The Homelessness Reduction Act 2017: opportunities, challenges

Readers will be familiar with the Homelessness Reduction Bill, which started life as a private member's bill, introduced by Bob Blackman MP, but which quickly attracted government support. Readers also familiar with this newsletter will know that I have been keeping tabs on the progress of the Bill through Parliament on its way to becoming law (here and here). More recently, I looked at the final version of the Bill in the March newsletter of the Social Housing Lawyers' Association (here). For detailed comment on the Act, I recommend those earlier three articles.

On 27 April 2017, the Bill received Royal Assent and becomes the Homelessness Reduction Act 2017. Secondary legislation will bring the Act into force in due course, with transitional provisions which will presumably explain how the new duties will apply to applications already being processed when the reforms come into force. The Act also provides for a new Code of Practice, although DCLG have said nothing further about this in public, as far as I can tell.

Opportunities, challenges

As I have commented before, there is much in the reforms to be welcomed. In particular, the new section 175(5) – which provides that a private sector tenant who has received a valid Section 21 notice is threatened with homelessness – should bring about greater certainty for all involved and reduce the burden on the courts of unnecessary, wasteful possession claims.

For local authorities in particular there are many opportunities to benefit from the reforms. The Act finally puts the valuable homelessness prevention work of housing options teams on a statutory basis. For applicants who are threatened with homelessness (especially Section 21 notice cases, which are the single largest cause of Part VII applications), local authorities will have a much longer lead time in which to carry out prevention work (56 days). If prevention work is successful, and homelessness is avoided, then no final duties will arise. Therefore for local authorities carrying out effective prevention work there are significant opportunities to reduce caseloads where final duties are owed.

For applicants who are already homeless, or who become homeless at the end of the 56 day prevention period, the new initial duty gives a local authority a further 56 day window in order to resolve the applicant's homelessness. The initial duty can be discharged by securing suitable private sector accommodation for a minimum period of 6 months. Again, for local authorities with effective procurement strategies, this represents a significant opportunity to reduce caseloads where final duties are owed.

Of course the benefit is mutual: where a local authority's prevention work successfully prevents a final duty being owed, it will be because the applicant's homelessness has been resolved.

The Act also imposes express duties on the applicant to co-operate with the authority in the processing of their application. This welcome reform means that, in an ideal world, the authority and the applicant should be in dialogue. If this works in practice, this ought to make it more likely that the applicant's homelessness can be resolved at a much earlier stage. A failure to co-operate means that duties can be discharged.

Perhaps the most fertile new area for legal challenge will be the new section 213B, which imposes an express duty on other public authorities to refer potentially homeless applicants to the local housing authority. The list of public authorities will be set out in regulations, but it will almost certainly include social services departments and local education authorities. In other words: colleagues working in other teams within the unitary authority or over at County Hall. Therefore local authorities would be well advised to update their joint working arrangements with these other departments at an early stage and to ensure that there is an effective information sharing agreement in place.

The Act also creates a large number of new rights of review to reflect the new duties. It is now conceivable that local authorities may have to deal with simultaneous requests for reviews. *Ravichandran v Lewisham LBC* [2010] EWCA Civ 755 held that it is lawful to carry out reviews of two separate issues in the same decision. I see no reason why that principle should not continue to apply following the Act's reforms. Provided the authority states clearly that it proposes to roll up multiple requests for a review into a single decision, it would make good administrative sense to reduce the amount of paperwork involved. As officers will soon see, more paperwork is one of the major themes of the Act.

Matt Lewin
Cornerstone Barristers
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