



BRIEFING PAPER

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The Homelessness Reduction Bill 2016-17

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Summary

Bob Blackman drew second place in the Private Members' Bill Ballot and introduced the [Homelessness Reduction Bill 2016-17](#) on 29 June 2016. The Bill is scheduled to receive its Second Reading on 28 October 2016. The Bill extends to England and Wales but will only apply in England. Application is where a Bill produces practical effect. Legislative competence for homelessness provision has been devolved to Wales, Scotland and Northern Ireland.

The Communities and Local Government (CLG) Select Committee took evidence on the draft Bill ahead of formal publication. While supportive of the Bill's aims, the Committee recommended some significant amendments. The final version of the Bill is substantially different from the draft considered by the Committee.

The main thrust of the Bill is to refocus English local authorities on efforts to prevent homelessness. The Bill is seeking to amend Part 7 of the *Housing Act 1996*. Its measures include:

- 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 8 or section 21 notice of intention to seek possession from an assured shorthold tenancy.
- A new duty to prevent homelessness for all eligible applicants 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.

Several provisions have financial implications for local authorities for which a money resolution will be required. An impact assessment and new burdens assessment will be published in due course.

The Government confirmed that it would support the Bill on 24 October. Local authorities and their representative organisations had said that they could not support the draft Bill in the absence of an effective long-term national strategy. The Local Government Association (LGA) said: "There are further risks that, in areas where council resources are already particularly stretched, legislative change in isolation could affect their capacity to deliver good outcomes for groups of vulnerable people that they are successfully helping now." The most controversial clauses from the local authority perspective have been removed from the final version of the Bill and, as a result, the LGA is reportedly close to supporting the Bill. There is certainly widespread support in the sector for a preventative approach to homelessness backed by adequate funding.

Although a statutory framework has been in place to provide a safety net for homeless people in England since the enactment of the *Housing (Homeless Persons) Act 1977*, there has never been a comprehensive duty to secure accommodation for all homeless people. In summer 2015 Crisis established an Independent Expert Panel to consider the strengths and weaknesses of the homelessness legislation in England. In [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#) (April 2016) the Panel said that the current safety net has a particular impact on single homeless people who "have no right to accommodation or adequate help to prevent or

relieve their homelessness, even if they are sleeping rough." The Panel favoured changes to place more emphasis on preventative work within a statutory framework, particularly in relation to single people and childless couples.

The CLG Committee launched an inquiry into homelessness in December 2015 in response to evidence that homelessness, particularly rough sleeping, was increasing. The Committee concluded that the service offered to homeless non-priority need applicants is "unacceptably variable." The Committee is supporting the *Homelessness Reduction Bill* and has called for a "renewed cross-Departmental strategy" to tackle homelessness.

The fact that both Scotland and Wales have legislated in recent years to address the longstanding lack of support for homeless single people has added to the pressure for change in England. In Scotland, there is a statutory duty on local authorities to find permanent accommodation for all applicants who are unintentionally homeless or threatened with homelessness. In Wales, local authorities have a duty to prevent all those threatened with homelessness from becoming homeless. Statistics covering the first full year of implementing the new statutory provisions in Wales indicate some success in the prevention of homelessness.

Statutory homelessness in England has increased since 2010. The financial year 2010/11 saw a 10% increase in statutory homelessness acceptances by local authorities, representing the first financial year increase since 2003/4. Homelessness acceptances continued to rise over the next three years but fell by 3% between 2012/13 and 2013/14. The 2014/15 financial year recorded a further increase, with acceptances 36% higher than in 2009/10 (but 60% below the peak in 2003/4). The 2015/16 financial year saw acceptances increase by a further 6% on 2014/15.

The estimated number of rough sleepers in England has also increased each year since 2010. The autumn 2010 total was 1,768 while the autumn 2015 total was more than twice as high at 3,569. The number of rough sleepers increased by 30% between 2014 and 2015, the biggest year-on-year increase since 2011.

The rise in homelessness has been attributed to the long-term failure of successive Governments to ensure a sufficient supply of affordable housing. Other significant factors include the increase in homelessness arising from the termination of assured shorthold tenancies in the private rented sector, and Housing Benefit restrictions introduced since 2010 which, it is argued, have made it difficult for claimants to secure housing at rents which Housing Benefit will cover.

Relevant Library briefing papers include [Statutory homelessness in England](#) (01164) and the [Households in temporary accommodation \(England\)](#) (02110). Duties owed to the non-statutory homeless are covered in the Library briefing paper [Rough Sleeping \(England\)](#) (02007). There is also [Rough sleepers: access to services and support \(England\)](#) (07698). The variations in approaches to homelessness in Scotland and Wales are outlined in [Comparison of homelessness duties in England, Wales, Scotland and Northern Ireland](#) (07201). For an overview of statistical indicators see: [Homelessness: Social Indicators](#) (02646). Local-level data on homelessness in England can be viewed using the Library's online tool ([07586](#)).

1. The current legal framework: an overview

The *Housing (Homeless Persons) Act 1977* placed a duty on local housing authorities to secure permanent accommodation for unintentionally homeless people and households in priority need. Although there have been some legislative changes and a great deal of case law in the intervening 40 years, the framework established by this Act is still largely in place in England. Authorities' duties towards homeless people are now contained in Part 7 of the *Housing Act 1996* (as amended). Local authorities are required, when carrying out their duties under Part 7, to have regard to the statutory [Homelessness Code of Guidance for Local Authorities](#). This Code was last updated in 2006 but it has been supplemented by additional guidance on how to deal with homelessness arising from mortgage arrears¹ and guidance on the treatment of homeless people who are victims of domestic abuse.²

Advice and information

Authorities are under a general duty to ensure that advice and information about homelessness, and preventing homelessness, is available to everyone in their district free of charge.³

A homelessness strategy

Homelessness Act 2002 placed a duty on housing authorities to:

- carry out a review of homelessness in their areas;
- formulate and publish a homelessness strategy based on this review;⁴
- keep the strategy under review; and
- consult other local or public authorities, or voluntary organisations before adopting or modifying the strategy.⁵

A duty to carry out inquiries

When someone approaches a local authority for assistance due to homelessness the authority is obliged to carry out inquiries in order to ascertain what level of duty is owed to the applicant.⁶

An authority's inquiries should seek to establish:

- whether an applicant is eligible for assistance. Eligibility is related to the applicant's immigration status;

¹ DCLG, [Homelessness Code of Guidance for Local Authorities: supplementary guidance on intentional homelessness](#), August 2009

² DCLG, [Supplementary guidance on domestic abuse and homelessness](#), November 2014

³ Section 179 of the *Housing Act 1996*

⁴ Section 1(4) of the 2002 Act – some authorities are exempt from this duty

⁵ Section 3(8) of the 2002 Act

⁶ Section 184 of the 1996 Act

- whether or not the applicant is homeless or threatened with homelessness (i.e. likely to become homeless within 28 days);
- whether or not they, or someone in their household, is in priority need; and
- whether or not they are intentionally homeless.⁷

An interim duty to provide accommodation

If an authority has reason to believe that a homeless applicant has nowhere to stay and is in priority need, there is an immediate duty to make suitable temporary accommodation available pending further inquiries.⁸

Assessing priority need

Authorities only have an absolute duty to secure accommodation for households who are deemed to be unintentionally homeless and in priority need. The priority need categories are set out in section 189 of the 1996 Act. They were extended by *The Homelessness (Priority Need for Accommodation) (England) Order 2002* which came into force on 31 July 2002. The categories are:

- a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
- a person with whom dependent children reside or might reasonably be expected to reside;
- a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- a person aged 16 or 17 who is not a 'relevant child' or a child in need to whom a local authority owes a duty under section 20 of the *Children Act 1989*;
- a person under 21 who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a 'relevant student');
- a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a 'relevant student');
- a person who is vulnerable as a result of having been a member of Her Majesty's regular naval, military or air forces
- a person who is vulnerable as a result of:
 - (a) having served a custodial sentence,
 - (b) having been committed for contempt of court or any other kindred offence, or
 - (c) having been remanded in custody;
- a person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person

⁷ Intentional homelessness is defined as having deliberately done or failed to do something which resulted in the loss of their home – section 191 of the 1996 Act.

⁸ Section 188 of the 1996 Act

- or threats of violence from another person which are likely to be carried out;
- a person who is vulnerable for any other special reason, or with whom such a person resides or might reasonably be expected to reside;
 - a person who is homeless, or threatened with homelessness, as a result of an emergency such as flood, fire or other disaster.

Duties on completion of inquiries

The type of help that an authority might have to offer a homeless household under the 1996 Act ranges from the main duty to secure permanent accommodation (which may be a private rented tenancy⁹), to providing advice and assistance, for example through housing advice or referrals to other housing providers.

No duty is owed to those who are ineligible for assistance.

Where applicants are threatened with homelessness and in a priority need category the authority has a duty to under section 195 to take reasonable steps to secure that accommodation does not cease to be available for the applicant's occupation.

Where applicants are threatened with homelessness but not in priority need, the authority has a duty to ensure that the applicant is provided with advice and assistance in any attempts he or she may make to secure that accommodation does not cease to be available for his or her occupation. If the applicants become homeless, the authority has a duty to ensure that they are provided with advice and assistance in any attempts he or she may make to secure that accommodation becomes available for his or her occupation.¹⁰ The [Homelessness Code of Guidance](#) contains information on the standard of advice and assistance provided:

The housing authority must ensure that this includes a proper assessment of their housing needs and information about where they are likely to find suitable accommodation. Again, it will be crucial that the advice and assistance is effective and up to date if the housing authority's strategic aim of preventing homelessness is to be achieved.¹¹

Where the applicants are deemed to be intentionally homeless and in priority need the authority is under a duty to:

- secure that accommodation is available for the applicant's occupation for such period as it considers will give him or her a reasonable opportunity of securing accommodation for his or her occupation (s.190(2)(a) of the 1996 Act); and
- provide the applicant, or secure that the applicant is provided with, advice and assistance in any attempts he or she may make

⁹ The *Localism Act 2011* enabled authorities (from 9 November 2012) to discharge their duty to homeless households by offering a suitable tenancy of private rented housing.

¹⁰ Section 192 of the *Housing Act 1996*

¹¹ DCLG, [Homelessness Code of Guidance for Local Authorities](#), 2006, p10

to secure that accommodation becomes available for his or her occupation (s.190(2)(b) of the 1996 Act).

Where an applicant is unintentionally homeless and has a priority need for accommodation, the housing authority has a duty under section 193 to secure that accommodation is available for occupation by the applicant (unless it refers the application to another housing authority under section 198). This is commonly known as 'the main homelessness duty'.

Local authorities are not, therefore, under a duty to secure accommodation for all homeless households. This duty is restricted to those who are deemed to be eligible, unintentionally homeless and in a priority need category.

Local connection

Where an applicant is assessed as eligible, unintentionally homeless and in a priority need category, the local authority has discretion to consider whether s/he or a member of the household has a local connection with the district. Section 199 of the 1996 Act defines local connection very broadly in terms of previous residence, employment, family association and special circumstances. Local authorities have agreed to interpret local connection as:

- normal residence in the area: 6 out of the last 12 months or 3 out of the last 5 years; or
- employment within the area; or
- family associations in the area (a referral cannot be made to another authority's area on this basis without the applicant's consent); or
- other special circumstances.¹²

If no local connection is established, the authority may refer the applicant to another local authority with which they do have a local connection. This is carried out using procedures agreed by the local authority associations.¹³ There are circumstances in which no referral should be made, e.g. where the applicant is escaping violence from the area in which s/he has a local connection. Applicants with no local connection in any area should be dealt with by the authority taking the homeless application.

¹² DCLG, [Homelessness Code of Guidance for Local Authorities](#), 2006, Annex 18, pp231-2

¹³ Ibid.

2. Measuring homelessness

2.1 No single measure of homelessness in England

Official statistics

In order to monitor the number of statutorily homeless households the Government collates local authority figures on the number of homeless acceptances, i.e. the number of households deemed to be unintentionally homeless and in priority need in accordance with Part 7 of the *Housing Act 1996* (as amended). Quarterly statistics are published which detail the number of applications authorities have considered under Part 7 and the various outcomes.

The official statistics do not provide a full picture of homelessness in England.

The quarterly statistics do not provide a full picture of homelessness in England. The figures exclude those who are homeless but who do not approach a local authority for assistance and those who do not meet the statutory criteria. For example, of the 29,790 applications for assistance that English local authorities received between April and June 2016, only 51% were accepted as homeless; 17% were deemed to be homeless but not in priority need; and 8% were deemed to be intentionally homeless (and therefore not owed a full rehousing duty).¹⁴

Homelessness prevention and relief work

Assessing the actual level of homelessness in England is complicated by the fact that authorities have increasingly adopted a housing options approach outside of the statutory framework. A great deal of work is carried out in order to prevent homelessness through early intervention work. The households assisted in this way are not recorded in the official statistics. The [UK Housing Review 2015 Briefing Paper](#) (June 2015) concluded that the story of homelessness is more complicated than the official statistics suggest:

Households assisted by local authorities outside of the statutory framework are not included in the official statistics.

Homelessness prevention work by local authorities means that (as Crisis found in a survey of local authority staff) official figures on 'acceptances' are no longer seen as an accurate gauge of homelessness. In fact, the parallel figures on non-statutory preventative work are growing remorselessly: from 165,000 cases in 2009/10 to almost 228,000 in 2013/14 (the last year for which data are available).¹⁵

Figures on non-statutory prevention work for 2015/16 were published on 30 June 2016 alongside the quarterly statistics: [Homelessness prevention and relief: 2015/16 England](#). 213,300 cases of homelessness prevention or relief were estimated to have taken place outside the statutory homelessness framework in England, down from 220,700 in 2014/15.¹⁶ Preventative action was taken by local authorities for

¹⁴ DCLG Statistical Release, 28 September 2016, *Statutory Homelessness*, 2nd Quarter 2016 - England

¹⁵ Steve Wilcox, John Perry, Peter Williams, [UK Housing Review 2015 Briefing Paper](#), June 2015, p13









¹⁶ DCLG, [Homelessness prevention and relief: 2015/16 England](#), June 2016

55,000 households between April and June 2016 and a further 3,900 non-priority households were helped out of homelessness (relieved) over the period.¹⁷

The tables below show the outcomes for prevention and relief cases in 2015/16.







Types of homelessness prevention¹⁸

Proportion of prevention cases, England 2015/16

Supported to remain at home	52%	
Alternative accommodation:	48%	
<i>Social housing (including move of existing tenant)</i>	17%	
<i>Privately rented accommodation</i>	13%	
<i>Supported accommodation</i>	9%	
<i>Hostel or House in Multiple Occupation</i>	5%	
<i>Friends or relatives</i>	3%	
<i>Other</i>	2%	

Types of homelessness relief¹⁹





















Proportion of relief cases, England 2015/16

Social housing (including move of existing tenant)	30%	
Privately rented accommodation	28%	
Hostel or House in Multiple Occupation	17%	
Supported accommodation	14%	
Friends or relatives	6%	
Other	10%	

The table below compares the English regions on the number of prevention and relief cases per 1,000 households in the region. Regions in the North and West Midlands tended to report more prevention and less relief activity than the English average. In London and parts of the South the trend was reversed.

Prevention and relief cases per 1,000 households²⁰

English regions, 2015/16

	Prevention cases	Relief cases	Prevention cases per 1,000 households	Relief cases per 1,000 households
North East	16,761	420	14.5 	0.4 
North West	30,725	1,400	9.9 	0.5 
Yorkshire and the Humber	28,144	1,158	12.3 	0.5 
East Midlands	16,779	1,301	8.6 	0.7 
West Midlands	24,794	1,197	10.5 	0.5 
East of England	12,894	1,403	5.1 	0.6 
South East	26,113	2,605	7.0 	0.7 
South West	16,854	1,222	7.2 	0.5 
London	25,701	3,814	7.4 	1.1 
England	198,770	14,520	8.7 	0.6 

¹⁷ DCLG, [Statutory Homeless and Prevention and Relief Live Tables](#), Table 787

¹⁸ DCLG, [Statutory Homeless and Prevention and Relief Live Tables](#), Table 789

¹⁹ DCLG, [Statutory Homeless and Prevention and Relief Live Tables](#), Table 788

²⁰ DCLG, Live Table 792: [Total reported cases of prevention and relief by outcome and local authority](#)

Rough sleepers

The official statistics do not take account of rough sleepers. There are separate annual counts of rough sleepers which use methodology adopted in October 2010. Local authorities are asked to produce either a formal count or an estimate of the number of rough sleepers in the area. Counts are conducted between 1 October and 30 November each year. Estimates should be produced in consultation with agencies working with rough sleepers in the area, although a small number of local authorities have produced estimates without any external consultation. The results of the counts are published in February the following year.

The Combined Homelessness and Information Network (CHAIN) database contains information about rough sleepers in London who have been contacted by outreach teams or who have accessed accommodation for rough sleepers in London. CHAIN is used by people working with rough sleepers in London and it is maintained by St Mungo's. The data does not include people from "hidden homeless" groups such as those "sofa surfing" or living in squats, unless they have also been in contact with an outreach team, day centre or assessment hub.

Compliance with National Statistical Standards

In December 2015 the UK Statistics Authority published an assessment of compliance with the Code of Practice for Official Statistics in relation to DCLG's homelessness and rough sleeping statistics. The Department's Homelessness Prevention and Relief statistics were deemed not to meet the standard to be regarded as National Statistics. The Authority said that these statistics should be published quarterly with the Statutory Homelessness statistics as part of "an integrated package" and that DCLG should consider: "...how these statistics might be improved to the same standard as the Statutory Homelessness statistics."²¹

The UK Statistics Authority declared DCLG's Homelessness Prevention and Relief statistics not to meet the standard for National Statistics.

On 2 March 2016 the Minister, Marcus Jones, confirmed that "Departmental statisticians are currently using the report to help plan future developments in homelessness statistics."²² The statistics for the first and second quarters of 2016 have been published with the homelessness prevention and relief statistics.

Hidden homelessness

[Homelessness Monitor: England 2016](#) provides estimates of *hidden* homelessness:

We estimate that there were 2.35 million households containing concealed single persons in England in early 2015, in addition to 267,000 concealed couples and lone parents. The number of adults in these concealed household units is estimated at 3.52 million. These numbers represent broad stability alongside

²¹ UK Statistics Authority, [Statistics on Homelessness and Rough Sleeping in England \(Department for Communities and Local Government\)](#), December 2015

²² [Homelessness: Written Question-27313, 2 March 2016](#)

the estimates presented in the previous two Monitors but a rise of 40 per cent since 2008. Concealed single individuals living with others, when they would really prefer to live independently, thus increased markedly after 2008, and this was associated with a fall in new household formation.²³

2.2 Homelessness is increasing

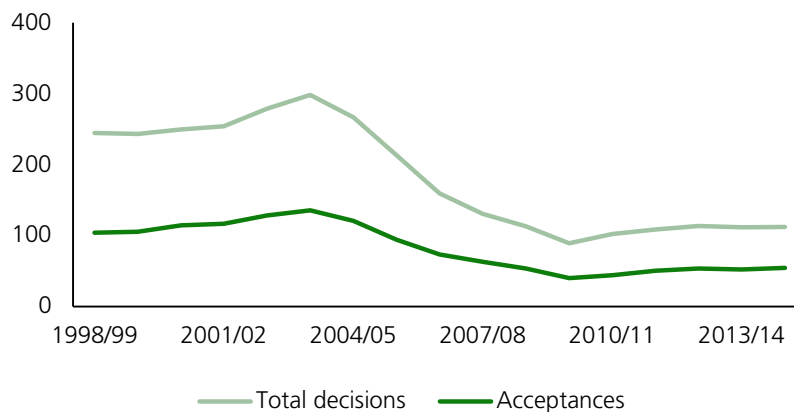
Statutory homelessness

The financial year 2010/11 saw a 10% increase in homelessness acceptances by local authorities, representing the first financial year increase since 2003/4. Homelessness acceptances continued to rise over the next three years but fell by 3% between 2012/13 and 2013/14. The 2014/15 financial year recorded a further increase, with acceptances 36% higher than in 2009/10 (but 60% below the peak in 2003/4). The 2015/16 financial year saw acceptances increase by a further 6% on 2014/15.

Homelessness acceptances peaked in 2003/04 and fell thereafter but have been rising again since 2010/11.

Decisions taken on eligible households and homelessness acceptances²⁴

Thousands of households, 1998/99 to 2015/16



Despite the reduction in acceptances in 2004, the number of households placed in temporary accommodation exceeded 100,000 for the first time that year. The numbers in temporary accommodation began to fall after 2004 but remained at historically high levels and began to increase again in early 2010.

The most recent statistics on statutory homelessness were published on 28 September 2016.²⁵ The number of households accepted as homeless and owed the main homelessness duty (i.e. permanent re-housing) was 10% higher compared with the same period (April to June) in 2015.²⁶ The number of homelessness acceptances was 15,170, representing an increase of 3% on the previous quarter.

The 2015/16 financial year saw homeless acceptances rise by 6% on 2014/15.

London accounted for 32% of all acceptances in England during the second quarter of 2016 – the number of acceptances in London was

²³ Crisis, [Homelessness Monitor: England 2016, January 2016](#)

²⁴ DCLG, *Statutory Homelessness* statistical release (30 June 2016), Live Table 770.

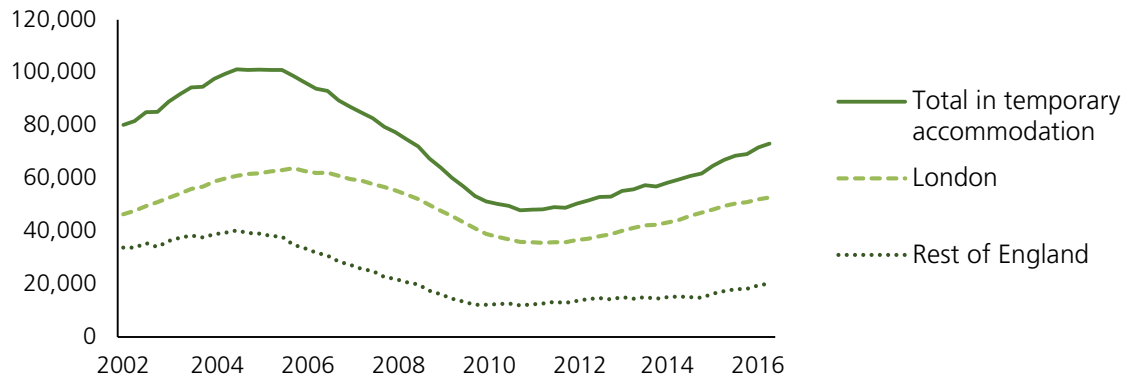
²⁵ DCLG Statistical Release, 28 September 2016, *Statutory Homelessness*, 2nd Quarter 2016 - England

²⁶ Ibid.

11% higher than in the same quarter in 2015.²⁷ 41% of homelessness acceptances in London between April and June 2016 arose from the termination of a private sector tenancy.

Households in temporary accommodation at end of year²⁸

Thousands of households, 1998 to 2015



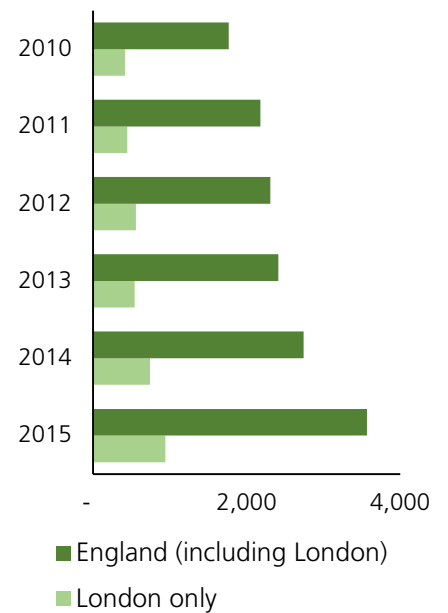
Rough sleeping

The estimated number of rough sleepers in England has increased each year since 2010. The autumn 2010 total was 1,768²⁹ while the autumn 2015 total was more than twice as high at 3,569. The number of rough sleepers increased by 30% between 2014 and 2015, the biggest year-on-year increase since 2011.³⁰

Rough sleepers in London made up just over a quarter of the England total in 2015. The number of rough sleepers grew from 415 in 2010 to 940 in 2015, an overall increase of 127%. There was a 27% increase between 2014 and 2015. The largest year-on-year increase, of 37%, took place between 2013 and 2014.

The chart overleaf compares the number of rough sleepers per 1,000 households in each region. In 2015, the rough sleeping rate in England was 0.16 rough sleepers per 1,000 households. Four regions had rates above the England average: London (0.27), the South West and South East (both 0.22), and the East of England (0.17).

Estimated number of rough sleepers in England and London
Autumn 2010 to autumn 2015



²⁷ Ibid.
²⁸ DCLG, *Statutory Homelessness* statistical release (30 June 2016), Live Table 775
²⁹ [Rough Sleeping Statistics England - Autumn 2010](#), 17 February 2011
³⁰ [Rough Sleeping Statistics England - Autumn 2015](#), 26 February 2016

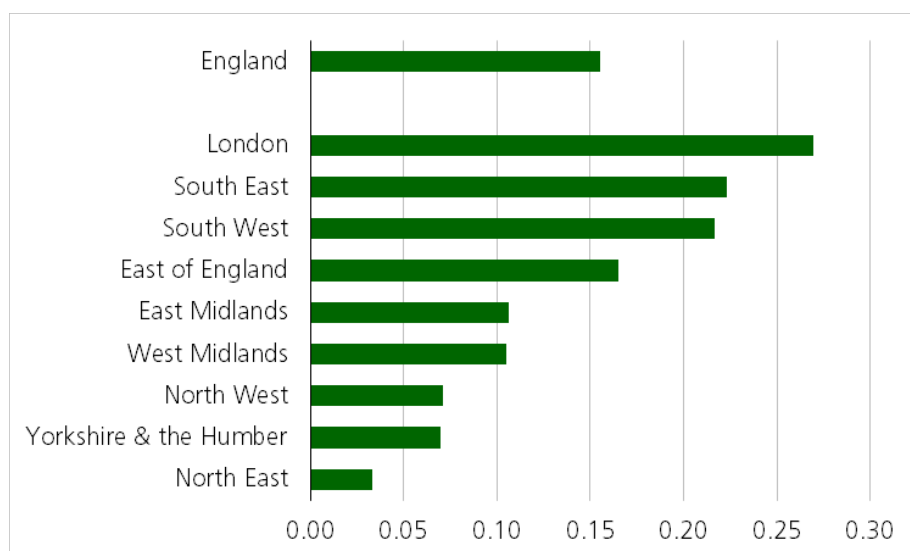
Rough sleeping in England and London³¹

Autumn 2010 to autumn 2015

	2010	2011	2012	2013	2014	2015
England						
Number of rough sleepers	1,768	2,181	2,309	2,414	2,744	3,569
% increase on previous year		23%	6%	5%	14%	30%
% increase on 2010		23%	31%	37%	55%	102%
Proportion of LAs providing a count	13%	16%	13%	15%	15%	13%
London						
Number of rough sleepers	415	446	557	543	742	940
Proportion of England total	23%	20%	24%	22%	27%	26%
% increase on previous year		7%	25%	-3%	37%	27%
% increase on 2010		7%	34%	31%	79%	127%

Number of rough sleepers per 1,000 households³²

English regions, autumn 2015

**London CHAIN database findings**

The latest financial year report, [CHAIN Street to Home Annual Report 2015-16](#), shows that a total of 8,096 rough sleepers were contacted by outreach workers or building-based teams in London during 2015/16 compared to 7,581 contacts in 2014/15; representing an increase of 7%. The year-on-year increases in the previous four periods were: 16% in 2013/14 to 2014/15; 1% in 2012/13 to 2013/14; 13% in 2011/12 to 2012/13; and 43% in 2010/11 to 2011/12.

5,276 of the rough sleepers (65%) were seen for the first time in 2015/16, while 23% had also been seen in 2014/15. 30% (2,450) of the rough sleepers were helped into accommodation or to return to their home area in 2015/16.

The CHAIN data shows a 7% increase in rough sleeping in London over 2015/16.

³¹ CLG, [Rough Sleeping in England: Autumn 2015](#), 25 February 2016

³² DCLG, [Rough Sleeping in England: Autumn 2015](#), 25 February 2016

Local homelessness statistics

The Library has produced an online tool which brings together local authority level statistics on statutory homelessness and rough sleeping.

Users can view and compare trends in homelessness acceptances, unsuccessful applications and rough sleeper numbers. The tool can be accessed online at researchbriefings.parliament.uk/researchbriefing/summary/CBP-7586.

3. The causes of homelessness

Research into the causes of homelessness has identified a number of factors, some of which relate to the wider state of the economy and the housing market, and others which are personal to the individual or family.³³

Structural factors contributing to homelessness include:

- A lack of affordable housing supply in England which is more acute in some areas than others. Homelessness is the most visible manifestation of the long-term failure of successive Governments to build enough housing to meet growing need. Research conducted by Centrepoin in 2013 for Cambridge University concluded that by 2021, at current rates of construction, there could be a shortfall of submarket rent homes of over 900,000.³⁴
- The social housing sector has declined as a proportion of all housing in recent years. This reflects sales under the Right to Buy and reduced investment in the development of social housing. Shelter's evidence to the CLG Select Committee's inquiry into homelessness argues for the development of 250,000 new homes a year of which 30% should be at a low rent.³⁵
- The affordability of home ownership has been impacted by tighter mortgage regulation and the requirement for higher deposits from first-time buyers. Even in areas where house prices are relatively affordable, mortgage regulation can act as a barrier to access.

The CLG Select Committee's 2016 report, [Homelessness](#), identified a case "for the development of homes for affordable rent which we encourage the Government to act on by working with local authorities to deliver the homes that are needed at a local level."³⁶

The potential impact of wider Government housing policies on levels of homelessness attracted comment in [Homelessness Monitor: England 2016](#), an annual state-of-the-nation report looking at the impact of economic and policy developments on homelessness, for example:

...uncertainty about the future capacity for additional new building by social landlords, particularly now in light of the Summer 2015 Budget proposals for social sector rent reductions over the next four years, and the Office for National Statistics decision to reclassify housing associations as public corporations. Both of these measures, as well as a sharply declining budget for new investment in light of the 2015 Autumn Statement announcement that, effectively, all Central Government capital subsidies will be switched to low cost home ownership towards the end of this Parliament, will badly damage social landlords'

³³ *More than a Roof – a new approach to tackling homelessness* Department for Transport and Local Government, March 2002

³⁴ [Centrepoin's written evidence submitted to the CLG Select Committee's 2016-17 inquiry into homelessness \(HOL31, para 14\)](#).

³⁵ [Shelter's written evidence submitted to the CLG Select Committee's 2016-17 inquiry into homelessness \(HOL94, paras 23-24\)](#)

³⁶ [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 24

ability to compensate for ongoing losses to the rental housing stock. While the extension of the Right to Buy to housing association tenants could result in additional funding for affordable rental house building, this will be offset within the sector both by the sitting tenant sales themselves, and the related requirement for disposal of high value local authority dwellings.

With respect to the implications for homelessness, the key concern is that the forced sale of high-value council houses, coupled with the long-term loss of properties via the Right to Buy, and reduced new build development, will further deplete social housing resources already under tremendous pressure. While the Government has stated ambitions for this diminished stock to be targeted on those in greatest need, the interaction of their rent-setting and welfare policies runs directly counter to this aspiration. In particular, the planned lowering of the total benefit cap to £23,000 in London and £20,000 elsewhere announced in the Summer 2015 Budget, means that there are concerns that families with more than two children may find both affordable rented *and* social rented housing, not only in London, but also in much of the rest of the country, beyond their means.³⁷









Personal factors that trigger homelessness include relationship breakdown, mental illness and addiction issues, discharge from prison and leaving the care system. The immediate causes of homelessness have remained fairly constant over the years. The circumstances in which families become homeless tend to differ from those of single homeless individuals, with the latter experiencing more chaotic lifestyles.³⁸

Two specific areas which are felt to be contributing to the increase in homelessness are covered separately below, namely; the ending of an assured shorthold tenancy and changes to Housing Benefit entitlement.

The table below shows the reasons for homelessness recorded by local authorities in 2015/16.³⁹

Reasons for loss of last settled home⁴⁰

Proportion of all households accepted as homeless, 2015/16

End of assured shorthold tenancy	31%	
Parents no longer able to accommodate	15%	
Other relatives/friends no longer able to accommodate	12%	
Relationship breakdown - violent	11%	
Loss of other rented or tied housing	6%	
Relationship breakdown - other	5%	
Mortgage or rent arrears	4%	
Other	16%	

³⁷ Crisis, [Homelessness Monitor: England 2016, January 2016](#)

³⁸ DCLG, [Making every contact count: A joint approach to preventing homelessness](#), August 2012, paras 17-20

³⁹ The information submitted by local authorities is collated and published quarterly by the Department for Communities and Local Government (DCLG).

⁴⁰ DCLG, *Statutory Homelessness* statistical release (30 June 2016), Live Table 774

The ending of an assured shorthold tenancy (AST)

There has been a substantial increase in homelessness due to the ending of an assured shorthold tenancy. In 2010/11, this was given as a reason in 6,630 cases (15% of the total), rising to 17,900 cases (31% of the total) in 2015/16. In London, 41% of homeless acceptances by local authorities between April and June 2016 were due to the end of an assured shorthold tenancy.⁴¹

The AST is the default form of tenancy offered in the private rented sector.⁴² These tenants have very limited security of tenure. A landlord has the option of terminating the tenancy at the end of the fixed term, or at any point once fixed term has ended, by the service of a section 21 notice of seeking possession without having to establish any fault on the part of the tenant. The notice gives the tenant 2 months to vacate the premises. At the end of this period, if the tenant has not moved out, a landlord who wants to regain possession must seek a court order for eviction. If the correct procedure has been followed the court has no discretion over the granting of an order.

Private renting is at its highest rate in over thirty years with the proportion of households renting in the sector at 19% (4.3 million households).⁴³ Demand is such that rents for these tenancies in certain areas of the country are increasing faster than tenants' ability to pay. Evidence to the CLG Select Committee's inquiry referred to tenants being unable to afford a rent increase and facing a section 21 notice as a result. The tenants are then unable to find alternative accommodation within their price range.⁴⁴ These difficulties have been exacerbated by restrictions to the Local Housing Allowance (see below).

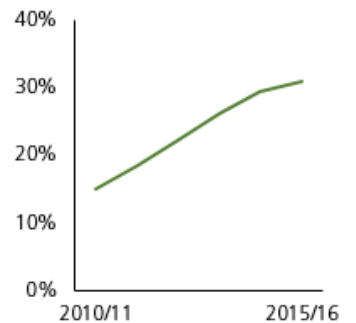
Housing Benefit restrictions

Most tenants who are reliant on benefit assistance to meet their rent payments in the deregulated private rented sector⁴⁵ receive the Local Housing Allowance (LHA). The LHA is a flat rate payment based on the number of bedrooms a claimant is deemed to require within a Broad Market Rental area. The amount of LHA actually received depends on an individual's personal circumstances.

The default arrangement is that LHA is paid direct to claimants rather than their landlords. After its introduction in 2008 there was evidence to suggest that direct payment of LHA to claimants had resulted in increased rent arrears (and evictions) of private sector tenants.⁴⁶

In 2011 the Coalition Government changed the basis on which LHA rates are calculated from the 50th percentile of market rents to the 30th percentile and also introduced national caps. The uprating of LHA rates

Proportion of households who lost their last home due to the end of an assured shorthold tenancy



Source: DCLG, Live Table 774

⁴¹ DCLG Statistical Release, 28 September 2016, *Statutory Homelessness*, 2nd Quarter 2016 - England

⁴² These tenancies were introduced by the *Housing Act 1988*.

⁴³ [English Housing Survey Headline Report 2014-15](#)

⁴⁴ [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, paras 14-15

⁴⁵ Refers to tenancies created after Part 1 of the *Housing Act 1988* came into force on 15 January 1989.

⁴⁶ DWP, The Local Authority Omnibus Survey – Wave 20, August 2010

was restricted in 2014 and 2015. The Government has now frozen LHA rates with effect from April 2016 for four years. Several local authorities identified the disparity between LHA rates and actual rent levels as a significant contributor to the ending of private sector tenancies and, as a result, homelessness, when giving evidence to the CLG Select Committee's inquiry:

Cambridgeshire District Council for example highlighted that "A significant barrier to accessing the private rented sector is the difference between LHA rates and typical rent levels. Typically rents are at least £250pcm more than the LHA rates across all property sizes, making the private rented sector unaffordable for those on a low income." 18 Westminster City Council has the largest private rented sector in England with very high rents, and there is a £536.54 disparity between the average weekly rent of a three bedroom home and the capped LHA rate.⁴⁷

The DCLG statutory homelessness statistical release of 28 September 2016, covering the second quarter of the year, acknowledges affordability issues in the private rented sector:

This indicates that affordability is an increasingly significant issue, as more households facing the end of a private tenancy are unable to find an alternative without assistance. The increase in the end of tenancies is also related to the expansion of the private rented sector, which has doubled in size (since 2002) and now houses 4.3 million households (2015/16).⁴⁸

Evidence suggests that private landlords are increasingly unwilling to let to claimants in receipt of LHA:

Reports suggest that many landlords are unwilling to let properties to tenants in receipt of housing benefit, and even fewer to those who are homeless. A report by Crisis, *Home: No less will do*, found that only 45 per cent of landlords were willing to let to tenants in receipt of housing benefit, and 18 per cent to homeless households.⁴⁹

A further challenge for most single people under the age of 35 is that since January 2012 they have been restricted to the LHA rate for a room in a shared house (the Shared Accommodation Rate).

The current Government is implementing additional reforms:

- The household Benefit Cap will be reduced from £26,000 to £23,000 in London and £20,000 elsewhere from 7 November 2016.
- Housing Benefit entitlement is to be withdrawn from young people aged 18 to 21, with certain exemptions, from April 2017.
- Housing Benefit claimants in social rented housing will have their entitlement capped at the equivalent Local Housing

⁴⁷ [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 17

⁴⁸ DCLG Statistical Release, 28 September 2016, *Statutory Homelessness, 2nd Quarter 2016 - England*

⁴⁹ [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 20

Allowance rate. This will apply to new tenancies entered into after April 2016 with the Housing Benefit changes applying from April 2018.⁵⁰

- *The Housing Benefit (Abolition of the Family Premium and limiting backdating) (Amendment) Regulations 2015* (SI 2015/1857) abolished the family premium for all new Housing Benefit entitlements after 30 April 2016 and for those who cease to have responsibility for any children or young people after 30 April 2016.
- Support for families receiving tax credits is to be limited to two children. An equivalent change will be made to Housing Benefit “to ensure consistency between both benefits.” This will apply to subsequent children born after April 2017.

[Homelessness Monitor: England 2016](#) commented on the potential impact of these reforms:

The new welfare reforms announced in the Summer 2015 Budget and Autumn Statement will have particularly marked consequences for families with more than two children, and for out-of-work young single people aged 18-21 who, subject to specific exemptions, may be entirely excluded from support with their housing costs or otherwise subject to the very low Shared Accommodation Rate of Housing Benefit in the social as well as the private rented sector. In the face of these and other major benefit cuts, local authority survey respondents largely viewed expanded Discretionary Housing Payments budgets, while welcome and necessary, as an unsustainable ‘fix’ in the longer-term.⁵¹

The CLG Select Committee recommended:

...the private rented sector is an essential means to help people escape and avoid homelessness. However for many the financial barriers and instability of tenancies are too great. *The Government should explore measures to give greater confidence both to tenants and to landlords to encourage them to let to homeless people. Local Housing Allowances levels should also be reviewed so that they more closely reflect market rents. Landlords should be encouraged to offer longer Assured Shorthold Tenancies which allow tenants to leave early without penalty.*⁵²

And:

The Government’s position is that claimants should receive the benefits they are due, and then take responsibility for their own arrangements to meet the costs of their outgoings. However we are concerned that this policy is having a direct impact on levels of homelessness. *All recipients of housing support should have the option of having their housing benefits paid directly to their landlord, reducing the likelihood of them falling into arrears and increasing landlord confidence and willingness to let to tenants at risk of homelessness.*⁵³

⁵⁰ The change is being delayed for certain support housing schemes.

⁵¹ Crisis, [Homelessness Monitor: England 2016, January 2016](#)

⁵² [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 21

⁵³ *Ibid.*, para 34

4. A failing safety net?

No comprehensive duty

Section 1 of this briefing paper explains that local authorities in England are not under an obligation to secure accommodation for all homeless applicants. Since the introduction of the *Housing (Homeless Persons) Act 1977*, there have always been a significant number of homeless applicants with no right to be accommodated. For example, of the 29,790 applications for assistance that English local authorities received between April and June 2016, only 51% were accepted as homeless and owed the main housing duty.

There is no duty to secure accommodation in England for all homeless households.

In summer 2015 Crisis established an Independent Expert Panel (the Panel) to consider the strengths and weaknesses of the current homelessness legislation in England. The Panel's findings were published in April 2016: [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#). The report points out that the current safety net has a particular impact on single homeless people who "have no right to accommodation or adequate help to prevent or relieve their homelessness, even if they are sleeping rough."⁵⁴ The Panel referred to a 'two-tier' system of assistance.⁵⁵

Local authorities' variable performance

Several studies have identified variations in the quality of local authority homelessness services and funding pressures on those services.

Recurrent themes have included:

- poor coordination and collaboration with other agencies, e.g. health services and social services;
- a lack of rigorous investigation by local authorities with some applicants turned away without receiving a full assessment, leading to charges of gate-keeping;
- inconsistent assessment of vulnerability and intentionality; and
- pressure on local authority resources in terms of staffing and costs, particularly the cost of temporary accommodation.⁵⁶

The Panel identified particular issues with the standard of advice and assistance given to non-priority applicants. Crisis conducted a mystery shopping exercise in 2014 in order to test the standard of advice and assistance given to single homeless people. The evidence gathered led Crisis to conclude that in a majority of cases (50 of 87), applicants received inadequate or insufficient help. A significant number of mystery shoppers had no assessment carried out and were not able to make a homeless application.⁵⁷

⁵⁴ [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#), April 2016, p11

⁵⁵ Ibid., p13

⁵⁶ For details of these studies see section 4.3 of Library Briefing Paper 01164, [Statutory Homelessness In England](#), October 2016

⁵⁷ [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#), April 2016, p14

These findings are reinforced by data gathered using the Combined Homelessness and Information Network (CHAIN) in London. Over 2015/16 804 people seen rough sleeping for the first time were recorded as having approached their local authority Housing Options service for help in the 12 months prior to first being seen rough sleeping. This represents almost 10% of all new rough sleepers in the year. Of these, 728 (93%) had approached Housing Options teams in London boroughs.

Around 10% of rough sleepers seen in 2015/16 in London had contacted a local authority for assistance before sleeping rough.

While the move to a Housing Options approach by local authorities is welcomed as generating positive outcomes in terms of prevention work, there are concerns that it is being used to reduce the number of homeless acceptances amongst households in priority need. There are some reports of it being difficult for applicants to make a homeless application in order to trigger the local authority's statutory duties:

The problem is typically [local authorities] not just making an application difficult, but an attempt to filter people away from getting a homeless application made, let alone accepted. That has unfortunately been, in part, the role of what some local authorities have been calling their housing options routes ... Typically we find people saying that you have to go through the housing options route for 14 days or 28 days before they will take a homeless application. If someone is at risk of homelessness, that application has to be made when they present, otherwise it is gatekeeping.⁵⁸

Complex needs

The CLG Select Committee found that local authority homelessness services often struggle to cope with applicants, particularly single applicants, with multiple complex needs. Evidence submitted to the inquiry argued that services do not put users' needs at the centre, resulting in a need for multiple contacts with several statutory bodies. The Committee made specific recommendations in regard to mental health services for homeless people:

We recognise that resources for many services are stretched and call on the Department for Communities and Local Government and the Department of Health to review the funding of mental health services for homeless people with a view to maximising their effectiveness at helping people out of homelessness as early as possible. We therefore call on the Government to produce a detailed action plan on how it intends to address the mental health needs of homeless people, including the delivery of outreach support to rough sleepers and assessing the vulnerability of applicants for homeless support. We see this as a priority for the cross-Departmental Ministerial Working Group and will be seeking an update in twelve months' time.⁵⁹

Monitoring authorities' performance

In addition to concerns about variable performance of their statutory homelessness duties, the Panel established by Crisis found that the

⁵⁸ [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 40

⁵⁹ *Ibid.*, para 76

mechanisms for enforcing the homelessness legislation are “relatively weak.”⁶⁰ The Panel pointed to the lack of a regulator of authorities’ housing and homelessness services which makes it “difficult to ensure that, beyond individual recourse to the law, the legislation is working as intended.”⁶¹ The CLG Select Committee recommended additional monitoring:

We therefore call on the Government to monitor local authorities in order to promote best practice, to identify authorities which are not meeting their statutory duties and implement a code of practice to which local authorities should adhere. We will continue to monitor the work of local authorities and will return to the issue in twelve months and may consider commissioning independent research of local authority practises.⁶²

The use of B&Bs and out-of-borough temporary accommodation

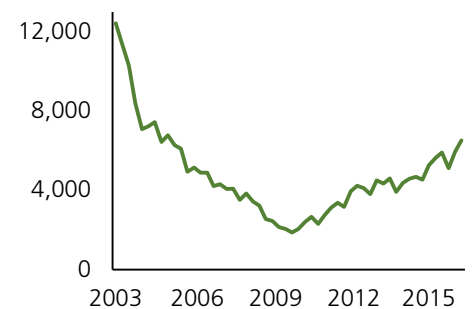
Where an authority is providing interim accommodation for a homeless household pending a decision on their application under section 188 of the 1996 Act, the Code of Guidance states that the use of B&B accommodation should be avoided where possible:

Housing authorities should avoid using Bed&Breakfast (B&B) accommodation wherever possible. Where B&B accommodation has been used in an emergency situation, applicants should be moved to more suitable accommodation as soon as possible. The *Homelessness (Suitability of Accommodation) (England) Order 2003* provides that B&B accommodation is not suitable accommodation for families with children and households that include a pregnant woman unless there is no alternative accommodation available and then only for a maximum of six weeks.⁶³

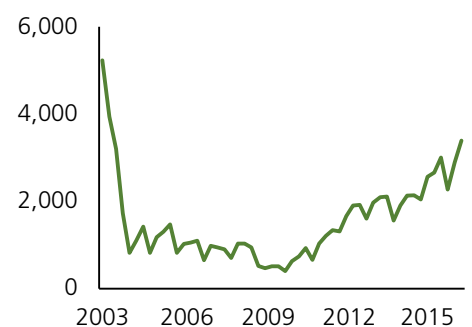
The National Housing Federation in [Homeless Bound?](#) (November 2012) referred to the need to monitor the length of time that children are spending in B&B accommodation given the 200% increase in numbers placed in this type of accommodation over 2010/12.⁶⁴

The official statistics demonstrate the increased difficulties local authorities are facing in moving on homeless households from B&B-style accommodation. Of the 58,180 households with children and/or a pregnant woman placed in temporary accommodation at the end of June 2016, 3,390 were in B&B-style accommodation - an increase of 28% on the same date in 2015. Of these 3,390 households, 1,410 had been in B&B-style accommodation for six or more weeks. This represents an increase of

Households in B&B-style accommodation, England



Families with children resident in B&B-style accommodation for 6+ weeks, England



Source: DCLG Live Table 775

⁶⁰ [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#), April 2016, p33

⁶¹ Ibid.

⁶² [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 50

⁶³ DCLG, [Homelessness Code of Guidance for Local Authorities](#), July 2006, para 7.6

⁶⁴ [Homeless Bound? NHF, November 2012](#)

29% compared with the end of June 2015 when the number was 880.⁶⁵

A further indication of the level of pressure that authorities, particularly in high demand areas, are under is provided by the rise in the number of households placed in temporary accommodation in another authority's area. Of the 73,120 households in temporary accommodation on 30 June 2016, 20,660 (28%) were in accommodation in another local authority's district. This is an increase of 17% from 17,640 at the same date in 2015.⁶⁶

The then Housing Minister met with 18 London authorities reporting high homelessness numbers, including households in temporary accommodation, on 4 December 2012. Representatives of the local authorities highlighted the following challenges:

- difficulties in procuring private rented housing at affordable rates;
- private landlords less inclined to lease properties to councils or let to tenants in receipt of Local Housing Allowance as they have access to alternative tenants willing to pay higher rents.⁶⁷

In oral evidence to the CLG Select Committee's consideration of the *draft Homelessness Reduction Bill*, senior local authority officers from Camden, South Cambridgeshire and Brighton and Hove advised that there was virtually no affordable accommodation, aside from social housing, within their local authorities that they could secure for homeless households.⁶⁸

⁶⁵ DCLG Statistical Release, 28 September 2016, [Statutory Homelessness](#), 2nd Quarter 2016 - England

⁶⁶ Ibid.

⁶⁷ DCLG, Homelessness Roundtable, 4 December 2012

⁶⁸ [HC 653, 5 September 2016](#)

5. Government policy

Following the 2010 General Election the new Minister for Housing, Grant Shapps, said he would "do all he could to safeguard homelessness funding in the face of tough economic times."⁶⁹

Department for Communities and Local Government's (DCLG) business plan (November 2010) included a mission to "oversee housing and homelessness policy in England to meet the aspirations of a growing and ageing population and support the most vulnerable and disadvantaged in communities."⁷⁰

A cross-departmental working group of Ministers from eight different Government Departments was established to help address the problems which cause people to lose their home.⁷¹ The early work of this group focused on tackling rough sleeping rather than statutory homelessness. March 2015 saw publication of [Addressing complex needs: improving services for vulnerable homeless people](#), which summarised the work of the group since its inception in 2010. Publication of this report was accompanied by a detailed [Written Statement](#) from the Housing Minister, Kris Hopkins, which detailed action taken by the Coalition Government to tackle homelessness.⁷²

The current Government has appointed Marcus Jones to head up the homelessness brief at the DCLG. The Ministerial working group has been reconvened. On 17 December 2015 a "radical package of measures" was announced to tackle homelessness.⁷³ Several measures mark a continuation of the approach adopted by the Coalition Government and are aimed specifically at rough sleepers, but the inclusion of a reference to potential legislation to reduce homelessness was new:

- maintaining and protecting homelessness prevention funding for local authorities, through the provisional local government finance settlement totalling £315 million by 2019 to 2020
- increasing central government funding for homelessness programmes to £139 million over the Spending Review period
- a commitment to work with homelessness organisations and across departments to consider options, including legislation, to prevent more people from becoming homeless

⁶⁹ DCLG Press Release, *Rough sleeping hits 11-year low*, 15 July 2010

⁷⁰ DCLG Business Plan 2011-2015, November 2010, p3

⁷¹ The minutes of the meetings can be found on the [DCLG website](#) [accessed on 2 July 2015]

⁷² Kris Hopkins, [Written Statement](#), 26 March 2015

⁷³ DCLG, [Radical package of measures announced to tackle homelessness](#), 17 December 2015

- £40 million from the Department of Health to refurbish hostels and provide low cost shared accommodation for young people at risk of homelessness
- £30 million extra to councils to give them more control and flexibility over homelessness budgets by devolving the funding for managing temporary accommodation from 2017 to 2018
- a £5 million fund to the 25 local authorities facing the greatest pressures in moving people out of temporary accommodation and into a settled home.⁷⁴

Further measures to tackle rough sleeping were included in [Budget 2016](#):

To further support rough sleepers off the streets and to help those who are recovering from a homelessness crisis, Budget 2016:

- invests £100 million to deliver low-cost 'second stage' accommodation for rough sleepers leaving hostel accommodation and domestic abuse victims and their families moving on from refuges. This will provide at least 2,000 places to enable independent living for vulnerable households and individuals, freeing up hostels and refuges for those in most acute need;
- invests £10 million over two years to support and scale up innovative ways to prevent and reduce rough sleeping, particularly in London, building on the success of the No Second Night Out initiative;
- doubles the funding for the [Rough Sleeping Social Impact Bond](#) announced at the Autumn Statement 2015 from £5 million to £10 million, to drive innovative ways of tackling entrenched rough sleeping, including 'Housing First' approaches;
- takes action to increase the number of rough sleeping EU migrants returning to their home countries. Building on the success of the Operation Adoze pilot, the government will roll out a new approach in which immigration officials work with Local Authorities and outreach workers to connect rough sleepers to services that can return them home.

In October 2016 DCLG announced a £20 million homelessness prevention trailblazers scheme, under which grant funding will be given to local authorities trying "new, innovative" approaches to prevent people becoming homeless before they lose their home. The prospectus states that the Government wants "to put prevention at the heart of this approach to reduce the number of people who face a homelessness crisis in the first place."⁷⁵ The prospectus also lists other funding and schemes the Government is supporting:

As part of meeting this ambition, the government is making available £40m to prevent and tackle homelessness and rough

⁷⁴ DCLG, [Radical package of measures announced to tackle homelessness](#), 17 December 2015

⁷⁵ DCLG, [Homelessness Prevention Trailblazers](#), October 2016

sleeping. This will be available across two programmes and three separate funds:

- A prevention programme including a £20m Trailblazer fund running in 2016/17, 2017/18 and 2018/19 to establish a network of ambitious areas across England to work with **all eligible households**, whether in priority need or not to prevent them becoming homeless as early as possible;
- And a rough sleeping programme including a £10 million rough sleeping fund, running in 2016/17, 2017/18 and 2018/19, to help **new rough sleepers, or people at imminent risk of sleeping rough**, get the rapid support they need to recover and move-on from their homelessness; and
- £10 million of outcomes funding for Social Impact Bonds, running in 2017/18, 2018/19, 2019/20 and 2020/21, to support the **most entrenched rough sleepers**.⁷⁶

The two rough sleeping funds, for which bidding guidance has also been published, were announced during Budget 2016.

The Government is also supporting the development of 400,000 affordable homes up to 2020:

Housing associations have ambitious plans to increase their housing stock over the next few years. The Government is supporting this with £8 billion of funding to deliver over 400,000 affordable homes. This will extend the opportunity of home ownership to more hard working families, including key workers, through measures aimed at doubling the number of first time buyers. The funding prospectus for the new Shared Ownership and Affordable Homes Programme was published on Wednesday 13 April.

The voluntary Right to Buy between the Government and the housing association sector will give another 1.3 million families the chance to purchase a home at Right to Buy level discounts. Homes sold to tenants under this agreement will be replaced on a one for one basis using the proceeds from the sale of the property.⁷⁷

⁷⁶ DCLG, [2016/20 Homelessness Prevention Trailblazers Prospectus – bidding guidance](#), October 2016

⁷⁷ [Written Question 33503 – 12 May 2016](#)

6. Pressure for change

On 17 December 2015, the Government said it would work with homelessness organisations and across government departments “to explore options, including legislation, to prevent more people from facing a homelessness crisis in the first place.”⁷⁸

6.1 The Welsh experience

Both Wales and Scotland have legislated to extend coverage of the statutory framework for tackling homelessness.⁷⁹ In Scotland there is now a statutory duty on local authorities to find permanent accommodation for all applicants who are unintentionally homeless or threatened with homelessness.

The homelessness provisions of the [Housing \(Wales\) Act 2014](#) came into force on 27 April 2015.⁸⁰ This Act extended local authorities’ duties to prevent and relieve homelessness.

The 2014 Act treats differently those assessed as homeless and those threatened with homelessness (likely to become homeless within 56 days). For applicants threatened with homelessness, the local authority has a *duty* to prevent them from becoming homeless.

Local authorities in Wales have a duty to help secure accommodation for *all* applicants assessed as homeless for a period of 56 days (or fewer if they feel reasonable steps to secure accommodation have been taken). After this period, the local authority only has a continuing duty to secure accommodation for those in priority need who have not become homeless intentionally (where an authority chooses to apply a test of intentionality).

There is also an interim duty to secure accommodation if an authority has reason to believe that an applicant is eligible, homeless and in priority need pending a full assessment of their circumstances.

The Welsh provisions are focused on getting local authorities, in partnership with other relevant bodies, to prevent and relieve homelessness wherever possible. It was intended that the legislation would result in:

- fewer households experiencing the trauma of homelessness
- better, more targeted, prevention work
- increased help, advice and information for households who receive limited assistance under the current legislation

⁷⁸ DCLG, [Radical package of measures announced to tackle homelessness](#), 17 December 2015

⁷⁹ Information on the different approaches can be found in Library briefing paper 07201: [Comparison of homelessness duties in England, Wales, Scotland and Northern Ireland](#), November 2015

⁸⁰ With the exception of provisions on intentionality which came into force on 1 July 2015.

- more focus on the service user, helping them to address the causes of homelessness and make informed decisions on finding solutions to their housing problem
- more effective use of the private rented sector as a solution to homelessness
- a stronger emphasis on co-operation and multi-agency working
- greater protection provided for children in households who are homeless or threatened with homelessness as well as additional help for children leaving care.⁸¹

The new duties in Wales were introduced after an extensive period of consultation and preparation. The Assembly Government began to develop a 10 year Homelessness Plan, with the aid of an external working group, in 2007. The [Ten Year Homelessness Plan for Wales](#) was published in 2009. The Welsh Government also made additional funding and support available to local authorities in order to assist them in fulfilling their new statutory obligations. The Welsh Government's evidence to the CLG Select Committee said:

Additional funding was provided to Local Authorities to support the transition to the new legislation (provided for the first three years, however, reducing year on year)... In addition, a national training programme for front line staff was developed in partnership with Shelter Cymru and the Welsh Local Government Association. More than 600 people were trained, and this was supplemented by regional events which brought together Local Authority, Housing Association and Voluntary Sector staff for joint learning on the legislation and its implementation.⁸²

Statistics covering the first full year of implementing the new statutory provisions in Wales indicate some success in the prevention of homelessness. The key points are reproduced below:

- During 2015-16, a total of 7,128 households were assessed as threatened with homelessness within 56 days and for 4,599 households (65 per cent) homelessness was successfully prevented for at least 6 months.
- A total of 6,891 households were assessed as being homeless and owed a duty to help secure accommodation during 2015-16. Of these, 3,108 households (45 per cent) were helped to secure accommodation that was likely to last for 6 months, following intervention by the local authority.
- During 2015-16, 1,563 households were assessed to be unintentionally homeless and in priority need and qualified for the duty to have accommodation secured for them. Of these, 1,245 (80 per cent) households accepted an offer of permanent accommodation.⁸³

The statistics have been welcomed as a clear indication of a successful shift to prevention and relief activity. The CLG Select Committee

⁸¹ [Welsh Government website](#) [accessed on 27 April 2015]

⁸² [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 103

⁸³ [Homelessness Statistics Wales 2015-16](#), August 2016 [note that there are some limitations with the accuracy of the data collected as the new duties bed-in]

questioned the Minister, Marcus Jones, on the Government's view of the Welsh approach, he said:

I would say that the initial evidence shows that what they are doing in Wales looks promising. However, we need to see the data over a period to make sure that that data backs up what is promising evidence. We are certainly not ruling out looking at legislation and how that could change but we want to see how the data pans out and how it really works in Wales.⁸⁴

6.2 Independent Panel of Experts

As noted earlier in this paper, in summer 2015 Crisis established an Independent Expert Panel (the Panel) to consider the strengths and weaknesses of the current homelessness legislation in England. The Panel identified a number of problems with the existing statutory framework in England (see section 4 of this paper) and concluded that the case for reform was strong.

The Panel favoured changes to place more emphasis on preventative work within a statutory framework, particularly in relation to single people and childless couples. Aspects of the proposals reflect the approach already adopted in Wales. The annex to [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#) included suggested amendments to the *Housing Act 1996*. Specifically, the Panel recommended a new legislative model to:

- place a stronger duty on local authorities to help to prevent homelessness for all eligible applicants regardless of priority need status, local connection or intentionality;
- extend the definition of threatened with homelessness from 28 to 56 days to provide local authorities with more flexibility to tackle homelessness at a much earlier stage; and
- place a new relief duty on local authorities requiring them to take reasonable steps to help to secure accommodation for all eligible homeless households who have a local connection.⁸⁵

In [No One Turned Away](#) (2016) Crisis highlights the cost of failing to prevent homelessness in terms of higher support needs including: unemployment; mental health problems; drug or alcohol dependency; and time spent in prison.⁸⁶

⁸⁴ [CLG Select Committee. Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 105

⁸⁵ [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#), April 2016, p20

⁸⁶ Crisis, [No One Turned Away](#), 2016, pp22-24

6.3 CLG Select Committee inquiry: Homelessness

The Committee launched its inquiry into homelessness in December 2015 in response to evidence that homelessness, particularly rough sleeping, was increasing.

The Committee concluded that the service offered to homeless non-priority need applicants is “unacceptably variable.” The Committee is supporting the *Homelessness Reduction Bill* and has called on the Government to support the Bill and introduce statutory monitoring of local authority housing departments “to ensure they meet the requirements of a revised Code of Guidance that outlines service levels to ensure that every homeless person receives the support they need.”⁸⁷

In addition, the Committee called for a “renewed cross-Departmental strategy” to tackle homelessness:

On the strength of what we have learned throughout our inquiry, we have concluded that the scale of homelessness in this country is such that a renewed, cross-Departmental Government strategy is needed. We agree with Howard Sinclair, Chief Executive of St Mungo’s, that “Homelessness is everyone’s issue and it is not inevitable”. All Departments need to contribute to the ending of homelessness by subscribing to a common approach. We will revisit many aspects of our report in twelve months’ time to see what progress has been made.⁸⁸

⁸⁷ [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016, para 107

⁸⁸ [CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40](#), August 2016

7. The Homelessness Reduction Bill

Bob Blackman drew second place in the Private Members' Bill Ballot and introduced the [Homelessness Reduction Bill 2016-17](#) on 29 June 2016. The CLG Select Committee took evidence on the draft Bill ahead of formal publication. While supportive of the Bill's aims, the Committee recommended some significant amendments.⁸⁹ The final version of the Bill is substantially different from the draft considered by the Committee. Several provisions have financial implications for local authorities for which a money resolution will be required.

Government expressed sympathy with the draft Bill's aims and then confirmed that it would support the amended Bill's progress through Parliament on 24 October.

The Bill is seeking to amend Part 7 of the *Housing Act 1996*.

Mr Blackman set out the following reasons for introducing the Bill:

- Homelessness legislation should serve as a central means to prevent people from losing their home, as well as being an important safety net to protect some of the most vulnerable people in our society, but at the moment many councils are not engaging at an early enough stage to prevent homelessness.
- Single homeless people who go to their councils for help in England are often turned away because they are not considered a 'priority' and this forces many into rough sleeping.
- There are large disparities in the way councils are responding to the challenge of helping those who are homeless or threatened with homelessness, leading to a postcode lottery of service provision across England.
- Both Scotland and Wales have introduced new legislation in recent years to address the longstanding lack of support for single people.⁹⁰

7.1 The Bill

Meaning of homelessness and threatened homelessness (clause 1)

Clause 1(2) of the Bill would amend section 175 of the 1996 Act to insert several new subsections (3A) to (3G). The aim of these subsections is to regulate the circumstances in which a local authority can require an assured shorthold tenant to remain in situ after having

⁸⁹ [CLG Select Committee, Fifth Report of Session 2016-17, The draft Homelessness Reduction Bill, HC 635](#), 14 October 2016

⁹⁰ Homelessness Reduction Bill – in brief, October 2016

received a valid notice of seeking possession under section 21⁹¹ or section 8⁹² of the *Housing Act 1988*.

Where the authority believes that the landlord intends to seek possession and has not asked, in accordance with new subsections (3D) or (3E), the applicant and persons with whom they reside or might reasonably be expected to reside, to continue to occupy their rented accommodation, then the authority will be under a duty to treat the applicant as homeless 'after the relevant day.' The relevant day is defined in new subsection (3B) as:

- The day before the day specified in a section 8 notice as the earliest day on which proceedings for possession will begin.
- The day on which a section 21 notice expires.

Subsections (3D) and (3E) set out requirements that an authority may fulfil if, after being served with a section 8 or section 21 notice, an applicant for homelessness assistance is being asked to remain in situ after the relevant date (as defined in subsection (3B)). These requirements include:

- the authority considers that it is reasonable for the applicant and other relevant persons to remain in the accommodation; and
- the authority considers that there is a reasonable prospect that if the landlord begins possession proceedings under section 7 of the 1988 Act (in respect of a section 8 notice) that they will be discontinued by the landlord or the defendant will successfully defend the proceedings; or
- the authority has taken reasonable steps to try to persuade the landlord to withdraw the notice or delay applying for an order for possession.

Subsection (3F) sets out the factors that an authority will be required to take into account when deciding whether it is reasonable for an applicant and other relevant persons to remain in occupation after the relevant day for the purposes of subsections (3D)(a) and (3E)(a).

Authorities will be obliged to consider the likely consequences (financial or otherwise) for the recipient (of the notice), and any other relevant people, of them ceasing to have accommodation after the relevant day and also of them remaining in the accommodation after the relevant day. The consequences of any decision must also be considered for the landlord. Where a section 8 notice has been served, the authority will have to consider the likelihood of the landlord discontinuing possession proceedings or the tenant's chances of successfully defending the proceedings. An authority will also have to consider the likelihood of

⁹¹ A section 21 notice is often described as a 'no fault' notice. A landlord can terminate an assured shorthold tenancy (AST) without giving a reason (e.g. establishing any fault on the part of the tenant) after the end of a fixed term, or at any time if there is no fixed term, by serving a 2 month section 21 notice. If the tenant does not move out the landlord must apply for a court order.

⁹² A section 8 notice can be served at any time in order to terminate an AST. It can be used where the tenant is in breach of the tenancy, e.g. by failing to pay the rent.

persuading the landlord to withdraw the notice or delay possession proceedings and take account of 'any other relevant considerations.'

Subsection (3G) provides that it will not be reasonable for a person to occupy accommodation if by doing so they would be in breach of a court order.

Subsection 1(3) would amend subsection 175(4) of the 1996 Act to extend the period during which a person should be treated as threatened with homelessness from 28 to 56 days. The aim is to give local authorities a longer period within which to try to prevent homelessness after receiving a request for assistance.

Comment

Detailed background on the problem that clause 1 is trying to resolve can be found in Library briefing paper 06856: [Applying as homeless from an assured shorthold tenancy \(England\)](#).

When an English local authority is approached for assistance by a household that has been served with a notice of the landlord's intention to seek possession under section 21 of the *Housing Act 1988*, it is not unusual for the household to be told to remain in situ until a court order/bailiff's warrant has been obtained. Authorities might advise these households that an application for homelessness assistance under Part 7 of the *Housing Act 1996* (as amended) will not be considered before a court order/bailiff's warrant has been issued.

Despite the fact that assured shorthold tenants are rarely able to defend eviction proceedings taken under section 21, authorities argue that they use the period during which the landlord is required to seek a court order to carry out prevention work, for example:

We have case studies where effective prevention work at these critical stages keeps tenants in their homes and we have identified that over the last couple of months, tenants in Westminster present to us at various stages of the possession process where we have been able to offer a defence to possession proceedings. Furthermore, the change may have many unintended consequences – these changes may actually incentivise more landlords to end tenancies at an earlier point, leading to higher levels of homelessness. Where a local authority can demonstrate that there is a reasonable defence to possession action, it should be able to assist the applicant in their defence against possession to remain in the property. For new legislation to insist that the authority provides accommodation and the tenant moves out could undermine the tenant's rights.⁹³

Organisations representing homeless people argue that requiring households to wait for a bailiff's warrant creates more uncertainty and instability and can render tenants liable for the landlord's court costs. Private landlords argue that forcing them to obtain court orders to evict these tenants means that they are less likely to offer tenancies to more vulnerable households. There is evidence to suggest that some authorities have adopted a blanket policy of requiring all assured

⁹³ [Westminster City Council - written evidence](#), October 2016

shorthold tenants to await a court order/bailiff's warrant before triggering the homelessness duties owed under the 1996 Act.⁹⁴

The [Code of Guidance](#) for local authorities provides advice on how authorities should treat applications from private tenants who are facing possession proceedings:

Each case must be decided on its facts, so housing authorities should not adopt a general policy of accepting – or refusing to accept – applicants as homeless or threatened with homelessness when they are threatened with eviction but a court has not yet made an order for possession or issued a warrant of execution.⁹⁵

The then Housing Minister, Brandon Lewis, wrote to all local authority CEOs in June 2016 to draw attention to the existing guidance, he said: "Unless a local authority has very good reason to depart from the statutory guidance then they should not be placing households in this position."⁹⁶

The effect of clause 1 of the Bill is to effectively incorporate the advice contained in chapter 8 of the [Code of Guidance](#) in legislation. The clause has been substantially amended from the initial provisions contained in the draft Bill. As originally drafted, the clause would have required authorities to treat all applicants served with a section 21 notice as homeless from the expiry date of the notice. Local authorities were strongly opposed to this on the grounds that it would undermine their ability to prevent homelessness.⁹⁷

The extension of the period during which applicants should be treated as threatened with homelessness from 28 to 56 days is generally supported. Some witnesses giving evidence to the CLG Committee's inquiry thought that the extension could underline a preventative approach to homelessness "rather than intervening at the point of crisis."⁹⁸ Others, representing local authorities, indicated that the extension would not make much difference where authorities already begin their preventative work at the earliest possible stage.⁹⁹

Duty to provide advisory services (clause 2)

Clause 2 would substitute section 179 of the 1996 Act with a new section.

Local authorities are already under a general duty to ensure that advice and information about homelessness, and preventing homelessness, is available to everyone in their district free of charge. The new section 179 would expand on this duty by setting specific service standards, particularly in relation to preventing homelessness, and requiring the provision of a service to meet the needs of certain groups including:

- persons released from prison or youth detention;

⁹⁴ [14 Sep 2016 - Scrutiny of Homelessness Reduction Bill - oral evidence](#), Q53, pp6-7

⁹⁵ DCLG, [Homelessness Code of Guidance for Local Authorities](#), 2006, para 8.32

⁹⁶ Brandon Lewis letter to all CEOs English local authorities, June 2016

⁹⁷ For example: [Harrow Council - written evidence](#), October 2016

⁹⁸ [05 Sep 2016 - Scrutiny of Homelessness Reduction Bill - oral evidence](#), Q3, p4

⁹⁹ *Ibid.*, Q25, p20

- care leavers;
- former members of the regular armed forces;
- persons leaving hospital;
- victims of domestic abuse;
- persons suffering from mental illness; and
- any other groups identified as at particular risk of homelessness within the authority's area.

Subsection 179(5) defines certain terms, including care leavers and domestic abuse for the purposes of subsection 179(2).

Comment

This clause is similar to that considered by the Committee. As with clause 1, it introduces into legislation much of the existing good practice set out in the [Code of Guidance](#) to which authorities must have regard when carrying out their duties under Part 7 of the 1996 Act. The CLG Committee welcomed the strengthening of the duty to provide advice on preventing homelessness and signposting other help that might be available. The Committee recommended the inclusion of those at risk of domestic violence and abuse as a specific group whose needs should be taken into account when providing homelessness services.¹⁰⁰

Duty to assess all eligible applicants' cases and agree a plan (clause 3)

Clause 3 would introduce a new section 189A into the 1996 Act to give authorities a duty to assess every eligible applicant's case and use the information to try to agree a personalised plan setting out the steps the applicant and the authority is required to take to ensure accommodation is secured and/or retained.

Agreements must be recorded in writing. Where there is a failure to agree, the authority will be required to record why agreement could not be reached and any steps considered reasonable for the applicant and the authority to take to ensure accommodation is secured and/or retained. Applicants will be supplied with copies of any written records under subsections 189(5) or (6).

Assessments and agreements must be kept under review by the authority until it is considered that no duty under Part 7 is owed to the applicant. Applicants will have to be notified of any changes to the assessment of their case or the agreement reached in writing. This notification process will be deemed to be fulfilled if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.

Where an authority deems an applicant to be intentionally homeless under section 190, they will be required to take account of the

¹⁰⁰ [CLG Select Committee, Fifth Report of Session 2016-17, The draft Homelessness Reduction Bill, HC 635](#), 14 October 2016, para 16

assessment carried out under new section 189A when providing advice and assistance.

Comment

Authorities already have a duty to carry out inquiries when someone makes an application for assistance and the authority has reason to believe that they are homeless or threatened with homelessness. This assessment necessarily includes finding out how and why the homelessness arose, and whether or not the applicant is in priority need. Chapter 6 of the [Code of Guidance](#) provides advice for authorities on the conduct of inquiries.

In practice, as evidence submitted to the CLG Committee's inquiry into homelessness demonstrated, a number of authorities do not carry out detailed inquiries in all cases. Applicants who appear not to fall into a priority need category can be turned away with no, or limited, assistance:

In our homelessness inquiry we heard from people with first-hand experiences of approaching their local authority for support that too often they had been met with indifference because they were not in priority need. Financial pressures and increasing burdens on councils make it understandable that efforts are focussed on the most vulnerable. However this has led to many people not receiving adequate support or guidance.¹⁰¹

Thus this provision will strengthen the duty on authorities to assess the housing requirements of all homeless applicants and to consider how their needs might be met.

In supporting the new 'duty to assess' the Committee recognised that this would raise significant resourcing issues for authorities and called on DCLG to ensure that the costs of new burdens are "fully taken into account in future funding and in arrangements for the 100% retention of business rates by local authorities".¹⁰²

The Association of Housing Advice Services submitted the results of research into the additional caseloads that a new duty to develop Personal Housing Plans (as described in the draft Bill) would add to authorities' workloads in five London boroughs:

- South inner London borough – 10,145
- West outer London borough – 1,103
- North outer London borough – 8,340
- Central London borough – 1,779
- East inner London borough – 7,581¹⁰³

Evidence submitted by local authorities expressed concerns about the cost of personalised assessments and plans:

¹⁰¹ Ibid., para 23

¹⁰² Ibid., para 26

¹⁰³ [Association of Housing Advice Services \(AHAS\) - written evidence](#), October 2016

The duty to provide a personal housing plan puts additional pressure on us as a local authority.¹⁰⁴

Duty in cases of threatened homelessness (clause 4)

Clause 4 would substitute section 195 of the 1996 Act. The new section 195 would place a duty on authorities to take reasonable steps to prevent homelessness for all eligible applicants threatened with homelessness. Currently, a lesser duty is owed to those deemed to be threatened with homelessness intentionally and those deemed not to be in priority need.

The steps taken to prevent homelessness will be informed by the duty to assess set out in clause 3.

Subsection 195(7) sets out the circumstances in which an authority's duty to prevent homelessness may be brought to an end by the service of a written notice (setting out the applicant's right to seek a review of the decision).

Section 196 of the 1996 Act, which sets out authorities' duties to those threatened with homeless intentionally, would be deleted.

Consequential amendments would be made to sections 195A, 184, 204 and 218.

Comment

The new section 195 is seeking to focus local authorities' attention on the prevention of homelessness for all eligible applicants. As originally drafted this clause included a duty on applicants to co-operate with local authorities – this provision is now contained in clause 7 (see below).

The provisions would strengthen the duty on local authorities to intervene and assist applicants threatened with homelessness even if they are not in priority need.

Duties owed to those who are homeless (clause 5)

Clause 5 would insert a new section 189B into the 1996 Act to place a new duty on local authorities to relieve homelessness. The duty would be owed to all eligible homeless applicants unless the authority is referring the applicant to another authority under section 198(A1). The duty would involve taking reasonable steps to help the applicant to secure suitable accommodation over a period of 56 days.

Decisions about reasonable steps would be informed by the duty to assess under section 189A.

Homelessness applicants in priority need would be entitled to be placed in interim accommodation for the duration of the relief duty (section 189B (4)).

Subsection 189B (7) sets out the circumstances in which an authority's duty to relieve homelessness may be brought to an end by the service of a written notice which must set out the applicant's right to seek a review of the decision. The duty under 189B (2) would end after 56

¹⁰⁴ [05 Sep 2016 - Scrutiny of Homelessness Reduction Bill - oral evidence](#), Q25, p20

days whether or not the applicant has secured accommodation, although there would be continuing duties to those in priority need.

Consequential amendments would be made to other sections in the 1996 Act and a new section 199A would be inserted to clarify duties owed where an applicant's case is considered for referral to another local authority under section 198(A1).

Comment

This clause would mark an extension of local authorities' duties to relieve homelessness for eligible applicants who are not in a priority need group. Authorities would have to take steps to assist applicants in securing accommodation for a period of 56 days. There would be no duty on the authority to actually source and secure accommodation itself but those in priority need will be entitled to interim accommodation. The type of help an authority might provide to relieve homelessness could be "a rent bond or mediation to help keep young people at home with their parents."¹⁰⁵

Duties to help secure accommodation (clause 6)

Clause 6 would amend section 205 of the 1996 Act to make it clear that the duty to secure accommodation is available for occupation under this section would not include new duties introduced by new sections 189B(2) and 195(2).

Deliberate and unreasonable refusal to co-operate (clause 7)

Clause 7 would insert a new section 193A into the 1996 Act to provide that where a local authority owes a duty to prevent or relieve homelessness under sections 189B(2) or 195(2), a notice may be served on the applicant advising that they are considered to have deliberately and unreasonably refused to co-operate with the authority. The notice would explain why the authority has reached this decision and the effect of the notice. The applicant would have a right to request a review of the decision.

Prior to serving a notice, the authority would have to have warned the applicant and a reasonable period would have to have elapsed since the warning.

Before serving a warning notice, or final notice the authority would have to have regard to the applicant's circumstances and needs. The Secretary of State would have a regulation making power to set out a procedure for the service of notices under this section.

A new section 193B would set out the consequences of receipt of a notice under section 193A. The local authority's duty under section 189B (2) or 195(2) would end. There would be a continuing duty to eligible applicants who are unintentionally homeless and in priority need to secure that accommodation is available for their occupation, but these applicants would not be owed a main homelessness duty under

¹⁰⁵ Homelessness Reduction Bill Briefing, October 2016

section 193. As a minimum, applicants in this position would have to be offered an assured shorthold tenancy of at least six months.

Subsections 193B (5) and (6) set out the circumstances in which an authority's duty to secure accommodation for priority need applicants who have failed to co-operate will end; for example, where they cease to be eligible for assistance or accept an offer of a tenancy from a private landlord.

Comment

As originally drafted there were some concerns that the requirement on an applicant to co-operate with the local authority would make it easier for them to be deemed to be intentionally homeless, particularly vulnerable applicants. The Committee called on the relevant clause to be redrafted "to ensure that the protections for vulnerable people in priority need are not weakened."¹⁰⁶ Local authority evidence to the Committee's consideration of the draft Bill welcomed the inclusion of a duty to co-operate, for example:

Sometimes people's expectations are not realistic about what is deliverable. As we have already said, by having that frank conversation at the beginning we can try to offer realistic solutions by listening on both parts. However, applicants have to understand that a housing authority cannot make houses appear out of nowhere. There has to be some recognition of the challenges that a local authority faces and a responsibility for doing as much as you can to safeguard your own accommodation. It is very much a partnership.¹⁰⁷

The redrafted provision would prevent a local authority from discharging their duty towards an unintentionally homeless applicant in priority need as a result of a failure to co-operate without at least offering an assured shorthold tenancy in the private rented sector for at least six months.

Local connection (clause 8)

Clause 8 would add new subsections to section 199 of the 1996 Act to clarify the circumstances under which care leavers should be treated as having a local connection with a local authority.

Mr Blackman's briefing on the Bill states that this will correct an anomaly in the current legislation.¹⁰⁸

Reviews (clause 9)

Clause 9 would amend section 202 of the 1996 Act to add a right to request a review in respect of some of the new duties introduced by the Bill. For example, the steps an authority intends to take under the duty to prevent or relieve homelessness, and a decision to serve notice on grounds that the applicant has deliberately and unreasonably refused to co-operate with the authority in fulfilling those duties.

¹⁰⁶ [CLG Select Committee, Fifth Report of Session 2016-17, The draft Homelessness Reduction Bill, HC 635](#), 14 October 2016, para 40

¹⁰⁷ [05 Sep 2016 - Scrutiny of Homelessness Reduction Bill - oral evidence](#), Q21

¹⁰⁸ Homelessness Reduction Bill Briefing, October 2016

Duty of public authority to refer cases to local housing authority (clause 10)

Clause 10 would insert a new section 213B into the 1996 Act to place a duty on a specified public authority to refer a person to a local authority in England if they consider that the person may be homeless or threatened with homelessness, after having obtained the person's consent.

Specified public authorities would be set out in regulations made by the Secretary of State.

Comment

This new duty to refer was not in the draft Bill. Mr Blackman's briefing on the Bill states that it will "compel public services to notify a local housing authority if, in the course of carrying out their duties, they come into contact with a member of the public who they think may be homeless or at risk of becoming homeless."¹⁰⁹

Codes of practice (clause 11)

Clause 11 would add a new section 214A to the 1996 Act which would give the Secretary of State power to issue codes of practice in relation to the performance of authorities' homelessness duties.

The matters a code of practice may cover could include the training of local authority homelessness staff and monitoring by authorities of the exercise of their homelessness functions. A code of practice may apply to all or just some local authorities.

Authorities will be obliged to have regard to a code of practice issued under this section in exercising their homelessness duties.

Comment

Local authorities are already required to have regard to a statutory Code of Guidance when carrying out their duties under Part 7 of the 1996 Act. The current [Code of Guidance](#) was last updated in 2006. Evidence submitted to the CLG Committee's scrutiny of the draft Bill indicated general support for a revised and updated Code. Some witnesses were concerned to ensure that the contents of the existing, and any new Code, would be enforced:

Homeless Link thinks the focus should be on ensuring that any current or updated guidance is followed correctly. Our members are more concerned about ensuring implementation of what is in place rather than any large-scale extension. Feedback has been that the Code of Guidance is not always followed and homelessness agencies have struggled to know how to respond to this.¹¹⁰

The Committee supported calls for a new Code of Practice:

¹⁰⁹ Ibid.

¹¹⁰ [CLG Select Committee, Fifth Report of Session 2016-17, The draft Homelessness Reduction Bill, HC 635](#), 14 October 2016, para 19

We welcome measures to address unacceptable levels of service at some local authorities: a code of practice for local authorities, alongside a clear explanation to applicants of the service levels they should expect to receive, need not be overly prescriptive, and could improve what is now an often hostile process.¹¹¹

Mr Blackman's briefing on the Bill states that any new codes would "sit alongside the current statutory Code of Guidance."¹¹²

Suitability of private rented sector accommodation (clause 12)

Clause 12 would amend Article 3 of the [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#) to require an authority to satisfy itself that the specific requirements set out in Article 3 are in place where it secures accommodation for vulnerable households under new sections 189B and 195B (the prevention and relief duties) in the private rented sector. It would also extend the suitability requirements to cover accommodation secured for an applicant as a 'final accommodation offer' under clause 7 (refusal to co-operate).

Accommodation would not be regarded as suitable if any of the requirements are not in place.

7.2 General comment and reaction

The local government response

As noted earlier, the final Bill has been substantially amended from the version considered by CLG Committee. A proposed duty to secure accommodation for all eligible homeless applicants with nowhere safe to stay for a maximum period of 56 days, did not survive into the final Bill. CLG Committee had suggested an amendment to "restrict the duty to those whose safety is at risk".¹¹³ Witnesses told the Committee that the duty would be unworkable:

This is one of the key areas. It is not workable due to the potential cost. We have done some research through AHAS to look at London local authorities and how that would work. We have done the analysis based on the current footfall for last year. We have discounted it by 30% for potential repeat visits and by another 30%, assuming a prevention rate of 30%, and used the net average TA [temporary accommodation] cost for eight weeks after housing benefit has been taken off. That comes to about £100 million for London based on the current figures. That does not include any new demand.¹¹⁴

The changes made to the Bill have led to reports that the Local Government Association (LGA) is now close to supporting it.¹¹⁵ There is overwhelming support in the sector for a preventative approach to homelessness, but those responding to the draft Bill stressed the need

¹¹¹ Ibid., p3

¹¹² Homelessness Reduction Bill Briefing, October 2016

¹¹³ [CLG Select Committee, Fifth Report of Session 2016-17, The draft Homelessness Reduction Bill, HC 635](#), 14 October 2016, p4

¹¹⁴ Ibid., para 42

¹¹⁵ *Inside Housing*, "Councils set to back new homelessness bill", 21 October 2016

for any strengthening of duties in this area to be backed by an appropriate financial settlement.

A great deal of evidence submitted to CLG Committee pointed out that a purely legislative response to homelessness would not deliver the desired outcomes. The LGA's submission on the draft Bill said:

Legislative change will only deliver on our ambitions if implemented as part of a coherent, workable, long-term national strategy for ending homelessness. A successful strategy would review the impact of national policy on homelessness trends and bring together local housing, health, justice and employment partners. It would also address the increasing gap between household incomes and rising rents and allow councils to protect and build more affordable homes.¹¹⁶

Some local authorities submitted suggestions for amendments to the homelessness legislation in responses to the Committee's earlier inquiry into homelessness, and also in response to the draft Bill. These suggestions include:

- amendments to legislation or Code of Guidance to make affordability the key factor to consider when placing or making offers to homeless households;
- lifting the restrictions on authorities when considering the suitability of out-of-borough placements/offers (this is particularly an issue in London);
- the ability to review decisions on homelessness cases if applicants' circumstances or needs change;
- introduction of a duty on applicants to co-operate with local authorities in fulfilling their duties. This is partially addressed by clause 7 of the Bill; and
- extending the ability of authorities to discharge their duties towards those owed a main housing duty by offering private rented accommodation to cases accepted before 9 November 2012.¹¹⁷

Funding

The implications for authorities of introducing new duties without adequate funding is tackled in the Committee's report on the draft Bill. Although the requirement to secure accommodation for all eligible applicants with nowhere safe to stay has been removed, the new duties to prevent and relieve homelessness, the strengthened duties in respect of those presenting as homeless from an assured shorthold tenancy, together with requirement to carry out assessments and review those assessments, will have funding implications. The Committee called on the Government to "complete its costing of the Bill before Second Reading and then to work with local authorities to develop a funding model that reflects local demand."¹¹⁸

¹¹⁶ [Local Government Association - written evidence](#), September 2016

¹¹⁷ The date on which the relevant provisions of the Localism Act 2012 came into force.

¹¹⁸ [CLG Select Committee, Fifth Report of Session 2016-17, The draft Homelessness Reduction Bill, HC 635](#), 14 October 2016, para 73

In [No One Turned Away](#) (2016) Crisis estimated that the cost of implementing the Welsh system of prevention and relief in England would be an additional £105.2 million. This would, Crisis suggests, be offset by a £93 million reduction in expenditure on the main homelessness duty.¹¹⁹ The report acknowledges that England's prevention work is more advanced than that in Wales and, therefore, that English authorities would not be starting from the same point. It is also acknowledged that no city in Wales is experiencing the challenges faced by London.¹²⁰

The Welsh approach

There is a good deal of scepticism amongst local authorities on whether the Welsh approach can be applied in England. This appears to have been taken on board as the final version of the Bill has moved further way from the Welsh model. Westminster Council's evidence to the Committee highlighted the extensive work that was carried out prior to implementation in Wales and the unique position of London:

We understand that the legislation incorporates many elements of the Welsh model, but goes further in some areas. It is instructive that the changes in Wales were part of a wider ten year homelessness strategy, prepared in active engagement with local authorities over the design and development of the new approach and included funding to cover the new duties. This approach has not been mirrored in the development of this draft Bill. There has been just one week from its publication for authorities to comprehensively consider the scale of its implications and submit written evidence to the Committee. The Bill contains major policy changes which need to be fully assessed, costed and their implications understood before moving towards legislative change. We lack any information about how national government might support implementation through funding or making changes to the benefits system (such as those recommended by the Committee) which makes it impossible to assess the ultimate effects. As such, this response provides early and indicative evidence as with more time, a more thorough and detailed analysis of potential impacts in Westminster will be carried out.

London faces unique challenges and has the biggest homelessness problem in the country. Therefore, in order to make the legislation work across the whole country, a model primarily based on the Welsh legislation cannot be directly transposed here without some consideration of the differing housing markets in different parts of the country. Alongside a wider and more long-term strategy for tackling homelessness, we would welcome a pilot of the proposed new approaches in London to further explore and test its application in the area of highest demand across the country. Westminster would be glad to participate in such a pilot; circumstances here are such that an approach that works here is likely to be effective more widely.¹²¹

Government support?

The Minister, Marcus Jones, gave evidence to CLG Committee and was pressed on whether the Government would support Bob Blackman's Bill. In response, the Minister welcomed the Committee's scrutiny of

¹¹⁹ Crisis, [No One Turned Away](#), 2016, p42

¹²⁰ *Ibid.*, p47

¹²¹ [Westminster City Council - written evidence](#), October 2016

the draft Bill and said “it is an important opportunity to consider the impact that legislation could have on reducing homelessness, and I am certainly very sympathetic to the aims of the Bill.” He went on:

We are keen as a Government to listen to the representations that are being made to this Committee, consider those in the context of the amendments that may be put by the Committee when the final report comes out in October, and then we will be able to make a reasoned and sensible judgment on the proposals that have been put forward.¹²²

The Secretary of State confirmed that the Government would support the Bill’s progress through Parliament during Oral Questions on 24 October, saying

No one should have to sleep rough on the streets. We want to build a country that works for everyone, not just the privileged few. That’s why we are determined to do all we can to help those who lose their homes and provide them with the support they need to get their lives back on track.¹²³

Will the Bill reduce homelessness?

During evidence sessions on the Bill witnesses were asked whether they thought the draft Bill’s provisions would reduce homelessness. Kate Webb (Shelter) said that the Bill would improve the recording of homelessness and that “the priority need blind approach could see recorded levels of homelessness increase”. She said this should be welcomed as it would provide an accurate reflection of need and give authorities a more robust basis on which to develop preventative work.¹²⁴ Dominic Wilson (St Mungo’s) saw potential benefits in limiting the flow of rough sleepers onto the streets.¹²⁵ Authorities also thought the draft Bill could result in increased levels of homeless due to the potential diversion of resources towards the provision of emergency accommodation for all eligible applicants (now removed from the Bill).¹²⁶

¹²² [14 Sep 2016 - Scrutiny of Homelessness Reduction Bill - oral evidence](#)

¹²³ Reported in Inside Housing, “Government backs Homelessness Reduction Bill, 24 October 2016

¹²⁴ [05 Sep 2016 - Scrutiny of Homelessness Reduction Bill - oral evidence](#), Q2

¹²⁵ Ibid.

¹²⁶ [London Councils statement on the Communities and Local Government Committee’s report on the Homelessness Reduction Bill](#), 14 October 2016

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