



# Localism Bill: discharging the main homelessness duty

## **Equalities impact assessment**



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duty

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# DCLG Full Equality Impact Assessment: discharging the main homelessness duty

(Before you complete an EqlA please read the guidance notes)

## Introduction and aims

*Local Decisions: a fairer future for social housing*<sup>1</sup> set out our intention to legislate to give local authorities greater flexibility in bringing the homelessness duty to an end with offers of accommodation in the private rented sector, without requiring the applicant's agreement. By giving local authorities more flexibility in how to meet the housing needs of people accepted as homeless, they will be better able to use their social housing stock to the maximum effect. This will enable local authorities to better meet the housing needs of people in their area generally, and reduce the number of people on housing waiting lists.

Currently, applicants accepted as owed the main homelessness duty to secure accommodation are able to turn down suitable accommodation in the private rented sector that is offered as a settled home. They can effectively insist on being provided with expensive temporary accommodation while they wait for an offer of social housing. This is unfair to the taxpayer, and to other households on the housing waiting list who have to wait longer to access the limited number of social housing properties.

We believe that while people who face homelessness need suitable accommodation, they do not necessarily need social housing. We are not changing who is entitled to the homelessness duty nor that duty itself; local housing authorities will still be required to secure suitable accommodation for people who are eligible for assistance, homeless through no fault of their own and fall within a priority need group.

The intended outcome is to enable local authorities to make better use of the private rented sector to provide suitable accommodation as a settled home that can bring the homelessness duty to an end. This is likely to reduce the need for temporary accommodation and free up more social lets for other people in housing need on the housing waiting list.

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<sup>1</sup> DCLG (2010) *Local Decisions: a fairer future for social housing*. Consultation document on reforms to the social housing system published on 22 November 2010.

**1. Which group(s) of people has been identified as being disadvantaged by your proposals? What are the equality impacts?**

Which group(s) of people has been identified as being disadvantaged by your proposals?

Households who are eligible for assistance, homeless through no fault of their own and in a 'priority need' category are owed the main homelessness duty ("homeless acceptances"). The duty itself (to secure suitable accommodation) is not being changed but local housing authorities will be able to fully discharge the duty with offers of suitable accommodation in the private rented sector, without requiring the applicant's agreement.

Data on households accepted as owed the main homelessness duty is recorded through the Departments' P1E statistical returns.

Sixty-eight per cent of homeless acceptances in 2009-10 were households with dependent children or which included a pregnant woman. Forty-five per cent of homeless acceptances were lone parent households with a female applicant and a further 12 per cent were single female applicants. Seven per cent of homeless acceptances in 2009-10 had priority need because of their young age (16-17 year olds and 18-20 year old care leavers). In addition, 14 per cent of homeless acceptances in 2009-10 had priority need because of their physical disability or mental illness. Fourteen per cent of homeless acceptances in 2009-10 were black or black British; 7 per cent were Asian or Asian British; 3 per cent mixed; and 4 per cent Chinese or other.

The priority given to certain groups of young people and people who are disabled or mentally ill (who are considered most vulnerable and likely to suffer hardship if not secured accommodation), combined with the fact that households that include a pregnant woman or a dependant child are considered to have a priority need for accommodation under the homelessness legislation, means that women, pregnant women, young people and children, and disabled people are more likely to be affected by any change in the way that the main homelessness duty can be fully discharged. People from black and minority ethnic communities are also more likely to be affected because they are over-represented among homeless acceptances (compared to the general population).

In 2009-10, 1 per cent of homeless acceptances had priority need because of old age. This is not disproportionate compared to the general elderly population and we have therefore not identified any equality impacts for older people.

What are the equality impacts?

The Government has considered possible concerns about people accepted as homeless, particularly those with children or household members who may be vulnerable because of their age or a disability, being offered accommodation in the private rented sector instead of social housing. These concerns are likely to focus on:

- i) the quality of accommodation;
- ii) the location i.e. distance from where the household was previously living;
- iii) higher rents; and
- iv) less security of tenure.

However, under the homelessness legislation, local authorities will still be required to ensure that any accommodation offered to discharge the homelessness duty is suitable for the applicant and all members of his or her household. Suitability includes a range of factors such as location, affordability, space and size, and quality of the accommodation. As now, applicants will have the right to challenge whether accommodation is suitable for them and, if dissatisfied with the local authority's decision, will have a right to appeal to the county court on a point of law.

Although rents in the private sector are generally higher than the social sector, since the accommodation must be suitable, it must be affordable for the applicant. Housing Benefit will continue to be available to eligible households who need it, whether moving into the private or social housing sector.

The proposed change should also result in fewer households having to spend time in temporary accommodation, which can have rents that are typically higher than direct lets in the private market. The Department for Work and Pensions' proposals to introduce a Universal Credit, as set out in the *Universal Credit: Welfare that Works* white paper,<sup>2</sup> will mean that households in the private rented sector will face less of a disincentive to work as a result of higher rents. Local authorities also have enforcement powers to tackle below standard accommodation in the private rented sector. Many households (such as the 51,000 households in 2009-10 who benefited from homelessness prevention by being assisted to obtain alternative accommodation in the private rented sector) are settled in good quality private sector housing.

Homeless acceptances for whom the duty is ended with an offer of suitable accommodation in the private rented sector will typically have less security of tenure than they would have in the social sector. However, we do not believe that someone who needs assistance because they face a temporary homelessness crisis necessarily needs the level of security offered by social housing. Many tenancies in the private rented sector are allowed to run on beyond the initial term and there is no reason to believe this will not be the case for people owed the homelessness duty. There is no evidence of an increase in homelessness acceptances that some predicted following the greater emphasis on homelessness prevention since 2003.

Local authorities will still be able to bring the main homelessness duty to an end with an offer of social housing, and may choose to do so for some equality groups, for example, disabled people who require access to adapted properties. As such, outcomes are more likely to depend on individual circumstances and the accommodation they are offered, rather than varying systematically by equality group or across tenure.

There may also be positive impacts for individual households where local authorities end the main homelessness duty with offers of suitable accommodation in the private rented sector.

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<sup>2</sup> DWP (2010) *Universal Credit: Welfare that Works*. November 2010.

There may be a greater choice of accommodation compared to the social housing sector, with better opportunities for example, to remain close to a school or family. Also, the change will mean that homeless acceptances are likely to be provided with a settled home more quickly. Research<sup>3</sup> has found that families living in temporary accommodation were markedly less satisfied with their accommodation than those that had been provided with settled housing. Families living in temporary accommodation for over a year were less satisfied with living space and facilities, and more likely to report that they were struggling financially as the perception that their “life was on hold” made finding or retaining employment more difficult.

In addition, it is important to consider the equality impacts of the wider benefits of the policy i.e. to other households in housing need on the waiting list who will benefit from an increase in available social housing lets (which would have otherwise been allocated to people owed the homelessness duty).

The changes to social housing allocation and tenure outlined in *Local Decisions: a fairer future for social housing* are designed to allow local authorities greater flexibility to target the households who most need social housing. By its very nature we would expect equality groups in need to be able to benefit from the broader social housing reforms, for example, those living in overcrowded, temporary or other unsuitable accommodation. In addition, as *Local Decisions: a fairer future for social housing* has made clear, the statutory duty on local authorities to give ‘reasonable preference’ to certain groups, together with local authorities’ wider equality duties, should serve to ensure that local authorities put in place allocation systems which are fair and protect those who are vulnerable and in housing need. To provide a further safeguard, we intend to reserve a power to prescribe by way of regulations, that certain classes of people are (or are not) qualifying persons, if there is evidence that people in housing need are being excluded from social housing without good cause.

- 2. In brief, what changes are you planning to make to your current or proposed new or changed policy, strategy, procedure, project or service to minimise or eliminate the adverse equality impacts? Please provide further details of the proposed actions, timetable for making the changes and the person(s) responsible for making the changes on the resultant action plan.**

A strong homelessness safety net will remain in place, ensuring that local housing authorities are still required to secure suitable accommodation for all applicants who are eligible for assistance, homeless through no fault of their own and who fall within a priority need group.

Local authorities will still be able to end the homelessness duty with an offer of social housing, where they decide this is appropriate or there is no accommodation available in the private rented sector suitable for the applicant. Local authorities will decide how to bring the homelessness duty to an end in individual cases.

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<sup>3</sup> Pleave et al. (2008) *Statutory Homelessness in England: the experiences of families and 16-17 year olds*. DCLG.

As public bodies, local authorities have a legal requirement to carry out equality impact assessments of the effect their policies and practices will have on equality groups.

To mitigate concerns about reduced security of tenure in the private rented sector, we are putting additional protection in place. In order for the main homelessness duty to end with an offer of suitable accommodation in the private rented sector, the tenancy must be for a minimum fixed term of at least 12 months. Moreover, the duty will recur if the applicant becomes homeless again within two years of accepting the private rented sector offer, through no fault of their own, regardless of whether they still have a priority need for accommodation.

**3. Please provide details of whom you will consult on the proposed changes and if you do not plan to consult, please provide the rationale behind that decision. Please note that you are required to involve disabled people in decisions that impact on them.**

The proposed change to the homelessness legislation is set out in the policy consultation on social housing reform: *Local Decisions: a fairer future for social housing*. This has been sent to representative equality groups, such as the Commission for Equality and Human Rights and RADAR, the disability network. We will also be meeting with homelessness organisations to discuss the particular proposed change to the homelessness legislation.

**4. Can the adverse impacts you identified during the initial screening be justified without making any adjustments to the existing or new policy, strategy, procedure, project or service? Please set out the basis on which you justify making no adjustments.**

We consider that equalities groups will not be unfairly or negatively impacted as a result of this proposal because of existing protection within the homelessness legislation. The proposal also includes mitigating measures designed to provide additional protection for people accepted as homeless and who are affected by the proposed change.

We expect there to be benefits for equality groups arising from the changes, in particular, that homeless acceptances are likely to be provided with a settled home more quickly and therefore require shorter waits in temporary accommodation. Equality groups in need are also likely to be able to benefit from the increase in available social housing lets (which would have otherwise been allocated to people owed the homelessness duty), and from broader social housing reforms designed to allow local authorities greater flexibility to target the households who most need social housing.

We are not proposing to introduce any other adjustments focused on a particular equality group(s): the precise impacts for individual households are more likely to depend on the policy of their local authority and the particular accommodation they are offered.



This would also restrict the flexibility for local authorities to make decisions on how to meet the housing needs of people in their local area, which we believe they are best placed to do. As public bodies, local authorities have a legal requirement to carry out equality impact assessments and so would need to justify any decisions which negatively impacted on particular equality groups.

**5. You are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts.**

**Please provide details of how you will monitor/evaluate or review your proposals and when the review will take place.**

The Departments' P1E statistical returns will enable us to monitor how many households are accepted as homeless and offered accommodation in the private rented sector (and monitor any corresponding reductions in households in temporary accommodation). P1E returns also tell us the types of household who are being accepted as homeless.

The P1E form is structured around the requirements of the homelessness legislation. As such, it will be necessary to amend it to include the additional protection for households where the duty has recurred because the applicant has become homeless again within two years of accepting the private rented sector offer, through no fault of their own. This will enable us to monitor the volume of re-applications within two years of the duty being ended with a private sector offer. Changes to the P1E form are subject to the Government's ongoing efforts to reduce data reporting burdens.

The proposed change to the way that the main homelessness duty can be fully discharged will be kept under constant review: as a minimum, through monitoring the P1E statistical returns and by working closely with local authorities and other external partners who will be involved with individual cases.

**6. The full Equality Impact Assessment form should be signed off by one of the following: a deputy director, director or director general.**

Name of person signing off the full Equality Impact Assessment: **Ruth Stanier**

Role: **Deputy Director, Preventing Homelessness and Repossessions**

Date: **12 January 2011**

Note: Equality Impact Assessments should be published with detailed publication arrangements agreed with the Directorate of Communication. In most cases this will be as part of a broader impact assessment or consultation exercise which will ensure the requisite clearance from the relevant minister.

A copy of the full Equality Impact Assessment form should be retained by the originator for audit purposes.

## Full Equality Impact Assessment - action plan

Actions taken or proposed	Rationale for the action	Beneficiaries of the action	Timing	Responsibility
<b>Changes made:</b> Changes that have been made to policy as a result of the Equality Impact Assessment.				
Additional legislative protections will be introduced: tenancies must be for a fixed term of at least 12 months; and the main homelessness duty will recur if the applicant becomes homeless again within two years of accepting the private rented sector offer, through no fault of their own, regardless of whether they still have priority need.	To ensure that all homeless acceptances will have accommodation for at least two years (unless they make themselves intentionally homeless).	Women, pregnant women, young people and children, people from black and minority ethnic communities, and disabled people who are more likely to be owed the main homelessness duty.	Estimated April 2012 (as soon as practicable following Royal Assent of the Localism Bill).	DCLG
<b>Mitigation:</b> For areas where a policy may have a differential impact on certain groups, what arrangements are in place or proposed to mitigate these effects?				
N/A				
<b>Justification:</b> For areas where a policy may impact negatively (but not illegally) on certain groups but mitigation is not possible (e.g. an overriding societal driver) there needs to be a strategy for handling issues of unfairness.				
Individual applicants will be able to appeal against decisions by local housing authorities if they believe that	To provide homeless applicants with a right of appeal against decisions	All households whose application for housing	N/A	DCLG

Actions taken or proposed	Rationale for the action	Beneficiaries of the action	Timing	Responsibility
the offer of accommodation is not suitable (through the courts, as per other decisions under the current homelessness legislation).	which may adversely affect them.	assistance is considered under the homelessness legislation.		
Local authorities will be required to carry out equality impact assessments of the effect their policies and practices will have on equality groups.	To ensure that decisions taken at the local level do not impact negatively on equality groups.	Women, pregnant women, young people and children, people from black and minority ethnic communities, and disabled people who are more likely to be owed the main homelessness duty.	From April 2012 (following Royal Assent of the Localism Bill).	Local housing authorities
To reserve a power to prescribe that certain classes of people are (or are not) qualifying persons under the legislation governing the allocation of social housing.	To ensure that equality groups in housing need are not excluded from access to social housing without good cause.	All members of equality groups applying for an allocation of social housing.	N/A	DCLG
<b>Opportunities:</b> Please state actions designed to maximise positive effects, i.e. opportunities identified for: promoting equality, good relations or knowledge about groups; increasing civic and democratic participation; or addressing inequalities.				
Reduced periods spent in temporary accommodation for those households owed the main homelessness duty.	To provide access to suitable settled accommodation in the	Women, pregnant women, young people and	Estimated April 2012 (as soon as practicable)	DCLG and local housing authorities.

Actions taken or proposed	Rationale for the action	Beneficiaries of the action	Timing	Responsibility
	private rented sector, and reduce the cost to the taxpayer of funding temporary accommodation.	children, people from black and minority ethnic communities, and disabled people who are more likely to be owed the main homelessness duty.	following Royal Assent of the Localism Bill).	
Increased access to social housing for other households in housing need, for example, those living in overcrowded, temporary or other unsuitable accommodation.	To better meet housing need in the local area and reduce numbers on social housing waiting lists.	All other households in housing need on the waiting list (not owed the homelessness duty).	From April 2012 (as soon as practicable following Royal Assent of the Localism Bill).	DCLG and local housing authorities.
<b>Monitor:</b> How will you monitor the impact and effectiveness of the new policy?				
DCLG data on statutory homelessness, including new information on the number of households where the duty has recurred within two years, following acceptance of a private sector offer.	To monitor the numbers for whom the homelessness duty is ended with a private rented sector offer and the number of re-applications within two years.	Women, pregnant women, young people and children, people from black and minority ethnic communities, and disabled people	Estimated April 2012 (as soon as practicable following Royal Assent of the Localism Bill).	DCLG

Actions taken or proposed	Rationale for the action	Beneficiaries of the action	Timing	Responsibility
		who are more likely to be owed the main homelessness duty.		
Work closely with local authorities and other external partners who will report the impact of individual cases.	To monitor the impact and effectiveness of the policy on individual cases.	Women, pregnant women, young people and children, people from black and minority ethnic communities, and disabled people who are more likely to be owed the main homelessness duty.	Ongoing.	DCLG
<b>Publish:</b> Give details of how the results of the Equality Impact Assessment will be published.				
Full Equality Impact Assessment to be published on the DCLG website.	In the interests of transparency.	Members of the public, local authorities, external partners, MPs and other interested parties.	January 2011 (alongside 2 <sup>nd</sup> Reading of the Localism Bill).	DCLG