

## Homelessness Reduction Bill will introduce major changes to homelessness law – and now has government support

The Department for Communities and Local Government has announced that it will support the Homelessness Reduction Bill – introduced in Parliament as a private member’s Bill – meaning that it is highly likely to become law. It will make significant changes to Part VII of the Housing Act 1996.

The Bill was presented to Parliament in June 2016 and was due to receive its second reading on 28 October 2016. If given a second reading, the Bill will then proceed to committee stage for more detailed scrutiny.

The headline reforms proposed by the version of the Bill which was presented at its first reading are:

- a person will be homeless where they have received a section 8 or section 21 notice (subject to exceptions);
- a person will be threatened with homelessness where it is likely that she will become homeless within 56 (rather than the current 28) days;
- a new freestanding duty to carry out homelessness assessments of, and produce personalised plans for, all of their Part VII applicants;
- an expanded duty (under section 195) owed to any applicant (regardless of priority need or intentional homelessness) who is threatened with homelessness to take reasonable steps to help the applicant secure that accommodation does not cease to be available for their occupation;
- a new “initial duty” owed to all eligible persons (again regardless of priority need or intentional homelessness) who are homeless to take reasonable steps to help the applicant to secure that suitable accommodation becomes available for their occupation; and
- new rights to request reviews of a decision to discharge the new duties.

The objects of the Bill will be apparent from these headlines: to enable and encourage local authorities to intervene at a much earlier stage to prevent homelessness; and to improve the provision of support to anyone who is eligible and homeless, regardless of priority need or intentional homelessness.

*A new definition of homelessness: proposed section 175(3A)-(3C)*

Clause 1 provides that where a person has received a valid section 8 or section 21 notice, they will be homeless on the day after the possession proceedings can be brought (section 8) or the notice expires (section 21). This measure is intended to address the controversial practice adopted by many local authorities of deferring the point

at which a Part VII application is accepted until a possession order has been made (an inevitability in most cases where the claim is brought on mandatory grounds) or even until the bailiffs are coming through the front door.

However, it has been considerably watered down compared to the version that was presented to, and scrutinised by, the Communities and Local Government Select Committee over the summer. The version of the Bill presented to Parliament has introduced some very significant exceptions which will allow the local authority to require the recipient of a notice to remain in occupation even after the notice has expired. These were not included in the draft Bill.

Clause 1 will permit the local authority to “ask” the recipient of a notice to remain in occupation; the effect of “asking” is to disapply the deemed homelessness provision that a person is homeless once the notice has expired. A local authority may ask a recipient where:

- (a) it considers that the applicant can reasonably be expected to occupy the accommodation; and
- (b) (in the case of a section 8 notice) it considers that there is a reasonable prospect that the landlord will withdraw the claim or the claim will be successfully defended or (in the case of a section 21 notice) it has taken reasonable steps to persuade the landlord to withdraw the notice or delay applying for a possession order.

There is no statutory right of review against a decision of the local authority to “ask” a recipient to remain, so challenges to these decisions will need to proceed by way of judicial review.

#### *Support for all eligible persons who are homeless – regardless of priority need or intentional homelessness*

The draft version of the Bill proposed a duty on local authorities to help to secure that accommodation would be available for *all* eligible applicants for a period of 56 days after their application. This proved to be very controversial among contributors to the Select Committee’s inquiry and has been removed from the Bill which was presented to Parliament.

Instead, by clause 5, the Bill now imposes a new “initial duty” which is, again, owed to all eligible persons who are homeless. The wording is important: it is a duty to “take reasonable steps to *help the applicant to secure* that suitable accommodation becomes available for [their] occupation”. The duty is owed for a minimum of 56 days or until another prescribed event occurs (whichever is the earliest).

By clause 3, local authorities will be required to assess the circumstances in which the applicant became homeless, their housing needs and what support the applicant would need to be able to have and retain suitable accommodation. The results of that assessment must be produced in a personalised plan and regard must be had to the plan in discharging the new duties owed to all eligible homeless applicants.

By clause 4, the duty owed to applicants who are threatened with homelessness is now no longer limited to applicants who are in priority need and not intentionally homeless. As with clause 5, the duty is slightly modified from the existing requirement in section 195 to take reasonable steps “*to secure* that accommodation does not cease to be available for [their] occupation”; the new duty is a requirement to “take reasonable steps to *help the applicant to secure ...*”.

*Thoughts*

Much of the reforms proposed in this Bill are to be welcomed: any measure which prevents a person from losing the roof over their head can only be an unequivocal good. However, the crucial detail is not a legal question at all, but rather a practical one: will the government fund the considerably enhanced workloads that local authorities will face if these reforms become law?

*This article was written before the Second Reading which took place on 28 October 2016*

**Matt Lewin**  
**Cornerstone Barristers**