

2/2017 Homelessness Reduction Bill Update



20/1/17

Key Points

- The Homelessness Reduction Bill has been passed by the House of Commons, receiving its Third Reading on 27 January.
- The Bill was introduced in the House of Lords on 30 January; Second Reading of the Bill has been set for 24 February.
- The Government introduced 21 amendments at Report, affecting clauses 4 to 7 of the Bill.
- Clause 4 (Duties in cases of threatened homelessness) was amended to reflect the changes made in Committee to Clause 1 (Meaning of “threatened with homelessness”).
- Clause 7 (Deliberate and unreasonable refusal to co-operate) was amended to clarify the procedure to be followed by local authorities where an applicant refuses to cooperate with their personalised plan to secure accommodation.
- Amendments were made to Clauses 4, 5 and 6 consequential to the Clause 7 amendments.
- During the debate on the 27 January the Minister Marcus Jones announced an increase in the funding for the Bill from the figure of £48 million, previously announced, to £61 million to reflect the increased duties imposed on local authorities as a result of the amendments made.
- The Government has also undertaken to review the implementation of the Bill, including the costs to local authorities, no later than 2 years after commencement of its substantive provisions.

Background

The Homelessness Reduction Bill, a Private Members Bill introduced by Bob Blackman MP, has completed its passage through the House of Commons with Government and all-party support. It received its Third Reading on 27 January. The Bill was introduced in the House of Lords on 30 January and is awaiting its Second Reading.

The Bill proposes significant reform of current homelessness legislation, as set out in Part VII of the Housing Act 1996. It proposes to amend the definition of “threatened with homelessness”, the procedure to be followed with an application for assistance and the duties owed to applicants, particularly those not in priority need.

Amendments made by the House of Commons

The House of Commons made substantial amendments to the Bill, with the most significant changes affecting Clause 1. As introduced, the Bill sought to amend the definitions of both “homelessness” and “threatened with homelessness” in section 175 of the 1996 Act. An assured shorthold tenant would have been defined as homeless if they had received a valid notice under section 8 or section 21 of the Housing Act 1988, except in specified conditions. This proposal has now been dropped. Clause 1 now proposes only to amend the definition of “threatened with homelessness” so that it applies to anyone likely to become homeless within 56 days (the current provision is 28 days), including a tenant who has been served with a section 21 notice with less than 56 days to run.

As a consequence, an amendment was also made to Clause 4 (Duty in cases of threatened homelessness) to clarify the duty owed where a section 21 notice has been served.

Clause 3 of the Bill introduces a new requirement for local authorities to agree a personalised plan with all eligible applicants (whether or not in priority need) who are homeless or threatened with

homelessness, setting out steps to be taken by both parties to help secure permanent accommodation.



Clause 7 sets out the procedure that applies where an applicant “deliberately and unreasonably” refuses to cooperate with their personalised plan. It was extensively amended at Report stage to remove potential difficulties that had been pointed out by local authorities and homelessness organisations and exposed during earlier debates. Several amendments to Clauses 4, 5 and 6 were necessary as a consequence.

Clause 11 would enable the Secretary of State to issue a Code (or Codes) of Practice to which local authorities must have regard in the exercise of their homelessness functions. The Clause was amended in Committee to require that a draft of the Code of Practice be first laid before Parliament for 40 days and issued only if there has been no negative resolution by either House in that period (the “negative resolution” procedure).

Financial implications

On 18 January the Government announced that £48 million in additional funding would be made available to meet its estimate of the costs to local authorities of implementing the Bill, which it had promised to fund in full. Extrapolating from local estimates of the costs of implementation, many local authorities and others expressed concern that this provision would be inadequate. Labour MPs tabled an amendment at Report stage calling for the impact of the Bill’s provisions, including the cost of implementation, to be reviewed no later than two years after their commencement. The amendment was not pressed to a vote following a commitment from the Minister to review the implementation of the legislation “concluding no later than two years after the commencement of its substantive clauses”.

At the same time, in the debate on the 27 January, the Minister Marcus Jones announced an increase in Government funding for local authorities from £48 million to £61 million and during the debate said:

“On 17 January, I announced £48 million of funding to local government to meet the new burdens cost associated with the Bill in this spending review period. When I made that announcement, I was clear that the figure of £48 million reflected the Bill as drafted at that time. I committed to updating the new burdens assessment to reflect any changes to our estimates in the light of any further amendments to the Bill on Report. The Government have today made significant amendments to further strengthen the Bill, and I am sure that hon. Members on both sides of the House are keen to understand their impact on the new burdens cost.

I can confirm that the amendments agreed today are estimated to increase the cost of the Bill by £13 million over the course of this spending review period. That increases the total new burdens cost of the Bill from the £48 million that I had announced, to £61 million. I am pleased to confirm that the Government will meet those costs.

I do not know whether it is true or not, but I suspect that, as several hon. Members have suggested, my hon. Friend the Member for Harrow East (Bob Blackman) has achieved a record in having the private Member’s Bill with the most significant cost implications for Government spending. In that sense, he can consider that he has had a very good outcome.

The final new burdens assessment will be published once the distribution formula for the funding is complete, and when the Bill has completed its passage through the House. As I said in Committee, we will work with local authorities and the Local Government Association to develop a fair distribution model for the funding. That needs to reflect the different need in different areas, reflecting, for instance, the additional pressures and costs faced by many councils in London.

Ahead of implementation, we will work with local housing authorities to ensure that they have the resources and support they need. Key to that is updating the code of guidance, which will be reviewed in co-operation not only with local housing authorities but others with an interest and expertise, such as the homelessness charities and the landlord groups—not to mention the continuing role that the Select Committee will no doubt play in the process. That guidance will be needed by local authorities as they prepare to implement the new

duties in the Bill, and as they support their staff to understand the new legislation and undertake the training they will need.



The Government will also have key implementation tasks. We will prepare the regulations setting out which public authorities will be subject to the duty to refer, identifying those authorities and working with them to ensure that they understand their new responsibilities and are ready to play an active role. We will also continue our work to improve the data we collect, so that we can monitor implementation and assess the impact and success of the Bill.” (Hansard 27.01.17 column 626)

The Bill as amended by the House of Commons can be found at https://www.publications.parliament.uk/pa/bills/lbill/2016-2017/0096/lbill_2016-20170096_en_1.htm

Hansard for the Commons Third Reading debate is here: <https://hansard.parliament.uk/commons/2017-01-27/debates/9B0EADC0-6050-477B-A649-19AEC91BAE33/HomelessnessReductionBill>

Summary of the Bill as amended by the House of Commons

Clause 1: Meaning of ‘threatened with homelessness’

Section 175 of the Housing Act 1975 prescribes that a person is to be judged to be threatened with homelessness if they are likely to become homeless within 28 days. Clause 1 amends this by substituting “56 days” for “28 days” and adds that a person is also to be treated as threatened with homelessness if they have been served with a valid notice under section 21 of the Housing Act 1988 (which applies to the termination of assured shorthold tenancies) which is due to expire within 56 days.

Clause 2: Duty to provide advisory services

Clause 2 extends and makes more specific the duty to provide advisory services in the 1996 Housing Act by placing a duty on local housing authorities to provide free information and advice services for people who are homeless or threatened with homelessness, whether or not they are judged to be in priority need.

Clause 3: Duty to assess all eligible applicants’ cases and agree a plan

This clause creates a new duty on local housing authorities: where they are satisfied an applicant is homeless or threatened with homelessness and eligible for assistance (that is, not excluded as a person from abroad or an asylum seeker), they must carry out an assessment of the applicant’s case and identify the support they need to be able to have and retain suitable accommodation. Following the assessment they must work with the applicant to agree a personalised plan setting out action to be taken by both parties. This duty would apply to applicants whether or not in priority need.

Clause 4: Duty in cases of threatened homelessness

This clause replaces section 195 of the 1996 Act with a new duty to take reasonable steps, as informed by the assessment they have made of his case, to help a person threatened with homelessness to secure that accommodation does not stop being available for his occupation.

Clause 5: Duties owed to those who are homeless

This clause creates a new duty on local housing authorities in relation to homeless people who are not in priority need. The duty towards households in priority need would still be to secure

temporary accommodation until a permanent housing solution is found. However, in relation to single homeless people there would be a new duty to help secure accommodation for them for 56 days.



Clause 6: Duties to help secure accommodation

This clause makes it clear that certain provisions of the 1996 Act do not apply where local authorities are helping an applicant to secure accommodation rather than securing the accommodation themselves. The intention is to encourage homeless applicants to take the initiative in finding accommodation for themselves.

Clause 7: Deliberate and unreasonable refusal to cooperate: duty upon giving of notice

This clause sets out the procedure that applies where an applicant deliberately and unreasonably refuses to cooperate with key steps set out in their personalised plan to secure and retain accommodation.

Clause 8: Local connection of a care leaver

This clause amends the 1996 Act to make it clear that all care leavers who are owed a continuing duty under section 23C of the Children Act 1989 are deemed to have a local connection in the area of the local authority that owes them those duties. Where the young person was looked after by a county council they will have a local connection to any district in the county.

Clause 9: Reviews

This clause sets out, in relation to an application by a person who is homeless or threatened with homelessness, which decisions of a local authority are subject to review.

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

This clause creates a new duty on all public authorities specified in regulations, where they consider that a person to whom they exercise functions is homeless or threatened with homelessness, to notify, with the affected person's consent, a local housing authority and provide them with that person's contact details.

Clause 11: Code of Practice

This clause enables the Secretary of State to produce a mandatory Code of Practice covering the exercise of local authorities' functions concerning homelessness and homelessness prevention. A draft of the Code of Practice must be first laid before Parliament for 40 days and issued only if there has been no negative resolution by either House in that period (the "negative resolution" procedure).

Clause 12: Suitability of private rented sector accommodation

This clause amends Article 3 of the Homelessness (Suitability of Accommodation) Order 2012 to require a local authority to satisfy itself that specific requirements are met where it secures accommodation for vulnerable households in the private rented sector, and extends the requirement to cover the new duties introduced by earlier clauses of the Bill.

Clause 13: Extent and Commencement

The legislation extends to England and Wales but only applies to England. Clauses 1 to 12 of the Bill will come into force on a day specified in regulations by the Secretary of State.