



## BRIEFING PAPER

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# Homelessness Reduction Bill 2016-17: Progress in the Commons and Lords

By Wendy Wilson

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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 (Bill 7 of 2016-17). The [debate on Second Reading](#) took place on 28 October 2016. The Bill extends to England and Wales but will only apply in England. The Bill and its Explanatory Notes are on the [Parliament website](#).

Full background on the Bill and its provisions as originally presented can be found in Library Briefing Paper 7736, [Homelessness Reduction Bill 2016-17](#). The main thrust of the Bill is to refocus English local authorities on efforts to prevent homelessness. The Government published a series of [policy fact sheets](#) on each clause of the Bill by way of background as it progressed through Public Bill Committee.

The Bill has attracted Government and cross-Party support. It was considered during seven sittings of the Public Bill Committee between 23 November 2016 and 18 January 2017. Government amendments to clauses 1 and 11 were agreed in Public Bill Committee. The [Report Stage and Third Reading](#) took place on 27 January 2017. Additional Government amendments to clauses 4, 5, 6, 7, 9, and 12 were agreed on Report. An amended version of the Bill has been published ([HL Bill 96 of 2016-17](#)). The Bill's [debate on Second Reading](#) in the House of Lords took place on 24 February 2017. The Bill was committed to a Committee of the whole House but no amendments were set down and the [order of commitment was discharged](#) on 10 March 2017. The Bill received its Third Reading in the House of Lords on 23 March 2017 with no debate.

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 valid 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.

The Bill creates new duties for English local authorities and a good deal of debate in Public Bill Committee and on Report focused on how much these duties would cost, and whether they would be fully funded by the Government. On 17 January 2017 the Minister, Marcus Jones, [announced](#) that funding of £48 million would be provided to meet the additional costs for local authorities. Authorities' representative bodies have given this announcement a 'cautious' welcome but have asked the Government to commit to a review of the Bill's impact after two years "to ensure that authorities are fully equipped and funded to deliver the Bill's ambitions."

The Government amendments agreed on Report will result in additional costs for local authorities. The Minister announced that the estimated impact would be £13 million, bringing total Government new burdens funding for authorities up to £61 million. The Minister also committed to review the implementation of the legislation, "including its

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resourcing and how it is working in practice, concluding no later than two years after the commencement of its substantive clauses.”

# 1. Public Bill Committee

The Bill, which is aimed at refocussing English local authorities on efforts to prevent homelessness irrespective of whether the applicant falls into a priority need category,<sup>1</sup> was considered during seven sittings of the Public Bill Committee between 23 November 2016 and 18 January 2017.

Report Stage and Third Reading are scheduled to take place on 27 January 2017.

The Government published a series of [policy fact sheets](#) on each clause of the Bill by way of background as it progressed through Public Bill Committee.

Government amendments to clauses 1 and 11 were agreed. The Government committed to bringing forward amendments to clauses 4 and 7 on Report.

The Committee consisted of the following members:

Mr Christopher Chope (Chair)

- Betts, Mr Clive (Lab)
- Blackman, Bob (Con)
- Buck, Ms Karen (Lab)
- Burrowes, Mr David (Con)
- Donelan, Michelle (Con)
- Drummond, Mrs Flick (Con)
- Hayes, Helen (Lab)
- Jones, Mr Marcus
- Mackintosh, David (Con)
- Matheson, Christian (Lab)
- Monaghan, Dr Paul (SNP)
- Pow, Rebecca (Con)
- Quince, Will (Con)
- Slaughter, Andy (Lab)
- Thewliss, Alison (SNP)
- Tomlinson, Michael (Con)

The transcripts of the Committee's sittings are available on the [Homelessness Reduction Bill 2016-17](#) page of the Parliament website.

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<sup>1</sup> The priority need categories are set out in section 189 of the *Housing Act 1996* (as amended) and include households with dependent children and/or a pregnant woman and people who are vulnerable due to old age or physical/mental illness.

## 2. Funding the new duties in the Bill

During the Bill's consideration in Public Bill Committee there were many references to how the new duties on local authorities would be funded. On 17 January 2017 the Minister, Marcus Jones, announced that funding of £48 million would be provided to meet the additional costs for local authorities:

I am today updating the House on a commitment I made at Second Reading of the Homelessness Reduction Bill – the Member for Harrow East's Private Members' Bill – to fund the costs of the Bill in line with the new burdens doctrine.

I can confirm that the Government will provide £48m to local government to meet the new burdens costs associated with the Bill over the course of the Spending Review. It is estimated that offsetting savings to local authorities will mean there are no costs thereafter. This reflects the cost of the Bill in its current form. I will continue to monitor the Bill as it proceeds through the House and will update the new burdens assessment as appropriate once the Bill is in its final form.

Estimated new burdens costs of the Homelessness Reduction Bill

<b>Year</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
<b>Net cost</b>	<b>£35.4m*</b>	<b>£12.1m*</b>	<b>£0</b>

\* Rounding means these are summed to £48m

The Government has been working with local councils and the Local Government Association to test the methodology behind the estimated costs, as well as the core assumptions within it.

We will continue to work with local councils and the Local Government Association to develop the distribution model for the funding. This will reflect differing need in different authorities.

I also intend to consider the case for making available a small amount of further funding for local authorities in high-pressure areas to manage the transition to the new duties in the Bill.

This would be in addition to the level of funding provided to meet our commitment to fund new burdens.<sup>2</sup>

A DCLG letter sent to local authorities emphasises that the figures represent only a 'national aggregate' – work on a distribution model is underway. The letter states that "the full new burdens assessment will be published once this work is complete".<sup>3</sup> The letter provides more information on how the figure of £48 million was reached:

The Bill has been costed by developing a model that takes unit costs from existing local authority data and feeds this into assumptions on the likely effect of the Bill measures on local authority work. The assumptions are based on data where it is available, otherwise it is based on the experience of Wales

<sup>2</sup> [Written Ministerial Statement – HCWS418, 17 January 2017](#)

<sup>3</sup> DCLG, Letter sent to English local authorities, 17 January 2017

coupled with conversations with local authorities to adjust for an English context.

### **Unit costs**

Unit costs are based on service and administration costs drawn from the following:

- Exact homelessness spend by local authorities (recorded in Revenue Outturn 4 submissions);
- Data submitted by local authorities on the P1E form (used in Government's homelessness statistics ) to identify statutory homeless and prevention numbers);
- Research by Shelter and Acclaim which helped to inform the costs of prevention actions and the cost of an acceptance.<sup>4</sup>
- These costs will obviously differ from area to area, and this will be reflected in developing the funding formula.

### **Assumptions**

We assume that the caseload will increase as a result of the new offer to households at risk of homelessness. In Wales they saw a 28% increase in cases. We believe that given that homelessness prevention is more embedded in England in Wales (66% of help is via prevention in England, it was 44% in Wales) the rise will not be as pronounced. We believe a sensible assumption is 26%.

Increased and earlier prevention will, as well as helping more people, have an impact on acceptances. In Wales a 69% decrease was seen in the first year. We do not expect to see the same in England but assume that by year 3 there will be a 30% decrease in homelessness acceptances.

The costings are net of a counterfactual or baseline case. The counterfactual is simply a projection of recent trends in the homelessness statistics to give estimates for what homelessness might be in the absence of the legislation. For example, the overall caseload is assumed to continue to grow by 2 per cent per annum.

We have assumed that the enhanced advice and information duty will lead to a total administration cost increase of 2% year-on-year. This is line with the projected caseload increase for the 'Action to prevent and/or relieve' caseload group.

The new prevention and relief duties are accounted for via the unit costs and the assumptions around increased caseload.

The right to request a review is extended to the new prevention and relief duties. We have assumed these duties generate the same proportion of reviews i.e. a 50% increase in case load will increase the proportion of reviews by 50%. However we have included a 10% uplift in review costs due to a more senior case officer having to carry out the review in certain circumstances.

The cost of additional suitability checks has been based on local authority data for carrying out Private Rented Sector Offer checks.<sup>5</sup>

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<sup>4</sup> Shelter & Acclaim, [Value for money in housing options services and homelessness](#), 2010

<sup>5</sup> DCLG, Letter sent to English local authorities, 17 January 2017

Government amendments to the Bill were agreed on Report. The Minister, Marcus Jones, confirmed that the estimated cost of these new burdens would be £13 million, thus bringing total new burdens funding from the Government up to £61 million.<sup>6</sup>

The Minister confirmed that a final new burdens assessment would be published once the distribution formula for the funding is complete. Work with the Local Government Association to devise a “fair distribution model for the funding” is ongoing.<sup>7</sup>

The Government has committed to £61 million in new burdens funding for local authorities.

## Comment

Local authorities gave the announcement of £48 million in funding a ‘cautious’ welcome.<sup>8</sup> There is some concern that £48 million will not fully cover their costs; the Local Government Association (LGA) issued the following press release:

Councils want to end homelessness focusing on prevention. We have worked with Bob Blackman MP to shape the Homelessness Reduction Bill into a piece of legislation that is more workable to allow councils to meet the needs of the vulnerable.

The LGA has called for all new duties on councils proposed in the Bill to be fully funded both now and in the future, and were pleased when the Government committed to this.

However, councils have concerns that initial costings will inevitably be based on assumptions that are difficult to predict. For example, it is impossible to know how many people will come forward to access the new duties, what the impact of the Bill will be on different groups over time, and therefore the funding councils need to deliver duties that reduce homelessness.

We ask that the Government commit to reviewing the Bill's impact two years after implementation, to assess its actual impact and to ensure that councils are being fully equipped and funded to deliver the Bill's ambitions.

But it is clear that legislative change alone will not resolve homelessness. It is crucial that the Government recognise and address the wider factors that are increasing homelessness, such as the lack of affordable housing and welfare reforms. Without this, the Bill will struggle to achieve its aim of reducing homelessness.

Councils need powers and funding to address the widening gap between incomes and rents, resume their historic role as a major builder of new affordable homes and join up all local services – such as health, justice and skills. This is the only way to deliver our collective ambition to end homelessness.<sup>9</sup>

Sir Steve Bullock, executive member for housing at London Councils, is reported as saying:

While we welcome [the Department of Communities and Local Government's] commitment to fully fund the Homelessness Reduction Bill, London Councils is concerned that the costings

<sup>6</sup> [HC Deb 27 January 2017 c626](#)

<sup>7</sup> Ibid.

<sup>8</sup> *Inside Housing*, “Cautious welcome for £48 million homelessness funding,” 17 January 2017

<sup>9</sup> LGA, [Homelessness Reduction Bill – LGA responds to funding announcement](#), 17 January 2017



contained within the bill are based on estimates and therefore unlikely to be fully funded. The particular pressures in London, the potential impact of welfare reform and escalating homelessness are not addressed or acknowledged in these costings. We call on government to commit to reviewing the costs at the end of the first year to ensure the bill is fully funded.

While boroughs are working hard to alleviate this problem and support those in need, they are facing hugely increased pressures. The solution to homelessness cannot be seen outside of the overall housing crisis – we must build more homes at pace and scale.

It is not enough to fulfil the new duties in the Bill – Government must address rising homelessness and the fact there are not enough properties being built in the capital. Homelessness in London accounts for 32% of the England total and has also risen by around 11% on last year.

Councils are building, but need the powers and to deliver the homes that London needs. This, and looking again at the effect of welfare reform in the capital would start to address the gap between rents and incomes which is at the heart of the issue." <sup>10</sup>

Andy Slaughter said that Labour had ‘reservations’ about the Written Statement and the methodology applied to reach the £48 million.<sup>11</sup> He compared the estimates produced by DCLG to estimates produced by individual local authorities, and went on to comment on methodology and savings:

First, there is the matter of quantum. Although we do not have absolute figures, because we are in new territory, all the indications so far—I quoted some of them earlier—suggest that £48 million is not going to touch the sides. I am sure the responsible Minister saw the article in “Inside Housing” on 21 December, in which a number of councils volunteered what they think it will cost them. Lewisham, for example, said it would cost £2.38 million per year and Ealing said it would cost £2.55 million per year. AHAS estimated, and I think the figure has increased since then, that the 32 London boroughs will have a combined bill of £161 million in the first year, which is substantially in excess of £35 million.

I appreciate that even in the two pages of methodology there has been no attempt yet to divvy the sum up among authorities, and I think one can anticipate that London authorities are going to get a larger share than some rural or district authorities. Nevertheless, there is such a disparity between what the professional bodies and local authorities have estimated and what the Minister has provided. It is, shall we say, unlikely that it is going to fully fund, even in the first year, the local authorities’ new responsibilities.<sup>12</sup>

There is an estimated gap of nearly £200 million by the end of the decade in local authorities’ current homelessness provision. If one looks at the fact that London boroughs spent £633 million in the last year for which figures were available—2014-15—on temporary accommodation, including £170 million of their own funds, and the fact that they are already subject to substantial

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<sup>10</sup> Housing Excellence, [“Councils worried that Govt’s £48 million homelessness prevention funding is short-term temporary gesture,”](#) 18 January 2017

<sup>11</sup> [PBC 18 January 2017 \(Afternoon\) c165](#)

<sup>12</sup> [PBC 18 January 2017 \(Afternoon\) c166](#)

reductions in funding, I am not surprised that they are very concerned about that. That is purely on the issue of quantum.

[...]

On the issue of methodology, I am not sure how far it takes us. Although something is better than nothing, I found it a slightly odd way of presenting the background information. I would like to see a full impact assessment. I appreciate that we may need to wait until we know exactly what the Bill is going to do. There may need to be a review of provision—the methodology concedes that—but once we know how the sum is going to be broken down, I would like to know exactly how the Government can justify their claim that this will be new burdens funding and that it will be fully funded.

On the issue of savings, of course we all hope for savings, not only cash savings but savings in human misery, bureaucracy and unnecessary action. I am, however, less sanguine than the Minister about the fact that that will all be resolved in one to two years. In part I say that because much of what the Bill will do is to encourage what we have often heard called a culture, a culture of local authorities doing more by way of prevention. Yet in a lot of the busiest authorities, prevention work is done—in 80% of cases in Camden, for example—so quite a lot is going on, and I am not persuaded that we will see an immediate culture change, or that that culture change will produce savings.

Savings are likely to come by averting homelessness for priority need cases, because that is where the substantial burden of cost comes. At the moment part of the point of the Bill is that a lot of local authorities are not taking their responsibilities seriously in relation to non-priority need cases. Thereby, if we simply see an increased focus on those cases on which there is not current expenditure, or people being turned away, I do not quite see where the savings are coming from or where the supposition comes that within two years there will be nil cost to local government. To be perfectly honest, I just do not believe it.<sup>13</sup>

The Minister said that some of the “very high figures” quoted were not recognised and that “there was also the question of whether the savings that will offset the costs have been taken into account.”<sup>14</sup>

## Reviewing the funding

Andy Slaughter sought to amend the Bill on Report to place a duty on the Secretary of State to review the legislation no earlier than one year and no later than two years after commencement, with particular reference to funding.<sup>15</sup> The Minister confirmed an intention to review the legislation:

I will review the implementation of the legislation, including its resourcing and how it is working in practice, concluding no later than two years after the commencement of its substantive clauses. I will also carry out, in the same timeframe, a post-implementation review of the new burdens to review the robustness of our assessment of the estimated cost to local authorities and the underlying assumptions. As part of both reviews, I would welcome the input and expertise of the Select

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<sup>13</sup> [PBC 18 January 2017 \(Afternoon\) c166-7](#)

<sup>14</sup> [PBC 18 January 2017 \(Afternoon\) c166](#)

<sup>15</sup> [HC Deb 27 January 2017 c551](#)

Committee, and I am happy to discuss how it could be involved. The resources and funding requirements related to the duties I have outlined will also be considered alongside all the other responsibilities of local authorities as part of future spending reviews.

It is important to bear it in mind that the Bill's provisions will not be implemented on the day it receives Royal Assent, as the hon. Member for Hammersmith acknowledged. We were clear in Committee that the Bill's successful implementation will depend on working with local government to ensure that resources, guidance and training are in place before its provisions are enacted. For that reason, each measure in the Bill can be commenced independently, once local authorities are ready. Given that fact, a statutory requirement to review, tied to the commencement date of the eventual Act, is unworkable, because the substantive clauses will be commenced at a later date. I also argue that such a statutory requirement is unnecessary given the commitments already in place and the long-standing new burdens assessment procedures.<sup>16</sup>

Labour's New Clause 1 (Duty to undertake a review of the Act) was withdrawn.

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<sup>16</sup> [HC Deb 27 January 2017 c551](#)

### 3. Committee Stage: detailed consideration of the Bill

The clause numbers refer to those from the Bill as first introduced in the House of Commons, Bill 7 of 2016-17.

#### 3.1 Clause 1: Meaning of 'homeless' and threatened with 'homelessness'

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.

Clause 1(2) of the Bill as originally drafted would have amended section 175 of the *Housing Act 1996* to insert several new subsections (3A) to (3G). The aim of these subsections was to regulate the circumstances in which a local authority can require an assured shorthold tenant to remain in situ after having received a valid notice of seeking possession under section 21<sup>17</sup> or section 8<sup>18</sup> of the *Housing Act 1988*.

In Public Bill Committee the Minister, Marcus Jones, moved amendment 16 to clause 1. Government amendment 17 was considered alongside this. Together, the amendments remove all of clause 1 as originally drafted, aside from changes to extend the period during which a person should be treated as threatened with homelessness from 28 to 56 days, and replace it with a duty to treat an applicant as threatened with homelessness if they have received a valid section 21 notice that expires in 56 days or less.<sup>19</sup> In effect, this will clarify that the authority's duty to prevent homelessness will be triggered in these circumstances. The Minister explained that the new approach was a response to the concerns of stakeholders and that following extensive meetings "local authorities and the housing charities have confirmed that they support the amendment".<sup>20</sup> He explained the aim of the clause:

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<sup>17</sup> 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.

<sup>18</sup> 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.

<sup>19</sup> [PCB 18 January 2017 \(Afternoon\) c157](#)

<sup>20</sup> [PCB 18 January 2017 \(Afternoon\) c159](#)

The prevention duty provides that local authorities must work quickly and proactively with applicants who are threatened with homelessness to find a long-term housing solution during that period. The amendment adds to that by making it clear that any applicant with a valid section 21 notice that expires in 56 days or less is to be treated as threatened with homelessness and therefore offered the relevant help and support. Where applicants in those circumstances seek help, local housing authorities will be required to work with them to try to prevent them from becoming homeless before the notice expires. That should help to reduce evictions from privately rented accommodation and facilitate less disruptive moves to alternative housing when tenants do have to move out. It has been mentioned many times that once a family have paid a deposit bond to a landlord, if they are subsequently evicted quite often the biggest challenge is that do not have that bond to get back into the rental market.<sup>21</sup>

The Minister also confirmed an intention to bring an amendment to clause 4 of the Bill on Report to “require that while the applicant remains in the same property, the prevention duty continues to operate until such time as the local authority brings it to an end for one of the reasons set out in clause 4.”<sup>22</sup> The aim of this is to ensure greater continuity of help between the prevention and relief duties for households during the eviction process. The Government intends to take additional action to encourage those at risk of homelessness to make early contact with local authorities:

We will amend form 6A, which is used to evict tenants through section 21, and amend the “How to Rent” guide to include information encouraging tenants to seek help earlier when they receive a section 21 notice and believe they are at risk of homelessness as a result.<sup>23</sup>

Several members of the Committee questioned the removal of reference to section 8 notices in clause 1. The Minister explained the Government’s position:

For those served with a section 8 notice, there is a set defence procedure that tenants must have the option to follow through if they wish. For example, a tenant may wish to challenge a section 8 eviction if the notice is not valid, if they can prove the amount of rent arrears is wrong, if they have evidence that disproves their landlord’s case, or if they have a counterclaim for disrepair. Any applicant at risk of homelessness within 56 days or fewer will be offered the prevention duty assistance by their local housing authority. The measure ensures that those served with a section 8 notice have the flexibility to dispute it if they wish, but will also be able to seek help should they be at risk of homelessness. I hope that allays my hon. Friend’s concerns.<sup>24</sup>

Michael Tomlinson drew a distinction between the use of discretionary and mandatory grounds for eviction by landlords under section 8 and said: “I therefore fear that throwing all section 8 notices out might not have been as wise a move as it looked, because what section 8 and section 21 notices have in common – at least partly – is that they may

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<sup>21</sup> [PCB 18 January 2017 \(Afternoon\) c159](#)

<sup>22</sup> [PCB 18 January 2017 \(Afternoon\) c160](#)

<sup>23</sup> [PCB 18 January 2017 \(Afternoon\) c160](#)

<sup>24</sup> [PCB 18 January 2017 \(Afternoon\) c161](#)

inevitably lead to a possession order.”<sup>25</sup> Bob Blackman told the Committee that, having looked at this in detail, the various parties had concluded that the way to reach a compromise was to accept the Minister’s amendments.<sup>26</sup>

Andy Slaughter, for Labour, said that there were still problems with the revised version of clause 1. He cited issues raised by the Association of Housing Advice Services and Shelter and asked the Minister to look at the clause again.<sup>27</sup>

Clause 1, as amended, was ordered to stand part of the Bill.

### 3.2 Clause 2: Duty to provide advisory services

This measure extends the existing duty on local authorities to provide free advisory services with the aim of preventing and relieving homelessness. The services provided will have to be designed with certain specified vulnerable groups in mind, e.g. care leavers and victims of domestic abuse. [Factsheet 1: duty to provide advisory services](#) states that the clause is needed because the existing provision “does not specify the type or quality of advice and information that must be provided on homelessness and its prevention, nor does it require it to be tailored to meet the needs of local people.”<sup>28</sup> There is evidence of some variation in the standard of advisory services provided by local authorities.<sup>29</sup> The Government intends to include advice for authorities on meeting this duty in new statutory guidance.

No amendments were tabled to clause 2. During the clause stand part debate, Andy Slaughter, for Labour, questioned how the extended duty would be resourced:

If we want to provide a good quality advice service—in other words, trained staff who know what they are doing and who can spend time with often vulnerable people—it will require a substantial increase in resources. That is obviously only part of the equation, and I accept that other duties in the Bill will be more onerous. There will, however, be additional demands on those small authorities that might not have anybody, or only one person, who does that as part of their job. I will not go into the detail now, but I put the Minister on notice that, at some point in Committee, we hope to hear clearly from the Government what resources will be made available, in cash and percentage terms; how those resources will be delivered; and how prescriptive they will be. Will there be a specific advice budget?<sup>30</sup>

He described the clause as “more specific and onerous” than the existing duty because of the need to focus on particular groups with complex needs. The Association of Housing Advisory Services (AHAS)

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<sup>25</sup> [PCB 18 January 2017 \(Afternoon\) c170](#)

<sup>26</sup> [PCB 18 January 2017 \(Afternoon\) c187](#)

<sup>27</sup> [PCB 18 January 2017 \(Afternoon\) c164](#)

<sup>28</sup> DCLG, [Factsheet 1: duty to provide advisory services](#), 2016

<sup>29</sup> [The Homelessness legislation: an independent review of the legal duties owed to homeless people](#), April 2016, p14

<sup>30</sup> [PBC 30 November 2016](#) c14

has raised concerns about the possibly of authorities facing legal challenges in this area:

AHAS raised the possibility of a legal challenge, which might say, "Yes, a perfectly adequate degree of advice was provided for somebody who doesn't have those needs, but the local authority should have gone further. It should have spent more time, more money and been more concerned about dealing with these people because of their specific needs." I would be interested to know whether, on those two points, the Government share the concerns that I and local authorities have.<sup>31</sup>

Clive Betts, Chair of the Communities and Local Government (CLG) Select Committee, also said the clause represented a new burden on local authorities:

Yes, it is absolutely right that we are changing the legislation and placing a stronger requirement on local authorities, but that is a new burden. It is one that is absolutely right, but it is a very big ask to get all these responsibilities carried out in a proper way. We will return to resources in due course but, to my mind, the measure does not really ask local authorities to do what they should be doing anyway; it asks them to do an awful lot more. I fully support the asks in the clause.<sup>32</sup>

The Minister, Marcus Jones, responded for the Government:

A number of hon. Members mentioned the issue of funding for the Bill. I reiterate that we are absolutely committed to funding the costs of the Bill. As the hon. Member for Sheffield South East, who chairs the Select Committee, mentioned, we are still working with local authorities and the LGA to identify the costs of the Bill.<sup>33</sup>

Clause 2 was ordered to stand part of the Bill.

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

Local authorities already have a duty under Part 7 of the *Housing Act 1996* to assess the applications of people who request assistance due to threatened or actual homelessness.

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<sup>34</sup> can be turned away with no, or limited, assistance.<sup>35</sup>

Clause 3 will require local housing authorities to carry out an assessment in all cases where an eligible<sup>36</sup> applicant is homeless or at

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<sup>31</sup> [PBC 30 November 2016](#) cc15-16

<sup>32</sup> [PBC 30 November 2016](#) c19

<sup>33</sup> [PBC 30 November 2016 c26](#)

<sup>34</sup> The priority need categories are set out in section 189 of the *Housing Act 1996* (as amended) and include households with dependent children and/or a pregnant woman and people who are vulnerable due to old age or physical/mental illness.

<sup>35</sup> CLG Select Committee, Fifth Report of Session 2016-17, The draft Homelessness Reduction Bill, HC 635, 14 October 2016, para 23

<sup>36</sup> Eligibility is generally related to immigration status.

risk of becoming homeless. Once an assessment is carried out, the authority will be obliged to agree an action plan with the aim of ensuring that the person “has and is able to retain suitable accommodation.”<sup>37</sup> It is hoped that this ‘individualised’ approach will be more effective in preventing and alleviating homelessness. This approach has already been adopted in Wales.

Clive Betts moved an amendment to clause 3 (amendment 1) to ensure that an assessment would take account of any school, caring and work arrangements that an applicant might have. Amendments 3 and 4, tabled by Andy Slaughter, were considered alongside this – these amendments would have placed a duty on authorities to consider any other duties owed to an applicant, e.g. to care-leavers, when carrying out an assessment.<sup>38</sup>

Mr Betts was concerned to put on the face of the Bill the requirement to take account of certain factors when assessing what accommodation might be suitable for an applicant. The Minister responded to this point:

On amendment 1, tabled by the hon. Member for Sheffield South East, local housing authorities must already have regard to the significance of any disruption that would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person’s household under article 2 of the Suitability of Accommodation (England) Order 2012. I therefore do not agree that an amendment to repeat that point is necessary.

To expand on that and to reassure the hon. Gentleman, local authorities must by law take account of the factors included in a suitability order. If an authority acts illegally, as he pointed out, households would have redress by review and on appeal.<sup>39</sup>

Mr Betts noted that following a meeting with the Minister, a commitment had been made to write to local authorities:

I am sure the Minister will confirm that he has now indicated that once the Bill is enacted, he will write to all local authorities to draw attention not merely to the new elements of responsibility they will have under the Act, but to existing responsibilities under previous legislation and the code of guidance. He will ask them to come forward with a strategy to deal with homelessness. He will work with the Local Government Association to try to get some model wording for the advice that local authorities will offer to those presenting themselves as homeless, including on suitability and appropriate location of a property, that a local authority should have regard to.

The Minister will ask authorities to reply to him indicating their strategy and the wording in their advice. He will then have staff available to go into those local authorities where he has concerns that they might not be following that through. I think that is a summary of our conversation, but I would be happy for the Minister to confirm that on the record. In that case, I would not

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<sup>37</sup> DCLG, [Factsheet 2: duty to assess all eligible applicants’ cases and agree a plan](#), 2016

<sup>38</sup> [PBC 30 November 2016 c28](#)

<sup>39</sup> [PBC 30 November 2016 c34](#)



press my amendment and would be happy to move on with our discussions.<sup>40</sup>

The Minister said that Mr Slaughter’s amendments would “create a very broad duty” and “would place an unacceptable burden on those local authorities.”<sup>41</sup>

Mr Betts withdrew his amendment and clause 3 was ordered to stand part of the Bill.

### 3.4 Clause 4: Duty in cases of threatened homelessness

Clause 4 of the Bill will require local authorities to take reasonable steps to help prevent homelessness in respect of any eligible person who is at risk of becoming homeless. This ‘prevention duty’ will not extend to authorities actually having to secure accommodation.<sup>42</sup>

The aim of the provision is to ensure that authorities provide assistance at an earlier stage and for all eligible households, regardless of whether they fall into a priority need category.

Andy Slaughter moved amendment 5, which was considered alongside amendment 6, with a view to improving the drafting of the clause.<sup>43</sup> He accepted the Minister’s reassurance that the “current formulation will have the same effect as his amendment”; amendment 5 was withdrawn.<sup>44</sup>

During the clause stand part debate, Andy Slaughter welcomed the provision but emphasised the challenges that authorities have said they may face in meeting the new prevention duties:

We should not go into this wearing rose-coloured glasses, thinking that if we pass this legislation—as I hope we will—our job will be done. The Bill will create the duty, but the Local Government Association tells us—in an estimation only, although I know that the Minister is working with the LGA on this—that some London boroughs anticipate an average increase of 266% in the number of people coming to them for assistance as a consequence of the clause. That is a huge increase in work, predominantly from non-priority cases.

An important thing about the clause is that it is as much about priority as non-priority cases, but I have a concern—which we might discuss with clause 5—that existing duties on priority homeless already place such stress on local authorities that any massive additional burden will not only prove difficult in itself to deal with, but have that knock-on effect. The sort of priority homeless cases mentioned by both Opposition and Conservative Members, in particular of families with school-age children being sent many miles away, put in unsuitable accommodation or simply not being dealt with and therefore staying in emergency accommodation for a long time, will increase as a consequence of

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<sup>40</sup> [PBC 7 December 2016 c42](#)

<sup>41</sup> [PBC 30 November 2016 c36](#)

<sup>42</sup> DCLG [Fact sheet: Homelessness prevention duty](#), 2016

<sup>43</sup> [PBC 7 December 2016 c54](#)

<sup>44</sup> [PBC 7 December 2016 cc55-6](#)

what we are doing in the Bill. We have to go into it with our eyes open.<sup>45</sup>

He sounded a note of caution when making comparisons with Wales, where this prevention duty is already in operation, saying “fewer people in total present as homeless to Welsh authorities than do to the London Borough of Lambeth alone.”<sup>46</sup>

Helen Hayes spoke in support of clause 5 but referred to the limited tools at authorities’ disposal to prevent homelessness. She called for reforms in the private rented sector:

We need to see a substantial reform of the private rented sector, longer forms of tenure introduced as standard and limits introduced on rent increases within the terms of a current tenancy. We also need reform of the section 21 process. There is provision in law for landlords who need their property returned to them for genuine reasons to do so without the section 21 provisions. I see in my constituency time and again the irresponsible and unethical use of section 21 notices, which causes instability for families and evicts people who have done no wrong—they have not failed to pay their rent or done anything to breach the terms of their tenancy, but they are simply made homeless so that the landlord can charge more rent to the next tenant. That practice is irresponsible and widespread, and the Government need to intervene outwith the bounds of this legislation to stop it.<sup>47</sup>

Karen Buck also drew attention to the need to tackle the structural causes of homelessness and shortfalls in Housing Benefit:

A quarter of the cases that the prevention and relief of homelessness measures deal with are related to housing benefit problems—sometimes administrative, but often simply a shortfall. The Government are making such shortfalls worse by the extension of the benefit cap and will certainly make them worse with the additional local housing allowance measures that are being brought in.<sup>48</sup>

The Minister said that the prevention duty would result in better, more consistent support for homeless households and, by giving help earlier, fewer households would be accepted as statutorily homeless, thereby reducing costs for local authorities.<sup>49</sup> He referred to the requirement on individuals “to take identified steps to help prevent their own homelessness.”<sup>50</sup> He said that the potential increase in case load referred to by Mr Slaughter of 266%, 10 times higher than in Wales “is unrealistic.”<sup>51</sup> He responded to calls for private sector reforms:

I do not think anybody on this Committee would argue with the Government’s intent to drive rogue landlords out of business. As for further regulation of landlords, we always need to get the balance right. If regulation goes too far, we might reduce the supply of homes in the private rented sector, as was the case before the Housing Act 1988, which introduced the shorthold

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<sup>45</sup> [PBC 7 December 2016 cc58-9](#)

<sup>46</sup> [PBC 7 December 2016 c59](#)

<sup>47</sup> [PBC 7 December 2016 c60](#)

<sup>48</sup> [PBC 7 December 2016 c61](#)

<sup>49</sup> [PBC 7 December 2016 c66](#)

<sup>50</sup> [PBC 7 December 2016 c67](#)

<sup>51</sup> [PBC 7 December 2016 c67](#)

tenancy because the supply of private rented property had very much been diminished.<sup>52</sup>

Winding up the debate, Bob Blackman said that it was natural to expect the case load to increase and “under the new burdens doctrine, I look to my hon. Friend the Minister to ensure that resources follow as appropriate.”<sup>53</sup>

Clause 4 was ordered to stand part of the Bill. During consideration of clause 1, the Minister confirmed an intention to bring an amendment to clause 4 of the Bill on Report “that will require that while the applicant remains in the same property, the prevention duty continues to operate until such time as the local authority brings it to an end for one of the reasons set out in clause 4.”<sup>54</sup>

### 3.5 Clause 5: Duties owed to those who are homeless

Clause 5 will place a duty on local authorities to take reasonable steps to secure accommodation for any eligible homeless person. This ‘relief duty’ will last for 56 days. Households in a priority need category will be provided with interim accommodation while the local authority takes reasonable steps to relieve homelessness or secure settled accommodation for them.<sup>55</sup>

The aim is to ensure that many more people receive help and assistance at an early stage to resolve their homelessness if attempts to prevent homelessness have not succeeded, or if they seek help at a late stage.

As with the new ‘prevention’ duty in clause 4, authorities will not be required to actually *find* accommodation for homeless households other than those in priority need. Any accommodation that an authority helps to secure under clause 5 will have to be available for at least 6 months.

No amendments were tabled to clause 5. During the stand part debate on clause 5 Bob Blackman described some of the activities that might amount to a ‘reasonable step’ by a local authority:

A reasonable step could be the provision of a rent deposit. It could be help with family mediation, if a family had broken up—a local authority advisor could help to mediate so that someone did not become homeless and could live with another relative. It could be discussion with a private sector landlord about extending a tenancy. The clause does not specify exact details but prescribes that the local authority should carry out reasonable steps.<sup>56</sup>

The reasonable steps an authority will take will be based on information identified during the assessment process (clause 3).<sup>57</sup>

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<sup>52</sup> [PBC 7 December 2016 c67](#)

<sup>53</sup> [PBC 7 December 2016 c69](#)

<sup>54</sup> [PCB 18 January 2017 \(Afternoon\) c160](#)

<sup>55</sup> DCLG, [Fact sheet: Relief](#), 2016

<sup>56</sup> [PBC 14 December 2016 cc74-5](#)

<sup>57</sup> [PBC 14 December 2016 c81](#)

Andy Slaughter referred to the joint effect of clauses 4 and 5 as “a major departure from current practice”.<sup>58</sup> While welcoming the provisions, he asked what measures the Government might use to ensure “that there is no detrimental effect, which I am sure would be unintentional, on those vulnerable people and those currently in the priority need category”.<sup>59</sup> He also took the opportunity to press the Government on how local authorities would be funded to take on this “substantial burden.”<sup>60</sup> Other Members, such as David Mackintosh and Michael Tomlinson, referred to clauses 4 and 5 as ‘invest to save’ provisions which will drive a culture change in local authorities and result in savings in the longer term.<sup>61</sup>

Responding, the Minister made it clear that an authority will be able to take account of an applicant’s local connection when fulfilling the relief duty, i.e. if there is no local connection a referral to another authority may be made.<sup>62</sup> On funding, he said:

We are dealing with and speaking carefully to the Local Government Association and local authorities to make sure that we get the funding right. He will also note that there is a long-standing new burdens doctrine that we have to follow in that regard. I entirely accept what he says about this burden not being a situation that a local authority currently has to bear as such, and we are therefore approaching the funding to it on that basis. However, as several of my hon. Friends have pointed out, although this is not a duty that generally exists at the moment, there will ultimately be benefits to local authorities upstream, in terms of savings that can be made further down the line.<sup>63</sup>

The duty will be discharged if an authority helps an applicant secure a tenancy with a 6 month term, the Minister responded to calls for this to be extended to 12 months:

The average length of an assured shorthold tenancy is actually four years, but I understand what he says about 12-month tenancies. I discussed that at considerable length with my hon. Friend the Member for Harrow East and we came to the conclusion that, if we try to be too prescriptive on 12-month tenancies, it would cause a particularly difficult issue in places such as London, where a lot of landlords may not be willing to grant an assured shorthold tenancy for that length of time. However, what we are doing here does not preclude granting 12-month assured shorthold tenancies. We are trying to encourage landlords to engage with us and to take up the model tenancy agreement, which advocates a longer length of tenancy.<sup>64</sup>

Clause 5 was ordered to stand part of the Bill.

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<sup>58</sup> [PBC 14 December 2016 c76](#)

<sup>59</sup> [PBC 14 December 2016 c76](#)

<sup>60</sup> [PBC 14 December 2016 c76](#)

<sup>61</sup> [PBC 14 December 2016 cc79-80](#)

<sup>62</sup> [PBC 14 December 2016 c82](#)

<sup>63</sup> [PBC 14 December 2016 c82](#)

<sup>64</sup> [PBC 14 December 2016 cc82-3](#)

### 3.6 Clause 6: Duties to help secure accommodation

As noted above, clauses 4 and 5 will place a duty on local authorities to 'help to secure' accommodation, which does not mean that they will have to direct resource at finding a place for everyone that seeks help.<sup>65</sup> Clause 6 makes it clear that the requirements an authority must meet when they secure accommodation for a homeless household do not apply when they take steps to help an applicant to secure accommodation. The measure is described as giving authorities flexibility.<sup>66</sup>

During the clause stand part debate on clause 6 Bob Blackman said:

Under clause 6, as well as clauses 4 and 5, the authority could make an assessment and provide the deposit but, importantly, let the household find its own accommodation when it is capable of doing so. That frees up the authority's time to help someone else who may be more vulnerable and not able to secure their own accommodation. It also means that the household has a choice over where it lives and what sort of accommodation it lives in. The clause is essentially an "avoidance of doubt" provision. It ensures more flexibility by making clear that various requirements of section 205 of the Housing Act 1996 are appropriate when a local housing authority is securing accommodation itself, but not when it is helping to secure accommodation under the relief duty or the prevention duty.

When authorities carry out their prevention work they do not generally need to take account of those requirements, because the household usually sources its own accommodation. Under the clause, the requirements will apply only when the local housing authority secures accommodation.<sup>67</sup>

No amendments were tabled to clause 6 and it was ordered to stand part of the Bill.

### 3.7 Clause 7: Deliberate and unreasonable refusal to co-operate

The Bill introduces new duties for local authorities to assess all eligible applicants and agree a plan of action (clause 3). As part of this agreed plan, applicants may be asked to take certain steps to prevent the loss of their homes and/or assist themselves in securing accommodation. Clause 7 sets out the actions a local authority may take if an applicant deliberately and unreasonably refuses to cooperate with the authority when carrying out its duties.<sup>68</sup>

It had been the Government's intention to table amendments to clause 7 in order to resolve technical issues. These amendments were not ready in time for the Committee to consider them. The Minister

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<sup>65</sup> DCLG, Policy fact sheet: [Help to secure and suitability](#), 2016

<sup>66</sup> Ibid.

<sup>67</sup> [PBC 14 December 2016 c88](#)

<sup>68</sup> DCLG: [Fact sheet: Non-cooperation](#), 2016

explained the problem and confirmed that amendments would be brought forward on Report:

I simply say that we are addressing the two issues that have been identified with the clause. The first is that the clause is drafted too widely. While an applicant could be penalised for deliberately and unreasonably refusing to co-operate with the required actions as set out in the personal housing plan, as the clause is drafted they could also be penalised for deliberately and unreasonably refusing to co-operate with the authority in relation to the prevention or relief duties more generally. That is a broader formulation of the clause and is certainly not the one intended.

The second issue is that we are not confident that the balance between incentives and protections is right in cases where an applicant refuses a suitable offer of accommodation at the relief stage. We have been working closely with homelessness charities to resolve that and develop a way forward, and I hope to be in a position to say more before Report.<sup>69</sup>

The Minister confirmed that statutory guidance will set out the Government's view of actions amounting to a deliberate and unreasonable refusal to cooperate.<sup>70</sup>

Clause 7 was ordered to stand part of the Bill.

### 3.8 Clause 8: Local connection for care leavers

Clause 8 will amend the definition of 'local connection' for care leavers to ensure that a young homeless care leaver will have a local connection in the area where they were looked after or, if different, the area where they normally live and have lived for at least 2 years, including some time before they reached the age of 16.<sup>71</sup> The aim is to make it easier for care leavers to get assistance in the area where they feel most at home.

No amendments to clause 8 were tabled. Mr Slaughter said that the clause was "uncontroversial and we support it".<sup>72</sup> The Minister said that "we will work with local housing authorities, children's services authorities and specialist voluntary sector agencies to review and update the guidance on how authorities should comply with the new duty."<sup>73</sup>

Clause 8 was ordered to stand part of the Bill.

### 3.9 Clause 9: Reviews

Clause 9 provides that it will be possible for applicants to seek a review of authorities' decisions under the new prevention and relief duties introduced by the Bill. The review process remains unchanged.<sup>74</sup>

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<sup>69</sup> [PBC 18 January 2016 \(Morning\) cc149-50](#)

<sup>70</sup> [PBC 18 January 2016 \(Morning\) c151](#)

<sup>71</sup> DCLG: [Fact sheet: Local connection for care leavers](#), 2016

<sup>72</sup> [PBC 7 December 2016 c44](#)

<sup>73</sup> [PBC 7 December 2016 c46](#)

<sup>74</sup> DCLG, [Fact sheet: Reviews](#), 2016

Andy Slaughter moved a probing amendment (amendment 9) to provide for the different review stages to be amalgamated and streamlined. Amendment 10, which had the same aim, was considered alongside. Mr Slaughter referred to representations made by the Local Government Association (LGA) and London Councils concerning the additional burden that an extension of the right to request a review might entail:

There are two examples in the briefings. The group of east London authorities estimates that review processes will cost an additional £4 million a year. Swindon Borough Council estimates that it will need to employ two to three officers in addition to the existing seven employed in its homelessness section. These are substantial resources for individual authorities, but spread across the country they would be a huge additional burden.<sup>75</sup>

Karen Buck also referred to potential cost implications:

We all support the Bill, but it is absolutely incumbent on the Minister and Department to recognise that point, ensure that the resource implications are spelled out and understood by the Committee, and make a commitment to full funding.<sup>76</sup>

The Minister, responding, said that the amendments would not have the intended effect as, instead of streamlining the review process, the “changes would simply remove protections for applicants.”<sup>77</sup> He acknowledged the concerns of authorities and went on:

We will monitor the impact of the new duties on the levels of reviews, and we will work with stakeholders, including local housing authorities, to see what improvements can be made to the process.

Taking up the general point made by the hon. Members for Hammersmith and for Westminster North, we have worked with representative groups of authorities to understand the impact of the clause and have fed that back into the costs model. I can certainly say that this and other measures in the Bill will be funded. We are in the process of speaking to the LGA to discuss our final proposals.<sup>78</sup>

Mr Slaughter withdrew his amendment and emphasised that he believed authorities were rationing support for homeless people as a result of inadequate resources, and not because of a lack of concern.<sup>79</sup>

During the stand part debate on clause 9 the committee considered New Clause 3 – Power to prescribe information, tabled by Andy Slaughter. The clause would have given the Secretary of State power to prescribe a document summarising an applicant’s right to request a review for all relevant decisions taken by a local housing authority when discharging its homelessness duties, and an applicant’s right to appeal to a county court on a point of law arising from any decision on the review. The Minister advised that the New Clause was not needed as

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<sup>75</sup> [PBC 7 December 2016 c48](#)

<sup>76</sup> [PBC 7 December 2016 c49](#)

<sup>77</sup> [PBC 7 December 2016 c49](#)

<sup>78</sup> [PBC 7 December 2016 c50](#)

<sup>79</sup> [PBC 7 December 2016 c51](#)

authorities are already required to inform applicants of their right to request a review.<sup>80</sup>

Clause 9 was ordered to stand part of the Bill.

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

Clause 10 of the Bill will place a duty on specified public authorities in England to notify a local housing authority if they think a service user might be homeless or at risk of becoming homeless. The public authority will have to have the service user's permission before a referral can take place. The aim of the measure is to extend and embed best practice, and to raise awareness of homelessness and to prevent it at an early stage.<sup>81</sup>

Clive Betts moved an amendment to clause 10 (amendment 2) to place a duty on a public authority to cooperate with a housing authority where a referral is made. He explained the purpose of the amendment:

As it stands, clause 10 is a good proposal. Authorities should be advised to contact the relevant housing authority when they recognise that a person with whom they are in contact is homeless or threatened with homelessness, which is an entirely reasonable starting point. The problem is that it is a bit like, "We have passed it over to you; it's your problem now." That is the exact opposite of what the Select Committee was trying to say in its report. It is not about saying, "We have identified that this person may be at risk of homelessness. Get on with it, housing authority. You will sort it out now. There is nothing else to it. It is simply a homelessness issue." We stated very clearly that, right the way through, there has to be cross-Government working and a clear indication that that is going to happen.

My amendment therefore sets out the responsibility in a simple way. It might not go far enough, and I accept the criticism that it is too weak in its emphasis on what more can be done. All the amendment says is that an authority that passes on to a housing authority concerns about an individual who is homeless or threatened with homelessness has a duty to co-operate with the housing authority on meeting its duties. That seems to me an entirely reasonable proposition, and one that I hope we will all support.<sup>82</sup>

The Minister resisted the amendment:

We are concerned that the amendment would create burdensome and centrally imposed obligations on how local housing authorities interact with other public services. A one-size-fits-all obligation could create inefficiencies, potentially undoing some of the good work that is being carried out and developed naturally at local level.<sup>83</sup>

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<sup>80</sup> [PBC 7 December 2016 c53](#)

<sup>81</sup> DCLG, Fact sheet, [Duty of public authority to refer cases to local housing authority, 2016](#)

<sup>82</sup> [PBC 14 December 2016 c91](#)

<sup>83</sup> [PBC 11 January 2017 c97](#)



At the request of Mr Betts, the Minister agreed to consider the inclusion of something in guidance on the importance of cooperation and joint working.<sup>84</sup>

Mr Betts withdrew his amendment but noted that he was “not totally convinced” that all Government Departments and health bodies want to act cooperatively.<sup>85</sup>

During the clause stand part debate on clause 10, Karen Buck, for Labour, probed how the referral provisions would work with reference to current experiences:

Although we need to do a great deal better to encourage agencies—I will touch on them in a minute—to flag up concerns that someone is at risk of homelessness, local housing authorities, and particularly those in high-demand areas, are absolutely flooded by referrals and notifications of people who are at risk of homelessness and do not deal with them. One reason is that the format in which information is passed over is often inconsistent with the allocations procedures and so forth of the local authority.

In many cases, there are good intentions on the part of the referring authority, whether it is a GP, mental health services, probation services or prisons. However, the referral takes the form of a letter saying, “This person is at risk of homelessness,” which is given to someone to take to the housing department. The housing department then looks at the letter and says, “Well, that doesn’t tell me anything. It isn’t compatible with our allocations processes. It doesn’t necessarily meet the local connection criteria.” One question that I am keen to have answered, either by the Minister or the hon. Member for Harrow East, is how the referral that allows an individual to nominate where they seek to be housed will be consistent with local connection criteria and the requirements that local housing authorities put on individuals.

In practice, local authorities including mine—I am sure it is not an isolated case—will simply either not take proper cognisance of the form of the referral being made by the local authority, or will simply seek to send the person away to get other, more appropriate sources of information.<sup>86</sup>

She went on to question whether GPs might charge for referring someone to a local housing authority, and to raise the issue of training for referral agencies:

We need training for the referral agencies. We also need serious work, within a code of guidance, on, for example, templates for information so that a local authority’s requirement to make an informed decision about a homelessness application is consistent with the information that is culturally embedded in a different organisation. What is coming through from a GP or a school will simply not necessarily match up with the requirements of a housing authority.

If referrals are to work and if we are to turn referral into co-ordinated working, even if not explicitly in line with the amendment, it will not be good enough to leave the duty simply at “refer”. I fear that there will be a deluge of new referrals. Those new referrals will not deal with the requirements of the

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<sup>84</sup> [PBC 11 January 2017 c98](#)

<sup>85</sup> [PBC 11 January 2017 c98](#)

<sup>86</sup> [PBC 11 January 2017 c105](#)

housing authority. That will increase frustration and cost and leave individuals, and sometimes highly vulnerable individuals, seeking representations from agencies that charge for them.

The Government need to make absolutely sure that there is a consistent line of response to all those issues before the clause is put into effect.<sup>87</sup>

Responding to the debate, the Minister clarified that the applicant will be asked to choose which housing authority they want to be referred to. Public authorities making referrals will not be required to make decisions about a person's local connection.<sup>88</sup> He provided some examples of the public authorities that will be covered by the new duty to refer, including GPs, schools and the police.<sup>89</sup> He agreed that more work needed to be done on how the various agencies would work together.<sup>90</sup> On the issue of GPs charging for a referral letter, the Minister said that the Ministerial working group would "look at that how that works and see how things can be improved."<sup>91</sup>

Clause 10 was order to stand part of the Bill.

### 3.11 Clause 11: Codes of Practice

Clause 11 gives the Secretary of State a power to issue statutory codes of practice. The aim will be to provide further guidance on how local housing authorities should deliver and monitor their homelessness and homelessness prevention functions. The existing Code of Guidance will not be replaced.<sup>92</sup> Whether or not a new or revised code is required will be based on factors such as:

- Availability of strong examples of best practice;
- Evidence on whether LHAs are raising their service standards via other non-legislative means.<sup>93</sup>

Government amendments 13 and 14 to clause 11 were moved to ensure that a draft code of practice should be laid before Parliament and approved subject to the negative procedure. This requirement will not apply when codes are reissued.<sup>94</sup>

David Burrowes highlighted the need for collaboration and cooperation in the drafting of codes along the lines of the Welsh example *before* they are laid before Parliament.<sup>95</sup> Clive Betts wondered whether the Select Committee might have a brief hearing on a draft code "to consider whether it really does deal with the problems that the Committee has identified."<sup>96</sup> The Minister said that he would take this "innovative suggestion" into account.<sup>97</sup>

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<sup>87</sup> [PBC 11 January 2017 c105](#)

<sup>88</sup> [PBC 11 January 2017 c109](#)

<sup>89</sup> [PBC 11 January 2017 c109](#)

<sup>90</sup> [PBC 11 January 2017 c110](#)

<sup>91</sup> [PBC 11 January 2017 c110](#)

<sup>92</sup> DCLG, [Fact sheet: Codes of Practice](#), 2016

<sup>93</sup> Ibid.

<sup>94</sup> [PBC 11 January 2017 c112](#)

<sup>95</sup> [PBC 11 January 2017 c112](#)

<sup>96</sup> [PBC 11 January 2017 c114](#)

<sup>97</sup> [PBC 11 January 2017 c114](#)

Karen Buck stressed the need to monitor compliance with codes of practice:

The critical point for me is accountability. We need to have a form of measuring what local authorities are doing and a way to hold them to account. That should not be excessively bureaucratic—we do not want to add too much to the monitoring workload of already very stressed local authorities—but we cannot measure the success of the code of practice and the way that the cultural element of the Bill is working just through another mystery shopper operation later and by anecdotal evidence from charities or from our own casework.

At the absolute minimum, local authorities should provide a written statement of the advice and options that they give to everybody in non-priority need, which those people could then take away to whatever advocacy and representation they can access in this post-Legal Aid, Sentencing and Punishment of Offenders Act 2012 world—some of it is still there—and which would demonstrate to that outside organisation, whether it is a councillor, a Member of Parliament or a charity, what the local authority has said is available and the advice that the local authority has given to that person. That would not be a set of actions that they have to take, but a summary of what the local authority is going to be able to do.<sup>98</sup>

The Minister said:

...we are putting in place an expert adviser team to work directly with local authority areas. We will be looking through that to see exactly what a local authority's strategy is so that we can get assurances that local authorities are doing the things that we want them to do.<sup>99</sup>

Clause 11, as amended, was ordered to stand part of the Bill.

### 3.12 Clause 12: Suitability of private rented sector accommodation

Clause 12 will 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.<sup>100</sup> It will also extend the suitability requirements to cover accommodation secured for an applicant as a 'final accommodation offer' under clause 7 (refusal to co-operate). In addition to the usual checks concerning affordability, size, location and condition, where an authority opts to secure private rented accommodation for certain vulnerable households under the prevention and relief duties, they will have to consider factors such as: whether there is a valid gas safety

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<sup>98</sup> [PBC 11 January 2017 c116-7](#)

<sup>99</sup> [PBC 11 January 2017 c119](#)

<sup>100</sup> There will be no duty on authorities to secure accommodation for non-priority applicants under the new prevention and relief provisions but they may choose to do so.

certificate; a carbon monoxide detector; or whether the landlord is a 'fit and proper' person.<sup>101</sup>

In this context a vulnerable person will be a person:

- a) who is vulnerable for a reason mentioned in section 189(1)(c) of that Act [Housing Act 1996], or
- b) who is of a description of person specified in any of articles 3 to 6 of the Homelessness (Priority Need for Accommodation) (England) Order 2002 (S.I. 2002/2051).

The duty, therefore, will not extend to all vulnerable people.

No amendments to clause 12 were tabled.

Karen Buck questioned whether the provisions would apply to other priority need groups, such as families with children and pregnant women, who are housed under the new prevention and relief duties:

The pressure on accommodation, whether for discharge of duty, temporary accommodation or prevention, is so acute in high-stress areas such as London, the seaside towns and others, and the capacity to inspect and maintain such housing is so variable and so under-resourced that, without this robust legal protection, we are worried that children and pregnant women will be left at risk. The key question for the Minister to answer is: why have those two categories been left out of provision in the Bill? Will he undertake to introduce an amendment on Report to ensure that they are not excluded?<sup>102</sup>

David Burrowes asked whether the location of accommodation secured by local authorities would be taken into account, and whether vulnerable people should be placed in multi-occupied properties "where there might be peers who are not conducive to someone's long-term recovery."<sup>103</sup>

The Minister, responding, said that the clause represented a proportionate response:

...the approach to the Bill is to extend that additional protection to where it is needed most, to protect those who are most vulnerable, as described by my hon. Friend the Member for Harrow East in his opening speech, which seems quite a long time ago.

This is a proportionate approach, which hon. Members have stressed is important. To require similar checks for all tenants would place additional burdens on local authorities and generally be unnecessary. Tenants who secure accommodation in the private rented sector already do so without the local authority's carrying out additional checks on their behalf. Those who are themselves able to ensure suitability of property should do so.<sup>104</sup>

He said that he was "not unsympathetic" to the points raised about people who would not necessarily be caught by the definition of

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<sup>101</sup> DCLG [Fact sheet: help to secure and suitability](#), 2016

<sup>102</sup> [PBC 11 January 2017 c122](#)

<sup>103</sup> [PBC 18 January 2017 \(Morning\) c129](#)

<sup>104</sup> [PBC 18 January 2017 \(Morning\) c133](#)

‘vulnerability’ or ‘priority need’ and committed to taking the concerns back to the Department for further consideration.<sup>105</sup>

Clause 12 was ordered to stand part of the Bill.

### 3.13 Clause 13: Extent, Commencement and Short Title

Bob Blackman explained the extent of the Bill in relation to Wales:

There have been some questions about the fact that the Bill, if it becomes an Act, would extend to Wales. For the avoidance of doubt, I will explain the wording in the Bill. If the Bill is passed and becomes an Act, it will form part of the law of England and Wales. It would not make sense for a Bill to extend to England and not to Wales, because England and Wales form a single jurisdiction—legislation cannot form part of the law of England without forming part of the law of Wales. However, the application of the Bill’s substantive provisions, which is basically their practical effect, will be restricted to England. I understand that the Welsh Government have confirmed that they are happy with that approach and with the way in which the Bill works in relation to their legislation.<sup>106</sup>

He probed the Minister on the enactment of the Bill, assuming it receives Royal Assent. His concern was that councils would have time to prepare in order to deliver the new duties.<sup>107</sup> The Minister responded:

In an ideal world, it would be great to see the Bill implemented as soon as Royal Assent takes place. However, my hon. Friend is experienced enough as a parliamentarian to be well aware that a Bill of this type takes time to be implemented because of the secondary legislation that will follow, the code of guidance that will have to be updated and the statutory code of practice that may need to be implemented if things do not go to plan. Those processes will certainly require consultation with local authorities. We will work closely with them to implement these important measures because we understand their concerns that they will be stepping into the unknown—they will be supporting a group of people to whom they have not hitherto had to provide such support.

It is difficult to give exact timings. I am not going into finance, but what I can say to my hon. Friend is that the funding for the measure would be available now if we were in a position to implement now, and it will be available when we come to that point.<sup>108</sup>

Clause 13 was ordered to stand part of the Bill.

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<sup>105</sup> [PBC 18 January 2017 \(Morning\) c135](#)

<sup>106</sup> [PBC 18 January 2017 \(Morning\) c136](#)

<sup>107</sup> [PBC 18 January 2017 \(Morning\) c137](#)

<sup>108</sup> [PBC 18 January 2017 \(Morning\) cc138-9](#)

## 4. Amendments on Report

In Public Bill Committee the Government committed to bringing forward amendments to clauses 4 and 7 on Report. Government amendments to clauses 5, 6, 9 and 12 were also agreed.

No Opposition amendments were pressed to a division.

### 4.1 Clause 4: Duty in the case of threatened homelessness

Several Government amendments to clause 4 were agreed.

**Amendment 1** extends the prevention duty to cover instances where a household with an assured shorthold tenancy is served with a section 21 notice and is still in situ after receiving 56 days of help from the local authority under its new prevention duty. For example, the section 21 notice may have expired, but no action has been taken to evict the occupants. In these cases, the prevention duty will continue until such time as the local authority brings it to an end for one of the reasons set out in clause 4, even where 56 days has passed.<sup>109</sup>

Government **amendment 2** to clause 4 was agreed to clarify that the new prevention duty can be brought to an end by a local authority where an offer of suitable accommodation has been refused only if that accommodation, on the date the offer is made, has a 'reasonable prospect' of being available for at least six months.<sup>110</sup>

**Amendment 3** cross-references clause 4 with clause 7 in relation to the termination of prevention and relief duties where an applicant deliberately and unreasonably refuses to co-operate, and to the applicant's refusal of a final accommodation offer. The Minister said "that simply means that the ways in which the prevention and relief duties can be ended are easier to see and understand for those reading the clauses."<sup>111</sup>

### 4.2 Clause 5: Duties owed to those who are homeless

As with amendment 2 to clause 4 (see above), **amendment 4** to clause 5 clarifies that the new relief duty can be brought to an end by a local authority where an offer of suitable accommodation has been refused only if that accommodation, on the date the offer is made, has a 'reasonable prospect' of being available for at least six months.

**Amendment 5** to clause 5 has the same purpose as amendment 3 to clause 4 (see above).

**Amendment 8**, along with **amendments 6 and 7** to clause 5 concern the provision of interim accommodation by a local authority while a local authority is trying to secure accommodation for an applicant under

<sup>109</sup> [HC Deb 27 January 2017 c577](#)

<sup>110</sup> [HC Deb 27 January 2017 c579](#)

<sup>111</sup> [HC Deb 27 January 2017 c580](#)

clause 5. Where an authority has reason to believe that an applicant is eligible, homeless, and in priority need a duty to secure interim accommodation will arise. Amendment 6 clarifies the circumstances in which this duty comes to an end where the authority determines that the applicant is not in priority need:

In cases where the local housing authority has concluded its inquiries under the homelessness legislation and decides that the applicant does not have a priority need, the duty comes to an end in two circumstances: first, if the local housing authority notifies the applicant that the relief duty is not owed; and secondly, if the local housing authority notifies the applicant that, once the relief duty ends, they will not be owed any further duty to accommodate.<sup>112</sup>

**Amendment 8** provides that where an applicant requests a review of the suitability of an offer of accommodation, the duty to secure interim accommodation under section 188 of the *Housing Act 1996* will continue pending the conclusion of the review. **Amendment 7** is a technical amendment.

### 4.3 Clause 6: Duties to help secure accommodation

**Amendment 9** to clause 6 provides that where a local authority acts directly to secure accommodation for applicants under the new prevention or relief duties (clauses 4 and 5), sections 206 and 209 of the *Housing Act 1996* will apply:

Those sections contain various provisions about how a local housing authority's housing functions are to be discharged—for example, about how authorities may secure that accommodation is available and how they can require an applicant to pay a reasonable charge for the accommodation. Provisions also cover the requirements relating to placements in and out of district, including notifications to the hosting local housing authority.<sup>113</sup>

### 4.4 Clause 7: Deliberate and unreasonable refusal to co-operate

A number of issues with clause 7 had been identified in Committee; the Government had advised of its intention to return with amendments on Report.

**Amendment 10** to clause 7 deals with the consequences for applicants of refusing offers of accommodation made by a local authority under the new prevention and relief duties. The Minister said:

The Bill already provides that the local housing authority can bring the relief duty to an end if an applicant refuses an offer of suitable accommodation. The applicant can then go on to the main homelessness duty under section 193 of the *Housing Act 1996*, if they are owed it. We believe it is right that where an applicant is made a suitable offer under the relief duty, they should not be able to move into the main duty by refusing that offer. That is an

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<sup>112</sup> [HC Deb 27 January 2017 c580](#)

<sup>113</sup> [HC Deb 27 January 2017 c580](#)

important part of the balance between rights and responsibilities for applicants. However, it is also essential that, if the offer is intended to be the applicant's final offer, appropriate safeguards are in place.

Amendment 10 provides that where an applicant refuses an offer and the relief duty is ended, the applicant will not proceed to the main duty, but that will apply only if the offer reaches a particular standard. The offer must be either a final accommodation offer or a final part 6 offer, and the applicant must be informed of the consequences of refusing and of their right to request a review of the suitability of the accommodation. A final part 6 offer is a suitable offer of social housing. A final accommodation offer is an offer of an assured shorthold tenancy with a term of at least six months in the private rented sector.<sup>114</sup>

**Amendments 11, 12 and 13** to clause 7 were made in order to tackle the fact that the clause had been drafted 'more widely' than intended in relation to the definition of deliberate and unreasonable co-operation. The amendments "make it clear that the provisions apply only when the applicant's refusal to co-operate relates specifically to the steps set out in their personalised plan."<sup>115</sup>

**Amendments 14, 15 and 16** to clause 7 were made in order to clarify that a final offer of an assured shorthold tenancy to an applicant who has refused to co-operate will be made by a private landlord.

## 4.5 Clause 9: Reviews

**Amendment 18** to clause 9 and **amendment 19** to clause 12 (Suitability of private rented sector accommodation) reflect changes introduced to the Bill by clause 10, including "providing that the applicant can request a review of the suitability of the accommodation and that appropriate suitability requirements apply."<sup>116</sup>

## 4.6 Clause 12: Suitability of private rented sector accommodation

Clause 12 amends article 3 of the *Homelessness Suitability of Accommodation (England) Order 2012*. Local authorities discharging a homelessness duty to applicants in priority need through an offer of private rented housing, must conduct additional checks to ensure the property is in reasonable physical condition and is safe and well-managed. These checks are extended by clause 12 to those defined as vulnerable and who are secured accommodation under the new prevention and relief duties.

The Minister said he had listened to representations made in Committee with the result that **amendments 20 and 21** to clause 12 "provide that these additional checks be made in respect of all those with a priority need where the local housing authority secures private rented sector property under the new prevention and relief duties."<sup>117</sup>

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<sup>114</sup> [HC Deb 27 January 2017 c591](#)

<sup>115</sup> [HC Deb 27 January 2017 c592](#)

<sup>116</sup> [HC Deb 27 January 2017 c591](#)

<sup>117</sup> [HC Deb 27 January 2017 c592](#)



## 5. Progress in the House of Lords

The Bill's [debate on Second Reading](#) in the House of Lords took place on 24 February 2017.<sup>118</sup>

The Bill was committed to a Committee of the whole House but as no amendments were set down, the [order of commitment was discharged](#) on 10 March 2017.<sup>119</sup>

The Delegated Powers and Regulatory Reform Committee considered the Bill and reported on its conclusions in the 19<sup>th</sup> Report of 2016-17.<sup>120</sup> The Committee considered the power of the Secretary of State to make regulations prescribing that the new prevention and relief duties may end if accommodation is available for up to 12 months (i.e. allowing an extension from 6 months). The Committee agreed that the negative resolution procedure would afford Parliament an appropriate level of scrutiny. The Committee also considered the powers in the Bill concerning the issue of codes of practice by the Secretary of State. It was noted that there would be no obligation to lay a *revised* code of practice before Parliament:

In those circumstances the only obligation on the Secretary of State is to publish the revised code.<sup>121</sup>

DCLG told the Committee:

The Department does not consider it necessary for the negative resolution procedure to apply where a code of practice is revised and reissued as it is envisaged that these codes may frequently be updated with minor amendments over time.<sup>122</sup>

The Committee noted that "The House may wish to seek further reassurance on this point."<sup>123</sup> Lord Beecham (Labour Peer) raised this issue during the discharge of the Order of Commitment, he also raised the question of funding:

The Delegated Powers Committee published a report this week which, at paragraph 18, on the code of practice, raises a point about the method of revising the codes. I am not expecting any kind of formal response today, but perhaps the noble Lord will look at that. Perhaps he can also, in a relatively short time, invite the Government to say how they are going to approach reviewing the £61 million funding in the light of the possible increase in homelessness arising from the housing benefit issue which has been so controversial this week. I am not expecting the Minister or the noble Lord, Lord Best, to reply today, but those two points should be looked at in the next period.<sup>124</sup>

Lord Best undertook to speak with the Minister on the points raised. The Bill received its Third Reading in the House of Lords with no debate on 23 March 2017.

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<sup>118</sup> HL Deb 24 March 2017 c493

<sup>119</sup> HL Deb 10 March 2017 c1579

<sup>120</sup> [HL Paper 122 of Session 2016-17](#), 7 March 2017

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

<sup>124</sup> HL Deb 10 March 2017 c1579

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