

# Consultation Response: Homelessness Code of Guidance for Local Authorities



The District Councils' Network (DCN) is a cross-party member led network of 200 district councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district councils within the Local Government Association.

District councils in England deliver 86 out of 137 essential local government services to over 22 million people - 40% of the population - and cover 68% of the country by area. As the housing and planning authorities, we approve 90% of all planning applications and enabled almost 50% of all housing completions in our areas last year. District councils have a proven track record of devising innovative solutions to transform public services, taking a lead role in improving services and outcomes for people and places through better collaboration.

District councils have a proven track record of building better lives and bigger economies in the areas that they serve. Districts protect and enhance quality of life by safeguarding our environment, promoting public health and leisure, whilst creating attractive places to live, to raise families and to build a bigger economy. By tackling homelessness and promoting wellbeing, District councils ensure no one gets left behind by addressing the complex needs of today whilst attempting to prevent the social problems of tomorrow.

## **The DCN response to the Consultation is below:**

Tackling homelessness is a key issue for District Councils. District Councils run the essential statutory services that offer help and advice to residents who are homeless or at risk of homelessness.

The District Council Network support the intention and principles of the Homelessness Reduction Act, working with residents to provide free information and advice on preventing and relieving homelessness. However, the Homelessness Reduction Act encourages housing authorities to intervene earlier and requires them to take reasonable steps to prevent and relieve homelessness for all eligible applicants, not just those that have priority need under the Act.

To deliver the homelessness prevention and relief services required by the Act, District Councils need adequate funding and guidance. The District Council Network is concerned that the New Burdens funding will not meet the cost of delivering the new duties.

Key concerns for district councils are:

- Increased workload as a result of administration of the new duties including the requirement to develop personalised housing plans for every person applying for assistance, notification requirements and the recording of prevention activities.

- Longer periods of duty towards each applicant, including a minimum 56 days for homelessness prevention and 56 days for homelessness relief, prior to making a homelessness decision
- Increased opportunities for applicants to request a review of decisions made, which will extend casework
- Lack of finance to deliver the new duties and the short term nature of the New Burdens funding.
- Lack of suitable and affordable accommodation when helping to secure or securing accommodation. Affordability of local accommodation is impacted by welfare reforms, particularly the LHA cap for private rented accommodation.

Research identified that Welsh authorities experienced increased workloads as a result of the additional administration and lack of suitable affordable accommodation when implementing their legislation. In addition, authorities found it difficult to recruit the large number of extra staff within a short period of time, coupled with the short term nature of the contracts funded through New Burdens money. Welsh authorities found demands on the service increased with cases open for longer and increased work before the homelessness decision stage.

In response to the key concerns district councils have about the Act and the issues that Wales faced, the District Council Network is calling for:

- Adequate New Burdens funding to cover the cost of the new duties.
- A review of the duration of the funding and availability of ongoing sustainable funding.
- A reduction in administrative requirements, including opportunities for applicants to request a review, so districts can deliver the important prevention duties of the Act.
- Sharing of Best Practice guidance from Trailblazer authorities In addition to the training that has already taken place, refresher training made available on a regular basis for new staff and to ensure districts can continually improve their services.

To tackle the key issue of lack of affordable, suitable accommodation when helping to secure or in securing accommodation, district councils must be enabled to play their part in delivering housing. The District Council Network is calling for amendments to the reinvestment of Right to Buy receipts and lifting the borrowing cap for the housing revenue account, to unlock the potential for more new homes that are affordable to local people.

Response to the consultation questions:

**Q1:** This response is on behalf of an organisation, the District Councils Network. Our Network is a cross-party member led network of 200 district councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district councils within the LGA. We lobby central government, the political parties and other stakeholders directly on behalf of our members, as well as commissioning research, providing support, and sharing best practice.

**Q2:** N/A

**Q3:** Responding on behalf of the District Councils Network, a cross-party member led network of 200 district councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district councils within

the LGA. We lobby central government, the political parties and other stakeholders directly on behalf of our members, as well as commissioning research, providing support, and sharing best practice.

**Q4:** N/A

**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?**

The DCN supports the incorporation of the annexes in the Guidance so that all the information that may be needed by district councils will be in one place. However, we suggest that where an annexe relates to a particular aspect of the Code, that it is placed after the relevant chapter rather than at the end of the document. For example, Annexes 8 & 9 could be usefully placed after the chapter on eligibility.

**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?**

The DCN believes that additional supplementary guidance documents should remain with the Code of Guidance.

**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?**

The DCN supports the incorporation of the additional supplementary guidance documents. Our members have made particular reference to the supplementary guidance on local connection which can be useful for district councils. Incorporating the supplementary guidance will make it easier for district councils to find all the information they need in one place.

**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.**

The DCN supports the inclusion of relevant case law in to the revised guidance, most particularly case law which has brought clarity to definitions of Priority Need and vulnerability. However, it is recognised that the guidance could become outdated if there is subsequent case law which supersedes the current position.

**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?**

The DCN believes that some parts of the Code of Guidance are clear in style and tone, whilst some sections are not clear. In some parts of the Code, the processes could be better illustrated by the use of flow-charts or other devices. The chapters

contained within the Code could be rearranged to follow a similar chronological flow of homelessness casework as set out in the legislation.

**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.**

The DCN welcomes the new duty to refer by other agencies which will assist district councils in meeting the homelessness needs of groups with protected characteristics. The DCN views positively the emphasis in the Code for applicants to be encouraged to take active participation in the prevention and relief of their homelessness. However, applicants who are vulnerable or those with complex needs may require more intensive support to achieve the recommended actions in their Personalised Housing Plan.

**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?**

The DCN feels the Code gives helpful guidance for authorities on the requirement to review homelessness in their area, and to produce a Strategy to reflect current provision and to set objectives for meeting current and future needs. It is helpful that the Code encourages a corporate and partnership approach to developing a Strategy, recognising the contribution of a Local Plan, as well as buy-in from social care and other statutory and non-statutory stakeholders.

**b) Would you suggest any additions, deletions or changes to these chapters? If yes please detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant.**

It is noted that chapter 4 is a draft whilst regulations setting out the public authorities that will be subject to the duty to refer, are being developed, to be laid this winter. The DCN feels that the regulations should be in place already, to allow Districts sufficient time to plan their services. Without clarity on the duty to refer at this stage, there is concern amongst DCN members about the way that this duty may be interpreted by other public bodies, particularly if their own resources are stretched and they are not minded to participate in joint-working. The DCN is concerned that housing authorities will be less able to achieve effective and sustainable solutions to homelessness without the cooperation of other agencies.

**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?**

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

**If yes please detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant.**

The definitions are clearly set out in the guidance. In most instances, they do not depart from current definitions in previous legislation.

**c) When considering ‘Chapter 6: Homelessness and Threatened with Homelessness’ is the guidance on whether it is ‘reasonable to occupy’ helpful? We are particularly interested in your views on how the guidance should help housing authorities assess when it is no longer reasonable for a tenant to occupy following expiry of a valid section 21 notice.**

The DCN feels the decision about whether it is ‘reasonable to occupy’ should be taken by the housing authority on a case by case basis. The DCN supports the approach of the guidance, which suggests that it is for the housing authority to make a judgement on the facts of each case, taking into account the circumstances of the applicant, whilst outlining provisions in the guidance to consider.

Regarding assessing when it is no longer reasonable for a tenant to occupy following expiry of a valid section 21 notice, district councils should be able to make a judgement on a case by case basis. The Secretary of State’s view that it is unlikely to be reasonable that an applicant continues to occupy accommodation follow the expiry of a valid S.21 notice adds an additional burden on authorities to offer interim accommodation at an earlier stage in these cases.

The DCN would welcome guidance included in the Code in relation to other forms of Notice as well as S.21.

**d) When considering ‘Chapter 10: Local Connection’ does the guidance provide sufficient clarity about when and how a referral can be made? Please note if there is anything more you think could be provided to help housing authorities interpret the legislation**

The Code is not as clear in Chapter 10 as in other sections. In particular paragraphs 10.17 to 10.30 are complex in their reference to first and second notices to applicants. It might be useful to use other methods to explain these issues, such as the use of flowcharts.

Some DCN members have commented that it would be helpful to have guidance on what constitutes ‘employment’ and the inclusion of voluntary work.

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

**If yes please detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant.**

The Code is clear in setting out the new Prevention and Relief duties including the circumstances in which both Prevention and Relief duties may end.

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

The guidance includes some suggestions of reasonable steps a housing authority might take.

Districts are concerned about the resource needed to carry out assessments and to produce personalised housing plans for every person who is homeless or threatened with homelessness who applies for assistance. This will require more time and an increase in staff resources. The experience in Wales and in trailblazer authorities is that demand has increased by approximately 25%. There is a concern amongst District councils that the New Burdens monies will not be sufficient to cover this.

Some district councils are concerned that there may not be the adequate provision in their area to offer the support that applicants may need.

**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?**

It is helpful that the Code allows authorities to determine the reasonable time periods to allow the applicant to rectify non-cooperation. It would be helpful if the Regulations relating to S.193B notices had been already included in the Code.

**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?**

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

**If yes please detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant.**

The Code is clear regarding accommodation and powers. However, it will continue to be challenging for authorities to identify suitable accommodation which meets the affordability criteria, particularly in the private rented sector, and increasingly in accommodation offered by registered social landlords.

**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?**

Many districts are concerned about helping to secure or securing suitable accommodation when there is already limited availability of affordable accommodation in many areas. This is a particular issue for client groups that struggle to secure private rented sector accommodation. This can include: under 35s; those in receipt of Universal Credit; people with complex needs; ex-offenders or with a difficult tenancy history.

It is also a concern that tenancies offered in the private rented sector may only be for 6 months which may have an impact on the long term stability of tenancies.

**d) When considering Chapter 17: Suitability of Accommodation are you clear what local authorities responsibilities are? Is there any further guidance required to help housing authorities assess affordability of accommodation, or the suitability of accommodation out of district?**

The Code is clear regarding accommodation and powers. However, it will continue to be challenging for authorities to identify suitable accommodation which meets the affordability criteria, particularly in the private rented sector, and increasingly in accommodation offered by registered social landlords.

The affordability of rented accommodation and the guidance regarding placing out of area are of particular concern to rural district councils. In many rural locations it is not possible to source suitable and affordable accommodation within the locality. But even when accommodation can be found within the district, this could still be some distance from previous services, schools and employment and may be impacted by the lack of public transport options. The Code could usefully make reference to the different challenges across housing authorities and set realistic and proportionate expectations according to local constraints.

Regarding affordability of accommodation, the guidance could also suggest that a ratio of income to rent, set locally, is considered where necessary.

**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?**

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

**If yes please detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant.**

The DCN is concerned about the administrative requirements for the new Act which are far greater than current duties. The DCN calls for a reduction in administrative requirements in the Act so that authorities can focus on the delivery of the prevention and relief duties.

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

The DCN agrees that notifications should be clearly written in plain language, and include information about the right to request a review and the timescales that apply. This will ensure that customers understand the information provided and are clear on the actions they can take.

There is concern about the administrative burden of the notifications and decisions, in addition to the personalised plans. Administrative duties should be kept to the absolute minimum to enable district councils to focus their time and energy on delivering the preventative work that is at the heart of the Act.

**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?**

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

**If yes please detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant.**

The DCN suggests that if the Code of Guidance is to provide direction on specific client groups, this should include all the priority need categories. For example, the Code does not give direction on vulnerable groups such as those with physical or mental health issues, or those leaving hospital or prison. This response links to the comments already given regarding the protected characteristics groups and the guidance related to case law.

Some district councils which represent an urban area within a wider rural region are concerned that they will experience a disproportionate impact from the Act, as applicants will be concentrated into the urban authority.

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

The DCN welcomes the clarity and direction provided by the Code, but would like to see greater clarity in some aspects of the Code as detailed in this response to the consultation.

We hope that this submission helps Government in the development of the Homelessness Code of Guidance.