existing approach of local authorities, which usually requires people to wait until possession has been granted or an eviction is about to take place before accommodation is offered, and then usually involves emergency accommodation followed by no-choice temporary accommodation, often of poor quality and for long periods.

This can cause a great deal of stress and uncertainty to the household, including children, who are in need of a suitable, settled home.

For example, where there are limited arrears, it offers the potential for these to be cleared to save the home rather than the home being lost, and for court costs to be accrued and more costly emergency and temporary accommodation provided.

Where a new home must be found, help with access to a private rental, such as a deposit, rent in advance and landlord incentive, has the potential to allow the applicant to shop around for a suitable home and make their own trade-offs on location and quality (provided the accommodation is suitable). Although in areas where the market is least affordable, this is less likely to be the case.

However, if the mandatory steps required of applicants in their personalised plan become too prescriptive and onerous then they may feel they have much less autonomy in keeping or finding a home.

Threats

We've argued from the outset that legislation alone cannot reduce homelessness unless the underlying structural issues which both cause it, and make it difficult to solve, are addressed.

To be effective, the new duties must be underpinned by Government strategy and policies to provide suitable, stable and sustainable tenancies, support and council resources in the areas where they are most needed.

Local housing allowance rates

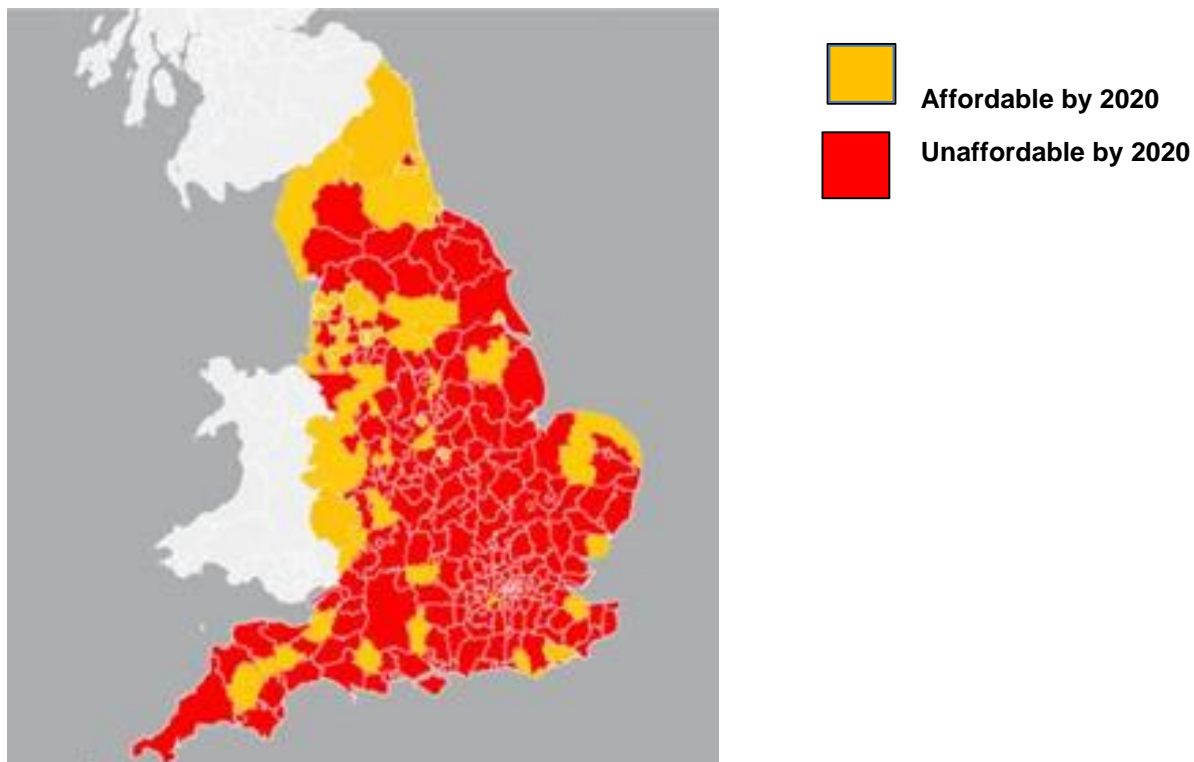
Housing benefit is an essential tool in preventing homelessness. Hundreds of thousands of private renters in England, including many working households, have to claim local housing allowance (LHA) to afford their rent.²¹ But LHA rates have been frozen from April 2016 until 2020, regardless of rent rises.²² Our research shows that by 2019/20, four fifths (83%) of England will be

²¹ Private rents have been rising consistently for several years: between 2011/12 and 2015 they rose in 79% of the country

²² The government's [Targeted Affordability Fund](#) uses a proportion of the savings from the LHA freeze to allow LHA rates to rise by 3% in the most unaffordable areas

unaffordable to LHA claimants, leaving a gap between the support they need to pay rent and the maximum LHA entitlement.²³

While the increase to the Targeted Affordability Fund²⁴ will help in some locations, many of the LHA shortfalls are already so large that it is impossible for claimants to bridge the gap. Shelter is calling on the government make LHA fit for purpose and ensure that the rates reflect local rents once more. Where shortfalls exist, there must be adequate access to Discretionary Housing Payments and the impact of LHA rates on homelessness must be properly assessed.



Impact of the household benefit cap on housing benefit

The cap to total household benefits²⁵ means households with income from benefits in excess of the cap experience a reduction in their housing benefit entitlement, which in turn affects their ability to pay rent on an existing or prospective home, putting them at significant risk of homelessness. Under the original £26,000 cap, the effect was minimal in places outside London. But DWP data shows that numbers impacted by the lower cap have increased almost six fold (by 54,485 in February 2017). Three quarters of the households newly impacted by the lower cap are outside London.²⁶ More than 10,000 households are losing more than £100 each week. Shelter's analysis

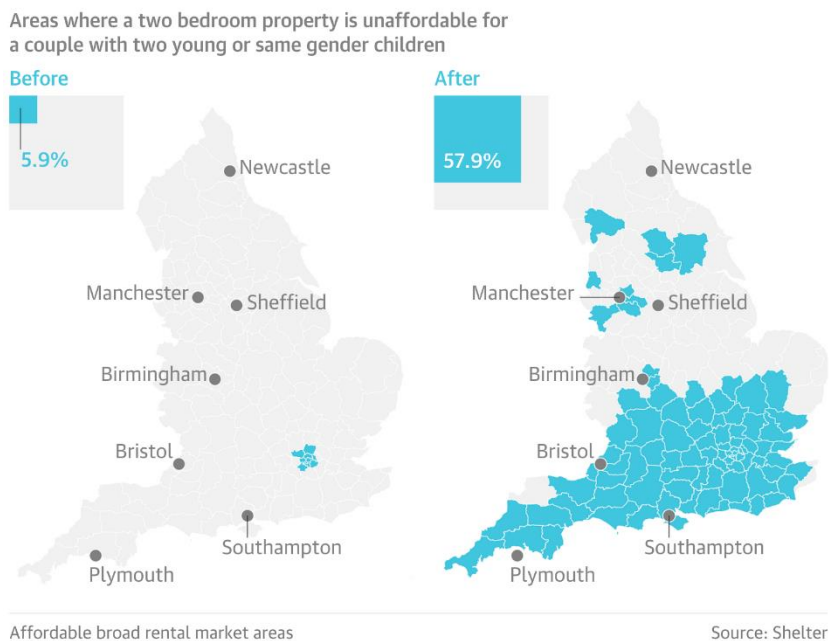
²³ Shelter analysis shows that by 2020, LHA claimants living in 83% of England will have a shortfall between their LHA rate and the bottom 30th percentile of market rents: [What could be the impact of freezing local housing allowance for four years - and who might be left out in the cold?](#) Shelter, 2015

²⁴ Apeagyei, K. [How you made a difference: The 2017 Autumn Budget](#), November 2017

²⁵ The cap was originally implemented in September 2013 and then lowered in November 2016. The lower cap limits couples (with or without children) and single parents to £384.62 per week/£20,000 per year (£442.31/£23,000 in London) and single people without children to £257.69 per week/£13,400 per year (£296.35/£15,410 in London)

²⁶ [Benefit cap: number of households capped to February 2017](#), DWP, 2017 ad hoc table

shows that under the new cap, a small family of two adults and two children renting private rented sector would be subject to the cap in over half of areas in England. These include all areas of London and large cities, such as Bristol, Manchester, Leeds and Birmingham; large towns, such as Luton, Northampton, Plymouth and Gloucester; and rural areas, such as Yeovil and South Devon.



As well as causing homelessness, the cap makes it very challenging to relieve. Homeless households in TA are more than four times as likely to have their benefits capped than other households claiming housing benefit. They also lose more on average. In total, the cap takes £18.9m a year from homeless households in England. The impact of the cap on homelessness must be properly assessed. In the meantime, households likely to be affected by the cap should be offered affordable housing and/or given adequate Discretionary Housing Payments while they remain capped and are being supported to find work.

Impact of other welfare reforms on housing benefit

Further welfare reforms, particularly the rollout of Universal Credit, are already having a significant impact on the ability of tenants to pay their rent. The rollout of the universal credit full service is due to complete in December 2018, just nine months after the introduction of the HRA. Along with other welfare reforms, such as the bedroom tax, it is predicted to create barriers to the prevention and relief of homelessness²⁷.

Landlord reluctance to let to claimants

Welfare reforms, particularly the restrictions to LHA, have contributed towards significant reluctance among private landlords to let to housing benefit claimants. Although the private rental

²⁷ Fitzpatrick, S, Pawson, H, Bramley, G, Wilcox, S and Watts, B, [The homelessness monitor: England 2017](#), Crisis

market has historically been hostile towards claimants, a Shelter/YouGov survey²⁸ of private landlords shows 61% of landlords now bar, or prefer not to let to, housing benefit claimants.

This reluctance, combined with other barriers to accessing a private rental, such as tenancy deposits, rent in advance, letting agents' fees, credit checks and the need to provide a guarantor, all combine to make finding a suitable private rental very challenging. Homeless households must not be set up to fail by being expected to find a suitable private rental if insufficient help is offered to overcome these access barriers.

Short-term rentals in the private market

The end of an assured shorthold tenancy is the leading trigger of statutory homelessness. There has been a drastic increase in the number of households made homeless for this reason. In 2010/11, 6,630 (15%) of applicants lost their last settled home because of the end of an assured shorthold tenancy. In 2016/17, this had risen to 18,270 (31%): an increase of 176%.²⁹

If the landlord decides not to renew a fixed term tenancy (no-fault eviction) there is little that can be done to prevent homelessness. Negotiation with the landlord can prove fruitless, especially in areas where the market is buoyant. When a private rental is used to prevent or relieve homelessness, it need only be available for a minimum of six months³⁰, potentially putting applicants at risk of repeat homelessness through a further no-fault eviction. This makes it difficult to settle and make plans for the future.

Access to longer fixed-term contracts would ensure that private renters, including many families with children, can access a settled home and avoid the risk of homelessness, so we recommend that authorities should aim to help people secure private tenancies of at least 12 months.

Barriers to accessing social housing

Social housing must be seen as a vital solution in tackling homelessness. It provides an alternative tenure for people who struggle to find or keep a stable home in the rental market, putting them at risk of homelessness. It tackles many of the problems that result in homelessness, including: fewer up-front access costs; more objective lettings practices (avoiding prejudice); more affordable rents in relation to local incomes (bringing savings to the welfare bill); much better conditions; staff trained to identify and help with support needs; and much greater stability.

Homeless households should be given 'reasonable preference' in the allocation of social housing, but there has been a marked drop off in the percentage of new general needs social rent lettings to statutory homeless households, even when fluctuations in lettings and the number of homeless households are taken into account. In 2007/08, statutory homeless households received 25% of new lettings, but by 2016/17, this had dropped to 16%.³¹ Local authorities report that housing

²⁸ [Survey of 1,137 private landlords](#) across the UK carried out by YouGov on behalf of Shelter in June and July 2017, published by Shelter 2016

²⁹ [Live tables on homelessness](#): Statutory homelessness and homelessness prevention and relief: Table 774_England, MHCLG, March 2018

³⁰ This is an erosion of security of tenure for homeless households. Under the existing rehousing duty, they are entitled to a private rental of at least 12 months – and if they lose their home within two years, the rehousing duty kicks back in.

³¹ [Social Housing Lettings: April 2016 to March 2017](#), England, MHCLG, January 2018

associations are becoming increasingly selective regarding applicant incomes and independent living skills.³²

If a suitable private rental cannot be found, and access to social housing is restricted, homelessness can't be relieved and the household may have to spend long periods in insecure and costly temporary accommodation.

Lack of tenancy sustainment support

People with both low-level support needs, as well as those with multiple and complex needs, are likely to need intermittent or on-going support to sustain a tenancy or, if homeless, extra support to find an alternative home.

But spending on the Supporting People programme, which is designed to help vulnerable people live independently and remain in their homes, has fallen by 59% in real terms since 2010-11, from £1.44 billion to £588 million.³³ Local authority funding of housing related support can also affect bed spaces available in homeless accommodation. Research by Homeless Link found that in 2016, 88% of accommodation projects received some funding from local authority housing related support and 56% of projects identified it as their main source of funding. The number of bed spaces available to single homeless people reduced from 43,655 in 2010 to 35,727 in 2016.

Shelter's services, such as our Birmingham Hub, report seeing an increased number of people with both low-level support needs as well as multiple and complex needs. Without adequate funding of tenancy support services, it will be challenging for local authorities to tackle homelessness, including via the scaling up of Housing First schemes, which aim to provide street homeless people with multiple and complex needs their own self-contained home with intensive support.

Local authority resources

While the new burdens funding is welcome, local authorities must have adequate resources to implement the legislation in the spirit in which it was intended: including culture change in services, taking a personalised approach and working together to save people's homes or quickly find another.

It's therefore concerning that local government argue that the funding is likely to fall short of the costs in delivering the duties in the Homelessness Reduction Act.³⁴ London Councils estimate that London alone needs £77 million a year to implement the legislation, leaving a gap of around £67 million each year.³⁵

It's also of concern that Government anticipate no need for further resources beyond 2020. This assumes a successful reduction in homelessness which is impossible to predict. Short-term funding isn't enough to address the scale of homelessness in England, nor to ensure that there is a

³² Fitzpatrick, S, Pawson, H, Bramley, G, Wilcox, S and Watts, B Crisis, [The homelessness monitor: England 2017](#), Crisis, p58-59

³³ [Homelessness](#), National Audit Office, September 2017

³⁴ [Local Government Association briefing](#), February 2018

³⁵ [Written Ministerial Statement on Homelessness - London Councils' response](#), October 2017

culture change in the way people are helped. It is likely that homelessness will rise in the next few years. By far the largest cause of homelessness is people being unable to find somewhere else to live when their private tenancy ends. The Act does nothing to solve this problem.

We are facing a situation where by 2020, the pool of affordable homes will be smaller, welfare cuts will be deeper and some of those already helped could again be threatened with repeat homelessness. So funding to implement the legislation is likely to need to continue.

7. Background and further information

Development of legislation

The Act was the result of a Private Members Bill introduced by Bob Blackman, Conservative MP for Harrow East. It was based on the recommendations of a review conducted by an independent panel of experts, convened by Crisis in 2015³⁶, which proposed alternative legislation based on that introduced by the Housing (Wales) Act 2014.

Bob Blackman is a member of the Communities and Local Government Select Committee. In an unprecedented move, the Bill was backed by the Committee³⁷ in October 2016 following an inquiry to scrutinise the draft legislation to which we submitted written³⁸ and oral³⁹ evidence.

More importantly, the Bill received Government backing⁴⁰ in October 2017. This made it much more likely to pass and, after a rapid passage through Parliament, it received Royal Assent on 27 April 2017. Most of the Act comes into force on 3 April 2018, with the final section (s.10: duty to refer) on 1 October 2018.

Development of statutory guidance

The final version of the new statutory Homelessness Code of Guidance was published following a public consultation⁴¹, to which we submitted a detailed response⁴², and an inquiry of the CLG Select Committee⁴³, to which we gave oral. The Chair of the Committee then wrote⁴⁴ to the Homelessness Minister encouraging him to take account of the evidence and concerns we raised.

This is the first time the Homelessness Code of Guidance has been fully updated for over 10 years. We were represented on the DCLG Review Group for the new guidance, working with local authorities and DCLG officials to develop ideas for the new guidance.

Resources for implementation

Local authorities are likely to need more staff and resources to spend time assessing and assisting a wider range of applicants, producing and reviewing personalised plans, providing advice, advocacy and assistance to prevent or relieve homelessness and undertaking a wider range of reviews.

Government is providing provide £72.7 million between 2017/18 and 2019/20 to local authorities to meet the new burdens costs associated with the additional duties contained within the Act, allocated as follows⁴⁵:

³⁶ [The homelessness legislation: an independent review](#), Crisis, 2015

³⁷ [Homelessness Reduction Bill supported by Committee](#) 14 October 2016

³⁸ [Written Evidence Submitted by Shelter](#) (HB 30), 5 September 2016

³⁹ [Oral evidence](#): Homelessness Reduction Bill, HC 635, 5 September 2016

⁴⁰ [Government to support new legislation to reduce homelessness](#), DCLG, 24 October 2016

⁴¹ [Homelessness code of guidance for local authorities: consultation](#), DCLG, 16 October 2017

⁴² [Response: Draft Homelessness Code of Guidance for Local Authorities](#), Shelter, December 2017

⁴³ [Homelessness Reduction Act](#) Communities and Local Government Select Committee, 27 November 2017

⁴⁴ [Letter from Clive Betts MP](#) Chair, Communities and Local Government Committee, 11 December 2017

⁴⁵ [Homelessness Reduction Act: New burdens funding](#), DCLG, 16 October 2017

Year	2017/18	2018/19	2019/20	Total
Cost	£25m	£22.9m	£24.8m	£72.7m

It is anticipated that the new duties to prevent homelessness will lead to savings for local authorities thereafter.

The funding will be allocated as follows across the regions⁴⁶:

Region	New burdens allocation	Proportion of total funding
East	£7.2m	10%
East Midlands	£3.6m	5%
London	£30.2m	42%
North East	£2m	3%
North West	£4.5m	6%
South East	£10.1m	14%
South West	£5.3m	7%
West Midlands	£6.1m	8%
Yorkshire and the Humber	£3.7m	5%
Total	£72.7m	100%

In addition to the new burdens funding, the government is providing local authorities with existing and new funding, which can be used to implement the legislation:

Grant	Total funding	Period	Allocation
Continued homelessness prevention funding	£315 million over 4 years	2016/17 to 2019/20	All local authorities
New trailblazer fund ⁴⁷ To give local authorities resources to ramp up prevention and take new approaches to reduce homelessness	£20m over 3 years	2016/17 to 2018/19	28 successful bidders ⁴⁸ , with large allocations of over £1m made to Croydon, Luton, Kingston-upon-Thames (including Merton and Sutton), Brighton & Hove and Birmingham
Flexible Homelessness Support Grant ⁴⁹ Replaces DWP's 'temporary accommodation management fee' to source and manage temporary accommodation, but can be used flexibly to prevent homelessness	£402 million over 2 years	2017/18 to 2018/2019	All local authorities, although £25m set aside for London to procure TA.

⁴⁶ As above

⁴⁷ [£40 million homelessness prevention programme announced](#) DCLG, 17 October 2016

⁴⁸ DCLG [Homelessness Prevention Programme – successful bids](#), DCLG, 17 October 2016

⁴⁹ DCLG Press Release [New grant for council homelessness services](#) DCLG, 15 March 2017