



CABINET: 13 MARCH

Report of: Director of Housing & Inclusion

Relevant Portfolio Holder: Councillor K. Wright

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SUBJECT: HOMELESSNESS REDUCTION ACT 2017

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To inform Members of the changes to homelessness legislation being brought in by the Homelessness Reduction Act 2017 and to put in place appropriate arrangements.

2.0 RECOMMENDATIONS

- 2.1 That the Director of Housing and Inclusion be authorised to implement the new powers contained within the Homelessness Reduction Act 2017.
- 2.2 That the Homelessness Prevention Fund Policy 2018 (Appendix 1 to the report) be approved.
- 2.3 That the Director of Housing and Inclusion be authorised to amend the policy approved at 2.2 to take account of any minor amendments as a result of legislative changes.
- 2.4 That the call-in procedure is not appropriate for this item as processes need to be established before the legislation comes into place in April 2018.
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3.0 BACKGROUND

- 3.1 The Housing Act 1996 lays down the duties on Housing Authorities to prevent homelessness and provide assistance to people who are either threatened with homelessness or who are actually homeless.

- 3.2 The Homelessness Act 2002 and the Homelessness (Priority Need for Accommodation) (England) Order 2002 amended the Housing Act 1996. The amendments placed a duty on Housing Authorities to produce a homelessness strategy and extended the priority need categories.
- 3.3 The Homelessness Reduction Act 2017 (the Act) significantly reforms England's homelessness legislation by placing duties on Housing Authorities to intervene earlier to prevent homelessness in their areas and to provide a service to all those who are homeless, not just those who have a priority need. The Act is due to come into force on the 3 April 2018.

4.0 CURRENT POSITION

- 4.1 Under the Housing Act 1996 (as amended), the Council has a duty to provide advice and information about homelessness, the prevention of homelessness, the rights of those who are homeless or threatened with homelessness as well as the help that is available from either the Council or other services.
- 4.2 A person is currently considered to be threatened with homelessness if they are likely to become homeless within 28 days. A person is considered to be homeless if they do not have accommodation anywhere in the world that they have a legal right to access, that they are able to access and that is reasonable for them to occupy.
- 4.3 If the Council believes that a person is homeless or threatened with homelessness, it must make inquiries to see whether a duty is owed under Part 7 of the 1996 Act.
- 4.4 The duty owed to a person under the 1996 Act is dependent on the decision made based on the facts of the case. In order to determine the duty owed, the Council must decide whether the person is:
 - homeless or threatened with homelessness;
 - eligible for assistance (certain people from abroad are not eligible for assistance);
 - in priority need;
 - homeless intentionally or unintentionally;

The Council can also take into account whether the person has a local connection to their area.

4.5 The following table outlines the duty owed based on the decision made.

Decision	Duty Owed
Unintentionally threatened with homelessness and in priority need	<p>To take reasonable steps to secure that accommodation does not cease to be available for the person's occupation.</p> <p>Where the Council cannot prevent the loss of the accommodation, the duty is to secure alternative suitable accommodation.</p>

Unintentionally threatened with homelessness but not in priority need	<p>Ensure that the person is provided with advice and assistance in any attempts he/she may make to secure that accommodation does not cease to be available for his/her occupation.</p> <p>There is also a power to take reasonable steps to secure that accommodation does not cease to be available for the person's occupation.</p>
Intentionally threatened with homelessness and has a priority need	<p>Ensure that the person is provided with advice and assistance in any attempts he/she may make to secure that accommodation does not cease to be available for his/her occupation.</p>
Unintentionally homeless and in priority need	<p>Secure that accommodation is available for occupation by the person and those who are reasonably expected to reside with him/her.</p> <p>Referred to as the main homelessness duty (duty to re-house).</p>
Unintentionally homeless, no priority need	<p>To provide advice and assistance in any attempts he or she may make to secure that accommodation becomes available for his or her occupation.</p>
Intentionally homeless and in priority need	<p>Secure that accommodation is available for the person's occupation for such a period as it considers will give him or her a reasonable opportunity of securing accommodation for his or her occupation (provision of temporary accommodation);</p> <p>and</p> <p>Provide the person with advice and assistance in any attempts he/she makes to secure that accommodation becomes available for his or her occupation.</p>
Intentionally homeless, no priority need	<p>Provide the person with advice and assistance in any attempts he or she may make to secure that accommodation becomes available for his or her occupation.</p>

4.6 Although some of the duties outlined above can be termed as prevention or relief duties, they are not regarded as such and a statutory homeless assessment has to be made and a decision recorded. Many of the true prevention and relief cases are dealt with before a person is considered to be threatened with homelessness, i.e. they approach the Council for assistance when they have more than 28 days remaining in their current property, and therefore they are not considered to be part of the statutory framework.

- 4.7 Homelessness is considered to have been prevented where steps have been taken that have enabled the person to stay in their current accommodation or move into new accommodation before they actually become homeless.
- 4.8 Homelessness is considered to have been relieved where the person is already homeless but steps are taken that directly lead to the person being provided with accommodation.

5.0 HOMELESSNESS REDUCTION ACT 2017

- 5.1 The Homelessness Reduction Act 2017 (the Act) places a set of duties on Housing Authorities to intervene at an earlier stage to prevent homelessness and to take reasonable steps to prevent and relieve homelessness for all eligible applicants not just those that have priority need. The Act brings the prevention and relief duties into the statutory framework and makes prevention the main focus with the making of a statutory homeless decision (as outlined in the table above) a last resort. The intention is that the number of recorded prevention and relief cases will increase with the number of statutory decisions decreasing.
- 5.2 The main changes brought in by the Act are as follows:

- **Improved advice and information about homelessness and the prevention of homelessness:-**

Services providing advice and information must be designed to meet the needs of particular groups for example, care leavers, people suffering with a mental illness or impairment and other groups identified as being at particular risk of homelessness. Housing Authorities will need to work with other relevant statutory and non-statutory service providers to identify groups at particular risk and to develop appropriate, accessible provision.

- **Extension of the period that someone is considered to be threatened with homelessness:-**

Under current legislation, a person is only considered to be threatened with homelessness if they are likely to become homeless within 28 days. Under the new Act, the period is extended to 56 days. A person will also be considered to be threatened with homelessness if they have been served with a valid section 21 notice (notice to end a tenancy) that expires in 56 days or less. The extension aims to encourage Council's to act quickly and proactively and to allow more time for prevention work.

- **Introduction of new duties to prevent and relieve homelessness for all eligible people regardless of priority need and intentionality:-**

All eligible people who are found to be homeless or threatened with homelessness will be entitled to more tailored support from Housing Authorities, regardless of priority need and intentionality. Support will also be available to everyone, regardless of whether they have a local connection.

Where accommodation is provided to prevent or relieve homelessness, the accommodation must be available to the person for at least 6 months. If it is not, homelessness will not be considered to have been prevented or relieved.

- **Introduction of a duty to refer on certain public authorities**

Under the Act, the public authorities specified in Regulations will be required to notify a Housing Authority of service users they consider may be homeless or threatened with homelessness within 56 days. They must obtain consent and allow the person to identify the Housing Authority the referral is to be made to. The implementation of the duty to refer has been delayed to October 2018 and Government will issue a list of the public bodies the duty applies to.

- **Introduction of personalised housing plans**

All eligible applicants who are homeless or threatened with homelessness must receive an assessment and a personalised housing plan must be developed. The assessment should include:

- the circumstances that caused the applicant to become homeless or threatened with homelessness;
- the housing the applicant needs and the type of accommodation that would be suitable;
- whether the applicant needs support to obtain and keep accommodation

The plan must set out the steps both the applicant and the Council must take to enable them to remain in or find suitable accommodation for example the Council agrees to provide financial support to access private rented accommodation and the applicant agrees to seek assistance with managing their finances. The plan must clearly set out which steps are mandatory and which are recommendations.

5.3 There are seven circumstances under which the prevention and relief duties can be brought to an end:

- the Council is satisfied that the applicant has suitable accommodation available for their occupation and there is a reasonable prospect that it will be available for at least 6 months
- the Council has complied with the prevention or relief duty and 56 days have passed (regardless of whether the applicant is still threatened with homelessness in the case of the prevention duty or whether they have secured accommodation in the case of the relief duty)
- the applicant has refused an offer of suitable accommodation and on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for the minimum prescribed period
- the applicant has become homeless intentionally from any accommodation that has been made available to them as a result of reasonable steps taken by the Council during the prevention or relief duty, whichever is relevant

- the applicant is no longer eligible for assistance
- the applicant has withdrawn their application for homelessness assistance
- the applicant has deliberately and unreasonably refused to co-operate

5.4 In addition to the seven circumstances above, the prevention duty will end where the applicant has become homeless, at this point the relief duty begins. The Council has a duty to try and relieve homelessness for 56 days. If the authority is satisfied that the applicant has a priority need and is homeless unintentionally, the relief duty can be brought to an end on day 57 by the issue of a statutory decision accepting the full housing duty. The relief duty can also be brought to an end on refusal of a final offer of accommodation. Where the housing authority is satisfied that the applicant does not have a priority need or has a priority need and is homeless intentionally, the relief duty ends, however, the Council has the discretion to continue the relief duty for a longer period.

6.0 SUSTAINABILITY IMPLICATIONS

6.1 The implementation of the Act will increase the number of people receiving advice and assistance at a much earlier stage thereby reducing the number of people becoming homeless.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are financial implications associated with the implementation of the Act. Changes to the way data is recorded and reported to Government means a new homelessness recording system is required. Government has announced that funding will be available to Councils to upgrade their IT packages due to the new homelessness reporting burdens and this will be available before the end of this financial year.

7.2 In addition to new IT requirements, it is anticipated that additional staff may be required. A Homelessness Prevention Fund policy has been devised (attached as Appendix 1) and funds will be required to support the prevention tools listed in the policy.

7.3 In recognition of the burden being placed on local Housing Authorities to implement the new Act, additional Government funding has been announced. The Council already receives a Homelessness Prevention Grant annually, the additional grant funding as outlined below has been committed by Government until 2019/20.

	17/18	18/19	19/20
Homelessness Prevention Grant	£49,247	£49,416	£49,663
Flexible Homelessness Support Grant	£40,000	£40,000	£0.00
New Burdens Funding	£16,997	£15,569	£20,065
Upgrading IT Systems	TBC	TBC	TBC

8.0 RISK ASSESSMENT

- 8.1 The new Act provides an opportunity to assist those who are threatened with homelessness at a much earlier stage and provides funding to enable enhanced prevention work to take place. The Council has a legal duty to carry out the functions of the Act, failure to do so is a breach of the law and leaves the Council open to legal challenge, incurring costs and damaging the Council's reputation.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected members and / or stakeholders; therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

Appendix 1 Homelessness Prevention Fund Policy 2018

Appendix 2 Equality Impact Assessment



HOMELESSNESS PREVENTION FUND POLICY

2018

1.0 Introduction

- 1.1 The primary homelessness legislation is Part 7 of the Housing Act 1996 (the 1996 Act). The 1996 Act was amended by the Homelessness Act 2002 and the Homelessness (Priority Need for Accommodation) (England) Order 2002 and has been amended again by the Homelessness Reduction Act 2017.
- 1.2 The Homelessness Reduction Act 2017 places a duty on Local Authorities to intervene at an earlier stage to prevent homelessness in their area and to provide services to all those affected, not just those who have a 'priority need' for assistance.
- 1.3 The purpose of the Homelessness Prevention Fund Policy 2018, is to outline the assistance available to residents to ensure that they are prevented from becoming homeless wherever possible.
- 1.4 The options in the Policy are a guide to the assistance available and are not exhaustive. The Homelessness and Private Sector Housing Manager has the discretion to authorise the release of funds for any measures not outlined providing they achieve the aim of preventing or relieving homelessness.
- 1.5 The options in the Policy are to be undertaken within the constraints of the available budget.

2.0 Definitions

- 2.1 A person is considered to be threatened with homelessness if they are likely to become homeless within 56 days.
- 2.2 A person is considered to be homeless if they do not have accommodation that they have a legal right to occupy, which is accessible and physically available to them and their household and which it would be reasonable for them to continue to live in. The accommodation can be anywhere in the world.
- 2.3 The prevention duty means that Council's must take reasonable steps to help prevent any eligible person (regardless of priority need status, intentionality or local connection) who is threatened with homelessness from becoming homeless. This means either helping them stay in their current accommodation or helping them find somewhere else to live before they become homeless. The prevention duty continues for 56 days unless it is brought to an end.
- 2.4 The relief duty applies where the person is already homeless or becomes homeless despite the Council trying to prevent it. The reasonable steps will focus on helping the person to secure accommodation. If the Council believes that the person is eligible for assistance and has a priority need, they must be provided with interim accommodation.
- 2.5 If homelessness is not successfully prevented or relieved and the person is eligible, in priority need and unintentionally homeless, the Council will owe them the main housing duty. This means the Council must ensure that suitable accommodation is available for the applicant and their household until the duty is brought to an end.

3.0 Scheme Requirements

- 3.1 A financial assessment must always be carried out prior to use of the fund being considered to ensure that the accommodation will be affordable and sustainable and that homelessness will either be prevented or relieved.
- 3.2 Payments will not be authorised where it is clear that homelessness will not be prevented or relieved.
- 3.3 Where the applicant has poor money management skills and this has led to the loss of accommodation or debts that threaten the security of the accommodation, access to the fund will only be considered if the applicant is prepared to engage with an agency or support service such as the Citizens Advice Bureau or Welfare Rights.

Payments will be made directly to the landlord/agency concerned, no money will be given to the applicant.

The Homelessness & Private Sector Housing Manager must approve all expenditure.

4.0 Homelessness Advice

- 4.1 The Council has a duty to provide advice and information about homelessness and the prevention of homelessness, the rights of homeless people or those at risk of homelessness and the help that is available.
- 4.2 Advice is provided in a number of ways, residents can access the homeless pages of the Council's website www.weslancs.gov.uk, by telephoning the Homelessness Advice & Prevention Team or by a pre-arranged office appointment. Advice is also freely available from Citizens Advice Bureau www.citizensadvice.org.uk or Shelter www.shelter.org.uk
- 4.3 The Council will provide advice free of charge, to anyone who requires it even if they would not be eligible for any other assistance under the 1996 Act.

5.0 Initial Assessment

- 5.1 Every person applying to the Council for assistance with housing (the applicant) who states that they are homeless or threatened with homelessness will be offered an initial assessment. The assessment is usually conducted at a pre-arranged office interview and is important as it allows the Council to determine whether the applicant is homeless or threatened with homelessness.
- 5.2 If the applicant is not eligible for assistance or is not homeless or threatened with homelessness within 56 days, written notification of the decision reached will be provided.
- 5.3 If the Council is satisfied that the applicant is homeless or threatened with homelessness and eligible for assistance, a full assessment will be carried out

and the Council will make inquiries to see whether the applicant is owed a duty under the 1996 Act. The assessment will include:

- a) The circumstances that have caused the homelessness or threatened homelessness;
- b) The type of accommodation that will be suitable for the applicant and their household;
- c) The support needed to help them sustain accommodation

The outcome of the assessment will inform the personalised housing plan.

6.0 Personalised Housing Plans

6.1 The personalised housing plan will identify the steps to be taken by both the applicant and the Council to help them retain or secure suitable accommodation. The steps will be tailored to the household and a copy of the plan will be provided.

6.2 Examples of reasonable steps are:

- a) Attempting mediation/conciliation where an applicant is threatened with parent/family exclusion
- b) Assessing whether applicants with rent arrears might be entitled to discretionary housing payment
- c) Providing support to applicants, whether financial or otherwise to access private rented accommodation
- d) Assisting people at risk of violence and abuse wishing to stay safely in their home through provision of 'sanctuary' or other measures
- e) Helping people who are sleeping rough to secure an immediate safe place to stay

6.3 Every effort should be made to secure the agreement of the applicant to their personalised housing plans as this will improve the likelihood of the plan being successful in preventing or relieving homelessness. If agreement cannot be reached, this should be recorded along with the reasons why it has not been agreed.

6.4 The plan will be kept under review with any amendments notified to the applicant.

6.5 The applicant has a right to request a review of the reasonable steps in the plan within the prevention and relief stages.

The duty to prevent homelessness exists whether or not the applicant has a local connection to West Lancashire.

7.0 Homelessness Prevention / Relief Tools

7.1 Where the applicant has been assessed as being threatened with homelessness and is eligible for assistance, the following options can be considered to prevent or relieve the applicant's homelessness. The option(s) used will depend on the identified cause of the homelessness / threatened homelessness. These options are available irrespective of priority need or intentionality.

❖ Discretionary Housing Payments (DHPs)

Discretionary housing payments are available to help people who are in severe financial hardship or their tenancy is at risk, to pay their rent when their housing benefit does not cover the full amount of rent being charged.

DHPs are typically provided on a temporary basis but longer term awards can be made provided they are reviewed on a regular basis.

Advice on the availability of a DHP should be sought to enable the applicant to remain in their current home pending a full assessment of their financial circumstances or while alternative, more affordable accommodation is sought.

❖ Disabled Adaptations

Where the cause of the threatened homelessness is due to the current home being unsuitable due to adaptations being required, officers should consult with the Private Sector Housing Team on the likelihood of a disabled facilities grant being available to the applicant.

❖ Sanctuary Scheme

Where the cause of the threatened homelessness is domestic violence, an application to the Sanctuary Scheme should be considered. The scheme is available to applicants who wish to remain in their current home, where it is safe for them to do so, and where the perpetrator of the violence does not live at the address.

❖ Payment of deposits on private rented accommodation

Most private landlords require a cash deposit to be paid, usually equivalent to one month's rent. Since 6 April 2007, landlords have been legally required to protect such deposits in a Government backed tenancy deposit protection scheme. This means that landlords are not able to hold the deposit themselves (unless they are using an insurance backed scheme).

Where the landlord requires a deposit to be paid, there are two options available:

- Rent Deposit Guarantee Scheme

Where the landlord will accept a written guarantee from the Council instead of asking for a cash deposit, the rent deposit guarantee scheme should be used. The Council will guarantee the deposit for a maximum of 12 months and is open to any eligible applicant who is owed a duty to prevent or relieve homelessness,

irrespective of priority need, intentionality, local connection or the location of the property.

- Payment of the deposit directly to the landlord

Where the landlord will not accept a written guarantee, a cash deposit can be paid to the landlord subject to the following conditions:

- Landlord must protect the deposit on receipt and provide evidence of this to the Council
- The deposit must not equal more than 6 weeks' rent

In both cases the property must be in a condition suitable to be let, all required certificates must be in place, the property must be affordable for the applicant, at least a 6 month tenancy must be offered.

❖ **Rent in advance**

Where the applicant is unable to meet the rent in advance requested by the landlord, this can be paid in addition to the deposit. The amount requested must not be more than one months' rent.

❖ **Lettings Agents Fees**

Where an applicant is being assisted into private rented accommodation but they are unable to meet the administration fee requested by the lettings agency, consideration can be given to providing that fee in addition to any deposit or months' rent in advance. The fees must be clearly provided to the Council and must be reasonable. Payment will not be covered where it is just to register the applicant with the agency.

Government is expected to introduce new legislation banning letting agents' fees. This section will be updated once the legislation comes into effect.

❖ **Private Sector, Local Authority, Housing Association Rent Arrears or Mortgage Arrears**

Where the cause of the threatened homelessness is rent or mortgage arrears, a single payment can be made to the landlord / mortgage company in order to clear the arrears.

In order to consider this option, officers must be satisfied that the cause of the arrears has been resolved i.e. was it the loss of a job or a period of illness and the applicant is now in work, are benefits now being claimed that were not previously etc.

Officers must also be satisfied that all other options have been considered or have failed i.e. lender assistance, any mortgage support schemes and the applicant is able to pay the rent / mortgage going forward and the landlord / mortgage company must be willing to withdraw any action.

Where the property is privately rented and the current tenancy has expired or is due to expire, the landlord must agree to grant a new assured shorthold tenancy with a term of at least 6 months.

Where appropriate, applicants should be referred to support agencies such as Citizens Advice Bureau or Welfare Rights to look at income maximisation and debt management.

The maximum amount that can be paid in any one case to clear arrears is £5,000. Any amount above this must be approved by the Director of Housing and Inclusion.

Where possible, all parties should be prepared to compromise on the debt owed. For example, payment could be offered to reduce arrears to a level below which the lender / landlord can take action without clearing in full. The lender / landlord could then consider writing off the remaining debt or setting up a payment plan to clear the remaining balance.

Equality Impact Assessment Form



Directorate: Housing and Inclusion	Service: Homelessness & Private Sector Housing
Completed by: Laura Lea	Date: 1 December 2017
Subject Title: Homelessness Reduction Act 2017	
1. DESCRIPTION	
Is a policy or strategy being produced or revised:	<u>Yes</u>
Is a service being designed, redesigned or cutback:	Yes
Is a commissioning plan or contract specification being developed:	No
Is a budget being set or funding allocated:	No
Is a programme or project being planned:	No
Are recommendations being presented to senior managers and/or Councillors:	Yes
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty (Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations):	No
Details of the matter under consideration:	The implementation of the Homelessness Reduction Act 2017
<p><i>If you answered Yes to any of the above go straight to Section 3</i> <i>If you answered No to all the above please complete Section 2</i></p>	
2. RELEVANCE	
Does the work being carried out impact on service users, staff or Councillors (stakeholders):	Yes/No* <i>*delete as appropriate</i>
If Yes , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered Yes go to Section 3</i>	
If you answered No to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>	
3. EVIDENCE COLLECTION	
Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?	Members of the public who are threatened with homelessness or homeless
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?	Single males aged 25-44

Which of the protected characteristics are most relevant to the work being carried out?	
Age	Yes
Gender	No
Disability	Yes
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
4. DATA ANALYSIS	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	The majority of people currently presenting as homeless are single males aged 25-44
What will the impact of the work being carried out be on usage/the stakeholders?	Reduce the number of people becoming homeless
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	N/A
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	N/A
If any further data/consultation is needed and is to be gathered, please specify:	N/A
5. IMPACT OF DECISIONS	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	The changes will increase the number of people receiving tailored advice to prevent them becoming homeless
6. CONSIDERING THE IMPACT	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	This will be kept under review periodically
What actions do you plan to take to address any other issues above?	No actions
7. MONITORING AND REVIEWING	
When will this assessment be reviewed and who will review it?	Laura Lea – April 2019