

The Homelessness Reduction Bill

Everything you need to know

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What the presentation covers

- * The implications of the biggest changes to Homeless Legislation since the 1977 Act came into force
- * What the legislation will mean for authorities when the Bob Blackman Bill becomes an Act
- * How to start to prepare now for the new prevention duties and new legal framework

Will it happen? –not ‘if’ but ‘when’

How did we get here?

1. April 2015 – Totally rewritten Welsh Homeless legislation introduced with new duties to prevent and relieve homelessness – interest from Gov and DCLG to “see how it goes”
2. CLG Select Committee report summer 2016 recommending new legislation on Welsh model
3. Brexit scuppers new Government sponsored legislation
4. Bob Blackman MP (BB member of select committee) comes 2nd in Private Members Ballot
5. BB Bill published August 2016 supported by Crisis, Shelter and others. Bill passes 1st reading

Will it happen? –not ‘if’ but ‘when’

1. Revised Bill published by 21st October
2. Government gave the Bill its support 24th October to the Bill
3. £20 million Trailblazers fund to trial new innovative prevention initiatives fund – 120 bids announcements before xmas – 20 trailblazers or money for most?
4. Second Reading of BB Bill took place on October 28th. Well over the 100 MPs attended
5. Bill now at committee stage meeting every Wednesday till January to consider ammendments
6. 3rd Reading of BB Bill early new year followed by the Lords scrutiny and likely to become law by the Spring 2017
7. Enactment when – Pressure for Spring 17 with October 17 looking likely

Will it happen? –not ‘if’ but ‘when’

- * DCLG appear largely taken over responsibility for the Bill and amendments
- * Government accepts this meets the new burden rule and committed to fund the impact
- * Assessment from DCLG shared with small number of local authorities is reasonable
- * How will funding be provided – ring fenced grant or not?
- * The funding will be to cover the transition – how long for 2 years 3 years?
- * Authorities must flag funding up now with members and make the case now for retaining new funding within the service
- * Opportunity to combine new pots of funding including Prevention Grant, any Trailblazers money, TA Management fee (April 17), plus any transitional new burdens money

Will it happen? –not ‘if’ but ‘when’

- * It is understood that DCLG aim to set up several Homelessness Reduction Act working groups early new year involving local authorities and other stakeholders to help develop the new code and an extensive training program
- * Will a new team of Specialist Advisors emerge possibly hosted through the LGA?

More rights balanced by more flexibility on how to end the duty

- * Application triggered on 56 day risk bringing people into the application process and receiving statutory help
- * If then homeless or threatened with homelessness there is a duty to real help – ‘the reasonable steps’
- * Any decision as to whether a full and final duty is owed re Intentional homelessness and priority need can only be made after the Relief duty (‘help to secure’ duty) has come to an end
- * Any accommodation secured or an offer of suitable accommodation of any tenure that is likely to be sustainable for 6 months or more ends the prevention or relief duties –This recognises reality of housing supply

How does the new Legislation intend to work? The new prevention duty

- * There are 2 'prevention' duties – to take *reasonable steps* 1) to prevent a person from becoming homeless and 2) a duty to 'help to secure' (to relieve homelessness) for 56 days for those that a council decides are homeless
- * These duties are 'blind' to the question of whether the person might be in priority need
- * The prevention duty arises if the council are satisfied that the person is at risk of losing their accommodation within 56 days.
- * The relief duty arises if the council are satisfied that the person is homeless. The duty to relieve can be ended after 56 days whatever the outcome for the person

Learning from Wales and is it likely to be replicated in England?

- * More people are seeking help up 26% but there will be some double counting here. Plan for applications to rise by a third
- * Percentage of cases owed prevention and relief duties that have that duty ended positively is far higher than expected – 65% for prevention duty and 45% for the relief duty
- * 11% of those owed the prevention duty had it ended through refusing assistance or non cooperation.
- * There will be a high drop out rate – Wales nearly 10% outcomes where a duty was owed were application withdrawal or contact lost
- * Up to 50% or more of those helped are single people many of whom would have previously just received the basic non priority advice duty

Learning 12 months on from Wales?

- * However, **only 23%** of the successful outcomes were through help to retain what the accommodation presented from meaning 77% were helped into alternative accommodation
- * Of those helped into alternative accommodation social housing accounted for 34% of the outcomes
- * Full duty acceptances compared to full duty acceptances under the old act are way down – nearly 70%
- * Temporary Accommodation has fallen by over 20% and B and B has fallen

Getting used to a whole new way of working

- * The Act may (as in Wales) lead to a less confrontational approach as priority need and IH are ‘parked’ to the end of the assessment process.
- * The biggest complaint from local authorities is that they are “*drowning in paperwork and legal notification letters*”
- * The Bob Blackman Bill btw as drafted would have even more notifications and rights to review built into the new legislation

Getting used to new way of working

- **Will need a big change in mindset** - no longer one application and one statutory decision on that application (section 184)
Will need to get used to concept of one application and several statutory decisions with a requirement to keep going back to the application and assessment
- **33 working days decision target thrown out of the window** – a case could be open for 112 days or more or for months if you decide not to take the power to end the duty
- **Change in ‘mindset’ – Many parts of Part 7 assessment relegated in importance - IH and Non priority decisions**
 - * Intentional homelessness – just 1.4% of total decisions (9% and rising in England)
 - * Not in priority need just 4.4% of decisions in Wales (17% E)

The BB Bill what the law will require local authorities to do?

Clause 1 - Section 21/Section 8 notice/possession action cases

The most contentious clause. NLA threatening to scupper Bill in the House of Lords

- * For cases with a valid section 21 notice or valid section 8 they are to be treated as homeless from the expiry date of that notice
- * A local authority can ask an applicant to remain beyond that date if they are taking action to try and prevent homelessness and have considered the impact on the household threatened with homelessness and the landlord of remaining beyond that date
- * Once a court order is in place they must be considered as homeless as the Bill states it will not be considered reasonable for a household to occupy their accommodation in breach of a court order
- * Compromise clause? 1) A 56 day window after expiry of a valid section 21 or 2) The current Code wording to be enshrined into legislation

The BB Bill what the law will require local authorities to do?

Bill contains an extension to the duty to provide advice service with a duty to ensure that that service is designed to meet the needs of

- a) people leaving prison or youth detention
- b) young people leaving care,
- c) people leaving the regular armed forces
- d) people leaving hospital after medical treatment for physical injury or illness or mental illness or disorder as an inpatient
- e) people with a learning disability, or
- f) people receiving mental health services in the community

Will promote the need to develop pathway plans for these groups where there problem is 'more than the need for a roof'

The BB Bill what the law will require local authorities to do?

A new Homeless Application Assessment Duty

1. A Homeless application will be triggered for any household who **may** be at risk within 56 not 28 days (includes all valid section 21 notice cases)
2. A Local Authority then has to decide if the person is eligible and if so are they homeless or threatened with homelessness within 56 days
3. If so there is a a new duty to assess the housing problem, housing circumstances and any support needs
4. Then a duty to agree the reasonable steps for the Council and the applicant to take and give the applicant a written record (A Personal Housing Plan) – If applicant fails to agree the steps duty is for the authority to decide what steps are reasonable for the applicant to take

The BB Bill what the law will require local authorities to do?

- **If you are satisfied they are threatened with homelessness** – authority under a duty to take reasonable steps to Prevent – this duty may end after 56 regardless of whether the applicant is still threatened with homelessness
- **If you are satisfied they are homeless there is a duty to take reasonable steps to ‘help to secure accommodation’** (to relieve homelessness) – Duty must come to an end after 56 days if applicant is in in priority need and not IH
- **If likely to be found not in priority need the authority has the power to bring it to an end but could allow it to continue** – likely to result in many cases remaining open after 56 days – the days of a 33 day target for making decisions will be long gone!
- **What does ‘Reasonable Steps’ mean in law?** – Reasonable steps must take into account the assessment of circumstances, needs and support needs and reflect these in a written agreement. There is also a right of review to whether the steps are reasonable added to the Bill

The BB Bill what the law will require local authorities to do?

3 important areas with no clarity that may need amendments

- What happens if single applicant owed a interim accommodation duty but LA decide before the end of the relief duty they are not in priority need? – *Unclear if the interim TA needs to last for 56 days until the duty can be brought to an end – amendment clause today 30th Nov to clarify*
- There is no clause in the Bill to deal with reapplications following the ending of any Part 7 duty to an applicant. *This would mean an applicant would be able to refuse assistance under the prevention, relief or final duty stages and reapply to the same local authority, or any other local authority. In Wales a person is not able to proceed with a second application unless there is a material change of circumstances*

The BB Bill what the law will require local authorities to do?

- How will the Prevention or relief duties end – *suitable accommodation offered or secured with a ‘reasonable prospect’ of being available for at least 6 months. However, it is unclear if the refusal of a suitable offer prevents the applicant from going onto being assessed for the final main duty as in Wales*
- Local connection – for applicants who may have a priority need the ‘help to secure’ relief of homelessness duty can be referred to the a local authority where they have a local connection if the applicant does not have a local connection with the referring authority (subject to the usual protections re risk of domestic violence or abuse)

Protection for applicants who do not cooperate with their reasonable steps

- * LA has the power for applicants in priority need and not IH whose prevention or relief duty has ended due to not cooperation not to grant the full final duty 193(2) but to secure accommodation and can end duty with a fixed term 6 month AST.
- * Applicants who through no fault of their own remain homeless when the 'relief duty' ends after 56 days will, as now, be owed a temporary accommodation duty if they are in priority need and not IH but and that duty will still need a 12 month fixed term AST to end it

The BB Bill what the law will require local authorities to do?

- When would you assess priority need and intentional homelessness? - Any duties to those found IH and not in priority need apply after the end of the 'help to secure' relief duty so Bill lacks clarity on when these tests can be determined and notified
- Local connection extra protection for Care leavers added
- Is 'Nowhere safe to stay' still in the Bill – 56 day accommodation duty for all non priority homeless people with nowhere safe to stay removed from 2nd draft
- What about the rules on suitability? - Suitability of accommodation safeguard rules in the 2012 suitability order extended for single vulnerable people but no loosening of the rules on out of area placements to make them easier

The BB Bill what the law will require local authorities to do?

- Can you give less help to households likely to be in priority need versus likely to be non priority. *Not stated but steps must be reasonable so an area of likely challenge if an LA provides different levels of help*
- What will the right to seek a 202 review cover? – *Lots of new areas!*
- Is there a new corporate duty to cooperate - *taken out in second draft as we hear DCLG did not have time to obtain cross Government agreement - **but***
- New duty for specified public authority (a person or body who has functions of a public nature) to refer those either homeless or at risk of being homeless to local authority housing service
- What about the new Statutory Code of Guidance? – *Will have to be totally rewritten plus the Bill provides a new power for the Government to issue code of Practice in addition to the code of Guidance*

Implications for Housing Applications and the Allocation Policy

- * Definition of reasonable preference is likely to include those applicants owed the a prevention or relief duties.
- * Will this drive up lettings to the homeless and those threatened with homelessness
- * What preference – band/points level to give? Where would they sit in your banding system
 - a) Prevention duty likely PN not IH
 - b) Prevention duty not likely PN or likely IH
 - c) Relief duty likely PN not IH
 - d) Relief duty not likely PN or likely IH
 - e) Full final duty

Start to prepare now – need to change your structure?

- Look at your structure and start to consider changes now. The focus will be on prevention and less focus on some of the part 7 tests we currently apply
- Tests of Eligibility and Homelessness will still be up front as will be whether the applicant has met an interim accommodation duty on the basis that they might be eligible, might be homeless and might be in priority need
- However, the tests for whether a full and final TA accommodation duty is owed if an applicant is in priority need and not intentionally homeless is ‘parked’ to much later in the process until the outcome of the relief duty is known

What Councils and Partners can do to start to prepare?

- Build on your successful prevention work and start to pilot the principles of the the new legal framework (albeit it will not yet be law).
- Brand new Prevention Toolkits based on the requirements of the new Act will be sent out via **Locata** in the next 10 days to all local authorities – Free resource for you to adapt
- Introduce Personal Personal Housing Plans (PHP) and set them out as per the new duty
- Consider the role of other statutory and voluntary partners – ge them to sign up to being Partners for prevention
- Develop and Incorporate “Pathway Plans” (new buzzword) for key vulnerable groups where their problem is ‘more than a roof’

Should we embrace the Act or come on board screaming and kicking?

Over to you – it won't work unless everyone is committed to making it work

- It won't build produce one more unit of accommodation
- It won't reverse welfare reform

But

- It finally puts a statutory framework to the good preventative work local authorities do
- It will better protect Options Services from council financial cuts as it prevention will be a statutory duty
- It puts prevention of homelessness at the centre of the legal framework
- If we make it work it will last for a generation or more