



Ministry of Housing,
Communities &
Local Government

Homelessness Code of Guidance for Local Authorities

Government response to the consultation



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Introduction

- 1 The Government supported the Homelessness Reduction Bill which was introduced to the House of Commons in summer 2016 by Bob Blackman MP, and progressed through Parliament with cross party support. The Act received Royal Assent on Thursday 27th April 2017.
- 2 The Act is designed to significantly reform England's homelessness legislation by placing duties on local authorities to intervene at earlier stages to prevent homelessness, irrespective of whether or not an applicant has 'priority need' or may be 'intentionally homeless'. The new duties include:
 - a. providing free information and advice on preventing and relieving homelessness and the rights of homeless people, to all residents, to include information tailored to the needs of particularly vulnerable groups;
 - b. an enhanced prevention duty extends the period a household is threatened with homelessness from 28 days to 56 days, meaning that local authorities will intervene to prevent homelessness at an earlier stage; and,
 - c. a new duty for those who are already homeless will mean that local authorities will work with them for 56 days to help secure accommodation to relieve their homeless.
- 3 Following Royal Assent the Government is reviewing the statutory Homelessness Code of Guidance for Local Authorities, last updated in 2006, and associated supplementary guidance. The Homelessness Code of Guidance provides direction on how local authorities should exercise their homelessness functions and apply the law in practice. It also applies to local housing and social services authorities, who are required to have regard to the guidance in exercising their functions in relation to homelessness.
- 4 The Government worked with a guidance review group made up of local authority and charity representatives, as well as specialists relevant to particular issues, to inform the review of the Code of Guidance. The new Code brings together and updates existing guidance, as well as providing new guidance to cover the duties brought in by the Act. In doing so, it focuses more tightly on the legislation itself with less attention to general practice guidance and the wider policy context.
- 5 The Government launched its eight week consultation on 16th October 2017 and it closed on 11th December 2017. We received 296 responses. Of these, 87% were from organisations and 13% were from individuals. Of the responses from organisations 61% were from local authorities, 7% were from homelessness charities, 5% were from private registered providers, 3% were from organisations providing legal services, 3% were from criminal justice agencies and 21% were from other interested groups.

- 6** The Communities and Local Government Select Committee has been heavily involved since the inception of the Bill and the Minister for Local Government attended a specific evidence session on the Code of Guidance during the consultation period. The committee asked that the transcript be taken into account as part of the consultation.
- 7** We are very grateful to everyone who took the time to respond. This document summarises the comments received and sets out the Government's approach to revising the Code in the light of the key themes that people raised.

Summary of the consultation findings and government response

Part A: Format of the guidance

Consultation findings

Q5: Do you agree that annexes should be removed from the guidance? If not, is there any specific information that you would suggest keeping in an annex and why?

Yes	No	Other	Not answered
44%	16%	30%	10%

- 1 The most frequent response by local authorities and the homelessness sector was that the Code would follow better without the annexes and it would make the Code more accessible to the reader. A significant proportion of respondents also commented that they thought merging the annexes was a sensible idea but it was important that the information remained accessible either within the Code itself or elsewhere.
- 2 Of the 30% of respondents who made other comments on this question the majority highlighted that it was important to retain the Procedures for Referrals of Homeless Applicants on the Grounds of Local Connection with Another Local Authority annex within the Code which contains agreed guidelines for referrals for housing authorities. Other annexes which respondents suggested should be retained included those focused on eligibility for assistance and in particular habitual residence.

Government response

- 3 The Government welcomes the broad support for the removal of the annexes from the Code. The Government noted the responses which asked for the Procedures for Referrals of Homeless Applicants on the Grounds of Local Connection with Another Local Authority to be retained within the Code and is it is our intention to include this agreement subject to the LGA's consultation. We have also included an annex on habitual residence to help to clarify eligibility requirements.

Consultation findings

Q6: Do you agree with the recommendations for withdrawal of existing supplementary guidance documents? Are there specific, essential elements of current guidance material that should in your view be retained and considered for inclusion in the revised guidance?

Yes	No	Other	Not answered
59%	9%	13%	19%

Q7: Do you agree that the revised Homelessness Code of Guidance should incorporate the additional supplementary guidance documents? If not, what other method or format would you suggest and why?

Yes	No	Other	Not answered
74%	6%	7%	13%

- 4 The majority of local authorities commented that it was important that the guidance is all in one place rather than within separate documents. In addition, the homelessness sector highlighted that, although they agreed with the inclusion of the supplementary guidance within the Code, it was important that the key information within these documents is retained.
- 5 Other comments from respondents focused on the need for clarification on whether the previous guidance documents would be withdrawn on the publication of the revised Code. In addition a number of local authorities commented that it was important that the guidance for housing authorities and children’s services authorities on the ‘Provision of Accommodation for 16 and 17 year olds who may be homeless and/or require accommodation’ remains a separate document, equally accessible to housing and children’s social care professionals.

Government response

- 6 The Government welcomes the general consensus that in order to streamline and clarify guidance, the Code should incorporate the supplementary guidance which has been issued since the publication of the 2006 Code.
- 7 We agree with the points made in relation to that the ‘Provision of Accommodation for 16 and 17 year olds who may be homeless and/or require accommodation’ and intend to issue it separately alongside the revised Code.

Consultation findings

Q8: Are there any other relevant case law updates that you think should be considered for inclusion in the revised guidance? If so, detail the case and which chapter of the Homelessness Code of Guidance the update should be included within.

Yes	No	Other	Not answered
33%	28%	25%	14%

- 8 The most frequent responses from respondents who suggested case law updates that should be considered for inclusion predominantly focused upon Haile, Hotak, Moorhouse and Panayiotou. A significant number of local authorities who did not think case law updates should be included commented that as case law does go out of date it should not be explicitly referenced in the Code.

Government response

- 9 As part of the update to the Code the Government noted the case law suggestions received as part of the consultation response and considered these when amending the relevant chapters.

Q10: To inform our public sector equality analysis further we are interested in your views on the likely impacts of the Homelessness Code of Guidance on groups with protected characteristics? Please let us have any examples, case studies, research or other types of evidence to support your views.

- 10 The majority of consultation responses commented that the Homelessness Reduction Act 2017 and the guidance within the Code will advance the equality of opportunity between people with protected characteristics and those without, citing over-representation of people with some protected characteristics amongst people experiencing homelessness and the additional help they will receive through the Act.
- 11 The Act contains a measure which enables housing authorities to end certain duties if an applicant deliberately and unreasonably refuses to cooperate with reasonable steps in their personalised plan. A number of respondents suggested that the guidance on the procedure to be followed when an applicant deliberately and unreasonably refuses to co-operate should emphasise the safeguards within the legislation to ensure that vulnerable groups are not adversely impacted by this measure. Specialist charities sent through case studies on domestic abuse, offenders and modern slavery for consideration.

Government response

- 12 The Government agrees that the Homelessness Reduction Act will improve the service offered by housing authorities to wider categories of people. We have taken into account the comments on deliberate and unreasonable refusal to cooperate and considered the case studies in the process of finalising the Code.

Consultation findings

Q9: Do you have any comments on the drafting style and tone in the revised guidance, and are there some chapters that you find easier to understand than others?

No comments	Clear drafting	Complex drafting	Other	Not answered
5%	41%	11%	24%	16%

- 13 There was strong support for the drafting style and tone of the guidance across all respondents. Local authorities particularly commented that compared to previous Code it was easier to read and flowed better throughout the guidance.
- 14 Of the 24% of respondents who made other comments on this question a significant number emphasised that chapter 10 of the guidance concerning local connection was hard to understand. The homelessness sector recommended that certain chapters were revised in tone to better reflect the aims of the legislation including chapter 3 and chapter 7 to reflect that people who are ineligible for homelessness services are able to access advice and information on homelessness.

Government response

- 15** The Government welcomes the support for the drafting style and tone of the Code. Whilst the guidance in chapter 10 is largely unchanged we have restructured the chapter to make it easier to read and understand. The tone of chapter 3 and 7 have been revisited.

Part B: Content of the guidance

Overall response

- 1 The consultation responses across all stakeholder groups were mainly positive and emphasise that the revised Code is more accessible and easier to understand. For each group of chapters the majority of respondents also commented that they found the chapters clear as to what local authorities' responsibilities are. We have set out detailed information about the changes people suggested and how we have responded below.

Consultation findings

Q11: Taking chapters 1-5 of the Homelessness Code of Guidance which describe strategic functions consider the following questions:

a) Having read these chapters are you clear what local authorities responsibilities are?

Yes	No	Other	N/A
55%	19%	18%	8%

b) Would you suggest any additions, deletions or changes to these chapters?

- 2 The majority of respondents found that the guidance contained within chapters 1-5 was clear in regards to what local authorities' duties are. A small number of respondents commented that more practical examples should be included within these chapters while others commented that further advice is required on The Local Authorities' Plans and Strategies (Disapplication) (England) (Amendment) Order 2009.
- 3 In relation to chapter one a number of respondents asked for additional clarity in relation to article 4 of the Human Rights Act 1998 and an additional section providing guidance on safeguarding. The suggested revisions to chapter 2 focused on additional clarity in relation to housing allocations and a stronger focus on collaboration between partners when developing strategies. Revision to the tone of chapter 3 was also suggested by the homelessness sector along with highlighting that all applicants are able to access the information on homelessness and the prevention of homelessness. For chapter 4 the majority of respondents, and in particular local authorities, requested that the regulations on the public authorities are published as soon as possible in order to enable preparation in advance of commencement. In response to chapter 5 the majority of respondents were content with the consultation draft while legal practitioners provided suggested amendments for clarity.

Government response

- 4 We have made amendments in response to all of these themes that were raised in the consultation. The Government noted the responses which asked for regulations to be laid on the duty to refer in order to prepare ahead of commencement of the Act and these were laid in parliament on 19th February.

Consultation findings

Q12: Taking chapters 6-10 of the Homelessness Code of Guidance which provide guidance on definitions to help inform decisions on the areas of statutory duty.

a) Having read these chapters are you clear what local authorities responsibilities are?

Yes	No	Other	N/A
56%	22%	9%	12%

b) Would you suggest any additions, deletions or changes to these chapters?

- 5 The findings indicate that the majority of local authorities and homelessness sector are clear about local authorities' duties within these chapters. Of those who responded with other comments or were unclear as to local authorities' duties the majority of comments suggested further work to chapter 10, Local connection and referrals to another housing authority, to make it easier to follow.
- 6 In relation to chapter 7 a minority of respondents suggest legal clarifications to the chapter focused on eligibility requirements while others suggested that links to other guidance to assess eligibility would be helpful to include. The responses on chapter 8 focused on the ensuring that case law is reflected. While in response to chapter 9 the responses from local authorities predominantly requested additional text to be included on the impact of intentional homelessness decisions during the prevention and relief duties.

c) When considering 'Chapter 6: Homelessness and Threatened with Homelessness' is the guidance on whether it is 'reasonable to occupy' helpful?

Yes	No	Other	N/A
45%	17%	25%	13%

d) When considering 'Chapter 10: Local Connection' does the guidance provide sufficient clarity about when and how a referral can be made?

Yes	No	Other	N/A
24%	32%	31%	12%

- 7 The majority of correspondents found the guidance within chapter 6 helpful in relation to whether it is reasonable for an applicant to continue to occupy a property. A number of housing authorities commented that the draft Code provided more clarity compared to the 2006 guidance. The approach taken when an applicant receives a section 21 notice from a landlord also received significant responses following the consultation. Housing authorities commented that the approach taken in the Code that when a possession order for a property is issued does not reflect the law as the applicant can remain in the property until the order expires. Of the respondents who said that they did not understand the guidance the majority asked for illustrative examples to be included.

- 8 In response to chapter 10 the majority of respondents across all stakeholder groups asked for further work on the chapter to provide more clarity about local connection and referrals.

Government response

- 9 In relation to the responses from legal practitioners who recommended that additional text was included in relation to eligibility the Government has included an additional guidance on habitual residence within an annex. The case law suggestions for each chapter were given consideration and the text amended where necessary. We have not provided case study examples in chapter 6 in line with our approach of streamlining guidance to focus more tightly on the legislative requirements. We have amended the guidance in relation to possession orders. The Government noted the responses that called for amendments to chapter 10 on local connection and has revised it to improve accessibility.

Consultation findings

Q13: Taking chapters 11-14 of the Homelessness Code of Guidance which focus on the prevention and relief duties consider the following questions:

a) Having read these chapters are you clear what local authorities responsibilities are?

Yes	No	Other	Not answered
56%	19%	12%	13%

b) Would you suggest any additions, deletions or changes to these chapters?

- 10 A significant proportion of respondents responded that they understood housing authority responsibilities as outlined within these chapters. Respondents who made other comments on the guidance suggested the inclusion of example personalised housing plans or other template documents.

- 11 In response to chapter 12 and chapter 13 the majority of respondents were broadly content with the information included. On chapter 12 a number of housing authorities commented that prevention work that takes place before 56 days should be acknowledged and that when an applicant is from another district a reasonable step may be to contact the local district for assistance. Respondents on chapter 13 commented that the guidance should provide more clarity on the notification to applicants.

c) When considering 'Chapter 11: Assessments and Personalised Plans' do you consider that the guidance on 'reasonable steps' is sufficient, and is helpful?

Yes	No	Other	Not answered
35%	16%	34%	15%

d) When considering 'Chapter 14: Ending the Prevention and Relief duty' would any additional information on applicants who deliberately and unreasonable refuse to cooperate be helpful?

Yes	No	Other	Not answered
42%	16%	30%	12%

- 12** In response to chapter 11 there were a number of comments from the homelessness sector asking for clarification of between recommended and mandatory steps for applicants to take as part of their personalised housing plans. Other comments suggested the inclusion of example personalised housing plans or example case studies.
- 13** The majority of respondents to chapter 14 responded that additional information on the procedure housing authorities should follow for applicants who deliberately and unreasonably refuse to cooperate would be helpful. The homelessness sector also highlighted the need for guidance to be strengthened to ensure that applicants are not negatively impacted through this measure. The Government noted the responses which called for the regulations setting out the procedures for deliberate and unreasonable cooperation and these were laid in parliament on 19th February.

Government response

- 14** We have not included case study examples or templates in line with our approach to streamline the guidance.

Consultation findings

Q14: Taking chapters 15-17 of the Homelessness Code of Guidance which focus on accommodation duties and powers consider the following questions:

a) Having read these chapters are you clear what local authorities responsibilities are?

Yes	No	Other	Not answered
55%	15%	10%	20%

b) Would you suggest any additions, deletions or changes to these chapters?

The majority of respondents understood housing authorities' responsibilities which are contained within these chapters.

- 15** Responses from across all stakeholder groups in relation to chapter 15 primarily focused on requiring more information on section 188 accommodation to clarify the statute. Other respondents requested the inclusion of additional hyperlinks for accessibility.

c) When considering Chapter 16: Helping to secure and securing accommodation are you clear what local authorities responsibilities are in helping to secure or securing accommodation?

Yes	No	Other	Not answered
51%	10%	22%	17%

d) When considering Chapter 17: Suitability of Accommodation are you clear what local authorities' responsibilities are?

Yes	No	Other	Not answered
40%	13%	31%	16%

- 16** In regards to chapter 16 the majority of respondents are clear in regards to the duties to secure or help to secure accommodation. The other comments from respondents on this chapter focused on minor drafting changes for clarity. The majority of respondents also stated they understood the responsibilities outlined in the chapter. However, significant number of responses from all stakeholder groups requested further guidance on assessing the affordability of accommodation.

Government response

- 17** We have amended chapter 15 to include more information on interim accommodation and to improve the accessibility of the guidance. We amended chapter 16 in line with the comments received and we have included additional information on assessing affordability for a person based on Universal Credit standard allowances in chapter 17.

Consultation findings

Q15: Taking chapters 18-20 of the Homelessness Code of Guidance which focus on casework administration consider the following questions:

a) Having read these chapters are you clear what local authorities responsibilities are?

Yes	No	Other	Not answered
62%	10%	7%	21%

b) Would you suggest any additions, deletions or changes to these chapters?

- 18** Respondents from all stakeholder groups found that chapter 18-20 were clear in relation to the responsibilities of housing authorities. Of those who made other comments the majority called for consistency on timeframes for applications to remain open across the guidance.
- 19** The majority of respondents commented in response to chapter 19 that the regulations on reviews should be laid in parliament in advance of the publication of the Code. The majority of respondents were content with the wording of chapter 20 but a few respondents commented that it would be helpful to include reference to written logs of personal property.

c) When considering Chapter 18: Applications, inquiries, decisions and notifications would any additional information on issuing notifications and decisions be helpful?

Yes	No	Other	Not answered
25%	31%	25%	19%

- 20** 31% of respondents stated that they were content with the level of detail within the guidance in relation to issuing notifications and decisions and additional information would not be helpful. Of those who suggested that more information would be helpful they recommended that templates and example notifications should be

included within the Code. Other comments received tended to focus on the need for more information on timescales or flow charts for each stage of the applicant's journey through the service.

Government response

- 21** We have amended the guidance in line with responses to ensure consistency in relation to timescales for applications to remain open. The Government noted the responses which called for the review regulations to be laid and these were laid in parliament on 19th February. Since the revision of the guidance is focused more tightly on legislation we have not included template examples in the guidance. We decided not to provide guidance on timescales for each notification to be made within the Code to allow housing authorities to be able to take different approaches as required in line with the applicant's particular case.

Consultation findings

Q16: Taking chapters 21-25 of the Homelessness Code of Guidance which focus on particular client groups consider the following questions:

a) Having read these chapters are you clear what local authorities responsibilities are?

Yes	No	Other	N/A
61%	14%	10%	15%

b) Would you suggest any additions, deletions or changes to these chapters?

- 22** The majority of respondents found that these chapters were clear and conveyed the duties in an understandable manner. A significant number of housing authorities commented that they found these chapters a helpful. The respondents who made other comments in predominantly recommended the inclusion of additional chapters on other particular client groups such as people with mental health issues, people suffering harassment and people from black and minority ethnic backgrounds.
- 23** In relation to chapter 21, the majority of respondents from the homelessness sector and specialised charities highlighted that additional information on applicants who approach without ID or other documentation would be helpful to include. Responses from local authorities suggested further information on reciprocal arrangements to facilitate out of area moves for victims of domestic abuse should be included. The suggested revisions to chapter 22 focused on providing more guidance on what could be included for advice and information for care leavers. For chapter 23 the majority of respondents requested more clarity on the respective roles of Community Rehabilitation Companies and housing authorities. On modern slavery a number of specialised stakeholder groups suggest that further guidance on the national referral mechanism should be included along with more information on what modern slavery is to enhance understanding within housing authorities.

Government response

- 24** We have amended the Code in line with the key themes that were raised in the majority of responses to the consultation. We have taken into account the

suggestions for further guidance in relation to some of these chapters while finalising the Code.

Consultation findings

Q17: Are there any other comments that you would like to make on the Homelessness Code of Guidance?

- 25** The majority of applicants did not have any additional comments on the Code. Of those who did, the majority of respondents commented that the Code was clear and well structured in comparison to the 2006 Code. Other responses called for the commencement of the Act to be delayed until after the Code is published and for additional funding. A significant number of responses also focused on housing authorities' concerns about how well they would be able to fulfil the duties within the context of other pressures such as affordability.

Government response

- 26** The Government is supportive of the number of respondents who commented that guidance was clearly structured and easy to understand. As the detail of the Act has been known for some time the Government expects housing authorities to be well underway with their preparations to deliver the new duties, and the consultation version of the Code furthered supported implementation planning. The Government 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. We 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. We have noted the response from housing authorities on the wider context and the Government is committed to do more to prevent more people becoming homeless in the first place. We have allocated over £1 billion until 2020 to reduce homelessness and rough sleeping, as well as supporting the Homelessness Reduction Act, including:
- a. Protecting £315 million of funding to local authorities and £197 million of central government funding for homelessness programmes;
 - b. £100 million to deliver low-cost move-on accommodation places, for people leaving hostels and refuges to make a sustainable recovery;
 - c. £402 million in Flexible Homelessness Support Grant funding over the next two years, which replaces DWP's Temporary Accommodation Management Fee, and gives local authorities greater flexibility to prioritise homelessness prevention.