

Policy Fact Sheet: Secondary Legislation and Codes of Practice

Introduction

This document provides an overview of the delegated powers that have been included in the Homelessness Reduction Bill and how the Government proposes to use them.

Delegated Powers

As outlined in the Delegated Powers Memorandum, the Bill confers delegated powers in five areas:

- Clauses 4 and 5 – the power to specify a longer minimum period that accommodation must be secured for (up to twelve months) under the ‘Relief’ duty, and in order for the ‘Prevention’ and/or ‘Relief’ duties to be brought to an end.
- Clause 7 – the power to make regulations specifying the procedures to be followed in relation to notices bringing the ‘Prevention’ and/or ‘Relief’ duties to an end in cases of deliberate and unreasonable refusal to cooperate.
- Clause 10 – the power to make regulations to specify or describe the public authorities subject to the ‘Duty to Refer’
- Clause 11 – the power to produce statutory codes of practice
- Clause 13 – the power to make regulations to commence all clauses in the Bill and make transitional, transitory or saving provision.

Implementation of the Delegated Powers

Ahead of commencement, the Government will work closely with local government, charities and others to ensure that a number of key elements are in place, including:

- A new updated Homelessness Code of Guidance for Local Authorities¹ (‘the Code of Guidance’). This will be developed in close cooperation with local housing authorities², and others with an interest and expertise that can help, such as the charities and the landlord groups. The updated Code of Guidance will also be subject to appropriate consultation before it is issued.

¹ <https://www.gov.uk/government/publications/homelessness-code-of-guidance-for-councils-july-2006>

² In England, local housing authorities are district councils, the Council of the Isles of Scilly, the London Borough councils and the Common Council of the City of London

- Local housing authorities will need to put in place the extra resources for which funding will be provided. They will also need to train their existing and new workforce, for which they will need the Code of Guidance.
- The Government has committed to putting in place a network of expert advisors that will support and challenge local housing authorities in the implementation of the legislation.

The Government is setting up a Bill implementation working group with a representative number of local authorities to begin this work. Once the key elements outlined above are in place, the clauses in the Bill will be commenced alongside any regulations appropriate to be commenced immediately.

Further details on the clauses in the Bill can be found in the factsheets published at:

<https://www.gov.uk/government/publications/homelessness-reduction-bill-policy-factsheets>

Further details on the how specific delegated powers in the Bill will be used is provided below.

Detail on Use of Delegated Powers

Clause	Delegated Power	Plans for Secondary Legislation and Codes of Practice
4 and 5	<p>Clause 4 inserts new section 195 into the Housing Act 1996, to introduce a duty on local housing authorities (LHAs) to help secure that accommodation does not cease to be available for those threatened with homelessness (“the Prevention duty”). Clause 5 inserts new section 189B into the Housing Act 1996, to introduce a duty on LHAs owed to all eligible persons who are already homeless to help them secure accommodation (“the Relief duty”).</p> <p>The Prevention and Relief duties can be brought to an end in a number of ways, one being where the LHA is satisfied that suitable accommodation has been secured where there is a reasonable prospect of that accommodation being retained for at least six months.</p> <p>In the new sections 195 and 189B, inserted into the Housing Act 1996, the Secretary of State may extend the six month minimum period up to no more than twelve months.</p>	<p>The ability for people to secure tenancies for longer than six months varies according to market conditions. These delegated powers would allow the Government to respond to any future changes in market conditions by making regulations to extend the minimum tenancy length flexibly, up to no more than twelve months. The Secretary of State does not intend to exercise this delegated power on the date these provisions come into force. The power is available should market conditions change.</p>
7	<p>Clause 7 of the Bill inserts new sections 193A, 193B and 193C into the Housing Act 1996. New sections 193B and 193C set out the procedure, duties and consequences which apply if an applicant who is homeless or threatened with homelessness deliberately and unreasonably refuses to co-operate with agreed steps set out in the personalised plan (or those deemed reasonable by the local housing authority in the absence of agreement).</p> <p>As part of this, a new power in new section 193B(7) allows the Secretary of State to make regulations as to the procedure to be followed by the LHA in connection with notices under this section.</p>	<p>The Government will be working closely with LHAs, homelessness charities and landlord groups to update the Code of Guidance, to reflect the changes introduced through this Bill. Officials are in the process of setting up a Bill implementation working group with a representative number of local authorities to begin this work.</p> <p>That updated Code of Guidance will include an interpretation of ‘deliberate and unreasonable’, and guidance on how the LHAs should exercise the powers and duties in Clause 7 responsibly.</p> <p>As part of the implementation process, the Government will consult and work with LHAs to develop regulations on the procedures to be followed in connection with section 193B notices</p>

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		that consider the requirements of LHAs with varying structures and needs. We aim to bring these regulations forward alongside the regulations commencing the substantive clauses of the Bill.
10	Clause 10 inserts new section 213B into the Housing Act 1996, to introduce a 'Duty to Refer' This duty to refer will apply to all public authorities specified or of a description specified in regulations, and will require them to notify a LHA where they consider that a person in England to whom they exercise functions is or may be homeless or at risk of becoming homeless. A public authority may only make this referral to a LHA with the agreement of the applicant.	The Government will be working with other Government Departments, local housing authorities and public authorities to identify which public authorities should be specified or described in regulations, and ensure that they understand their new duties and are equipped to exercise them. We aim to draft and lay these regulations once this process is complete. As part of this, guidance on the procedures related to the exercise of this duty will be included in the Code of Guidance, and may need to be incorporated into existing procedures and guidance documents across a range of public authorities.
11	Clause 11 inserts new section 214A in to the Housing Act 1996, to enable the Secretary of State to produce one or more statutory codes of practice to which LHAs must have regard. This is in addition to the statutory Homelessness Code of Guidance for Local Authorities issued in 2006 to which LHAs must have regard. The initial publication of a code of practice would be subject to the negative procedure, giving parliament an opportunity for scrutiny of any proposed draft code before it can be issued.	As explained, the Government will work with LHAs, homelessness charities and landlord groups to update the current Code of Guidance. The Government will monitor the implementation of the updated Code of Guidance and other non-legislative initiatives, and consider whether LHAs are raising their service standards. If and where it becomes clear that - despite all other endeavours - standards are not reaching an acceptable level, the Government will consider whether further improvement can be driven through a code of practice, which would be additional to the revised Code of Guidance.