

Report to	-	Overview and Scrutiny Committee
Date	-	27 November 2017
Report of the	-	Executive Director of Resources
Subject	-	Homelessness Reduction Act 2017

Recommendations: It be **RESOLVED:** That:

- 1) the report be noted; and
 - 2) it be noted that the Housing Issues Task and Finish Group established elsewhere on this Agenda will include consideration of the issues raised within this report.
-

Service Manager: Robin Vennard

Introduction and Background

1. The Council's responsibilities to the homeless (and those threatened with becoming homeless) are currently contained in the Housing Act 1996. The reasons for homelessness are complicated and numerous including financial, mental health, drug and alcohol abuse, parental eviction etc. However by far the most common reason is landlord eviction usually through a notice to quit, commonly known as a Section 21 Notice (contained in the Housing Act 1988). The result of these issues is the loss of a home to individuals and families. In certain circumstances, the Council has to provide emergency temporary accommodation whilst officers assess whether the Council has a duty to house a household and if that duty is accepted, until such time as permanent accommodation has been secured in the social rented sector or private sector.
2. For the Council to accept it has a duty to house a household, the following five tests all must be passed. If the household fails any one of these tests then this means the Council does not have a duty to house them:

The household:
 - a. Is actually homeless.
 - b. Is eligible for assistance.
 - c. Falls within one of the priority need categories.
 - d. Did not make themselves intentionally homeless.
 - e. Has a local connection with the Council where the application is made.
3. The Council does however have duties to provide advice and assistance if the applicant is eligible for assistance and not intentionally homeless. These are contained in section 190 (2) (B) of the Housing Act 1996. In practice due to the lack of available social rented accommodation, officers will try to find solutions to enable people to remain in their current home or find alternative

suitable accommodation in the private sector. This could include liaising with landlords or providing financial assistance through grants and loans to secure new accommodation or meet rent arrears.

4. On a national level homelessness has been increasing and there is greater awareness of this issue. Although in Rother the numbers of visible street homeless appear low, albeit rising, we are experiencing, as Members will only be too aware, people living in their vehicles, sleeping in shelters and many other hidden forms of homeless such as those sofa surfing.
5. In response to the rising number of homeless households, the Homelessness Reduction Bill was introduced in the House of Commons on 29 June 2016. The focus of the new legislation is on prevention and relief rather than the provision of new affordable homes. The legislation completed its passage through Parliament on 23 March 2017 and received Royal Assent on 27 April 2017. This was actually a Private Members' Bill and attracted the support of the Government, the cross-party Communities and Local Government Select Committee and the main political parties represented at Westminster.
6. This report provides Members with details of the implications of the Act for households in Rother and for the Council.

Requirements of the Act

7. The Homelessness Reduction Act 2017 (the Act) will come into force on the 1 April 2018 and places new duties on English local authorities with the aim of preventing homelessness. The Act is made up of 12 areas as follows:

Section 1: Meaning of "threatened with homelessness"

Section 2: Duty to provide advisory services

Section 3: Duty to assess all eligible applicants' cases and agree a plan

Section 4: Duty in cases of threatened homelessness

Section 5: Duties owed to those who are homeless

Section 6: Duties to help to secure accommodation

Section 7: Deliberate and unreasonable refusal to co-operate, duty upon giving of notice

Section 8: Local connection of a care leaver

Section 9: Reviews

Section 10: Duty of public authority to refer cases to local housing authority

Section 11: Codes of practice

Section 12: Suitability of private rented sector accommodation

8. A detailed description of each of the above duties is shown at Appendix A.

Statutory Guidance

9. The code of guidance for Councils referred to above was published on 16 October 2017. The consultation on the guidance will close on the 11 December 2017. The draft guidance currently runs to 170 pages and therefore has not been included in this report. It can be found at <https://www.gov.uk/government/consultations/homelessness-code-of-guidance-for-local-authorities>.
10. Officers have attended training and information events in order to prepare for the new Act and a specialised consultant has been engaged to support the

Housing Needs team in interpreting the new legislation. A procedural document will need to be compiled with standard letters and forms to ensure that the requirements of the Act are being implemented consistently by the team.

Assessment of the impact of the Act

11. As indicated in the introduction to this report, the Council already undertakes a significant amount of homelessness prevention work. The number of households approaching the authority where the Housing Needs Team assisted them to prevent them becoming homeless has risen significantly in recent years. This number is anticipated to rise further in 2017/18.

Year	Number of households Preventions and Reliefs	Homelessness Decisions
2016/17	263	199
2015/16	295	177
2014/15	221	112
2013/14	221	111

Table 1: Homelessness prevention activity and homeless decisions by year

12. In terms of homelessness prevention, the Act removes from the Council the ability to discuss with a household whether they are in priority need, intentionally homeless or have a local connection in fulfilling the prevention and relief duties. It seems highly likely therefore that the number of households presenting themselves to the Council will continue to increase. Experience in Wales showed the number of households helped increased by 34%. Based on this, the number of households presenting themselves to the Council could increase to in excess of 600 each year.
13. Part of any prevention programme must be improving households' access to health, social care and support services that can help people to live and remain in their homes. As reported elsewhere on this agenda on Welfare Reform, there are numerous agencies involved with helping households on low income and the linking of health, social and housing has already started in the "better together" work being undertaken by Health, County and Districts/Boroughs.
14. Despite the anticipated increase in people presenting as homeless to the Council, it is not expected that there will be a corresponding increase in the acceptance of homeless duties which still rely on passing the existing five tests set out earlier in this report.

Resource Implications

15. There are resource implications for the Council from the implementation of the Act. There will be costs associated with amendments to the IT system (Locata) to ensure that interactions with households threatened with homelessness can be managed in line with the onerous requirements of the Act. There are also likely to be implications for staff resources; the requirements placed upon the authority from the Act are likely to necessitate the recruitment of additional staff resources to meet the prevention duty and to investigate the likely increase in applicants presenting to the authority as homeless. It is anticipated that there will be an increase in appeals to the authority and legal challenges against decisions made under the provisions of

the Homelessness Reduction Act. This may also require an increase in staff resources.

16. Difficulties the Council currently has with accessing emergency accommodation are likely to be further exacerbated by the new Act. The Act introduces a 'relief duty' upon authorities to accommodate homeless households for a period of 56 days (currently 28 days) should they seek assistance. This duty applies to households who are in priority need and non-priority need as defined by section 189 of the Housing Act 1996.
17. East Sussex Authorities have commissioned some research through the University of York into the provision of emergency accommodation across East Sussex. This research will explore a number of key issues:
 - The demand for and supply of existing emergency accommodation.
 - Potential risks posed by multiple authorities placing 'homeless' households in existing accommodation.
 - The impact of increasing competition from London authorities in particular for the limited accommodation available.
18. It is anticipated that the research will inform East Sussex authorities how to respond to and address limitations in the supply of emergency accommodation.
19. The overall Information and Communications Technology (ICT) and workload implications are yet to be fully assessed. Much of the work appears administrative in nature. It is expected that the way in which the Housing Needs Team works will need to be modified to meet the duties of the Act have yet to be fully assessed.

Funding

20. The Government recognised there would be resourcing implications for Councils associated with the new Act. They allocated some £72m of new burdens funding for local government in order to support the Act. For Rother this translates into a grant of £128,000 to cover the three years, 2017/18 to 2019/20. This is to meet all costs arising from the new duties, including any additional staffing, ICT and operating costs. Officers are waiting to hear from the Council's suppliers what the additional ICT costs will be.

Housing Register

21. All Councils are required by law to have a scheme which determines how it will allocate the social housing to which it has nomination rights. The Council's Housing Allocations Policy details the priorities and procedures for allocating social housing in the district. The Policy can be found on the Council's website at <http://www.rother.gov.uk/CHttpHandler.ashx?id=22870&p=0>. The Council's objectives are to ensure that social housing goes to those with the greatest need and to those who have a local connection to the Rother District, either through residence, family connection, employment or voluntary activity. It aims to give the highest priority to those residents in unsuitable housing or who are less able to provide for their housing needs. Alleviating homelessness is clearly a priority for the council. The Council maintains a register of those households wanting social housing. The priority of

households is broken down into four Bands A to D with A being the highest priority. Currently there are 1,202 households on the register.

22. Anyone who is or is potentially homeless is currently given the maximum priority Band A on the Council's housing register. As reported elsewhere on this agenda there are currently 163 households in Band A, of which 58 are homeless. In 2016/17, in total 211 households were rehoused and so far 153 households have been housed in 2017/18. Of these 364 households, 195 (54%) were homeless or potentially homeless. At this time it is also unlikely that any household in Bands B to D would be housed.
23. The lack of and reducing affordable private sector accommodation, the low turnover of the current social housing stock and the low numbers of new affordable accommodation being built, all combine to mean the time it takes to be housed is increasing. In addition the current average stay in temporary accommodation is over 11 weeks, almost double the average in 2015. This will however include households where the Council has concluded we do not have a duty to house following investigation of their application.

Conclusion

24. The introduction of the Homelessness Reduction Act 2017 brings many challenges to the council. The Council is seeing an increase in homelessness at the same time as seeing reduced access to social accommodation and a private sector that is unaffordable. Continuing to have a focus on prevention of homelessness is therefore clearly sensible and will reduce costs in the long term if successful. However whilst the number of people the Council will see and try to help will increase, ultimately the Act does not deliver new homes or deal with the causes of homelessness.

Malcolm Johnston
Executive Director of Resources

Risk Assessment Statement

The Council needs to ensure it is ready to respond to the challenges of the new Act. Failure to do so is likely to increase the incidents of challenge to Council decisions and increase the costs to the Council of managing homelessness in the District.

DUTIES UNDER THE HOMELESSNESS REDUCTION ACT

Section 1: Meaning of “threatened with homelessness”

Section 1 sets out the circumstances whereby households are threatened with homelessness, and therefore when they should be offered support from local authorities to try and prevent them from becoming homeless. It extends the period during which someone might qualify as being threatened with homelessness from 28 days to 56 days. It also establishes a duty to treat an applicant as threatened with homelessness if they present a valid section 21 notice that expires in 56 days or less. A section 21 notice, as set out in the Housing Act 1988, is a notice used by landlords to evict tenants and to gain possession of a property that is let under an assured shorthold tenancy when the tenants have not violated the terms of the tenancy agreement. The prevention duty continues to be owed until the local housing authority brings it to an end for one of the reasons set out in the section 4, even if 56 days have passed.

Section 2: Duty to provide advisory services

Section 2 extends the existing duty on local authorities to provide free homelessness advice and information to any person in their local authority area. This should include advice and information on preventing homelessness, securing accommodation when homeless, the rights of homeless people or those threatened with homelessness, the help that is available from the local authority or others and how to access that help. It also requires advice services to be designed with certain vulnerable groups in mind. This includes care leavers, victims of domestic abuse, people released from prison or youth detention accommodation, former members of the armed forces, people leaving hospital and those suffering from a mental illness or impairment.

Section 3: Duty to assess all eligible applicants’ cases and agree a plan

Section 3 sets out the process that councils must undertake with all applicants, regardless of priority need, to agree a homelessness plan. This will require local authorities to carry out an assessment in all cases where an eligible applicant is homeless, or at risk of becoming homeless. Following this assessment the council must work with the person who has applied for help to agree the actions to be taken by both parties to ensure the person has, and is able to, retain suitable accommodation.

Personalised plans have already been introduced in Wales, and some local authorities in England are taking a similar approach. The Department for Communities and Local Government has stated that they will apply the learning from these examples in developing the detailed guidance on how this measure should be implemented.

Section 4: Duty in cases of threatened homelessness

Section 4 sets out a duty on councils to take reasonable steps to prevent homelessness for any individual, regardless of priority need, who is at risk of homelessness. This means either assisting them to stay in their current accommodation, or helping them to find a new place to live. This requirement interacts with section 1, as the duty applies to eligible applicants who are considered as being threatened with homelessness 56 days before they are likely to become homeless. This duty also sits alongside other measures, in particular the non-cooperation measure that will encourage those who are homeless or at risk of becoming homeless to work proactively with their local authority, and the duty on local authorities to provide advice and information.

Section 4 also sets out the circumstances under which an authority's duty to prevent homelessness may be brought to an end by the service of a written notice. This includes the local authority being satisfied that suitable accommodation has been secured where there is a reasonable prospect of that accommodation being retained for six months (or a longer period up to 12 months if prescribed in regulations).

Section 5: Duties owed to those who are homeless

Section 5 places a duty on councils to relieve homelessness for all eligible households, regardless of priority need. This involves taking reasonable steps to help the applicant to secure suitable accommodation. The duty lasts for up to 56 days. The relief duty requires councils to take reasonable steps to help secure accommodation for any eligible person who is homeless. This help could be, for example, the provision of a rent deposit or debt advice.

This section also alters the interim accommodation duty that councils currently owe to homelessness applicants in priority need. The interim duty to accommodate an applicant in apparent priority need ends once the council notifies that applicant that the council is satisfied that they are not in priority need, rather than necessarily enduring for a period of 56 days.

Section 6: Duties to help to secure accommodation

Section 6 interacts with the new prevention and relief duties outlined in sections 4 and 5. It provides councils with the flexibility to assist in resolving people's housing issues by providing support and advice to households, who would then be responsible for securing their own accommodation. It still remains open to the local authority to secure accommodation for eligible applicants where appropriate. Accommodation must be suitable where the council has secured or helped to secure it.

Section 7: Deliberate and unreasonable refusal to co-operate: duty upon giving of notice

Section 7 sets out the actions a council can take if an applicant who is homeless, or threatened with homelessness, deliberately and unreasonably refuses to take any steps set out in the personalised plan. It also sets out the procedure and duties which apply if an applicant who is homeless refuses, at the relief stage, a suitable final accommodation offer.

Councils will not owe the main homelessness duty to those who fail to cooperate. Both the relief duty and main housing duty end for any applicant who, at the relief stage, refuses a suitable offer of settled accommodation that is available for occupation for at least six months. This maintains the safeguard that priority need applicants who fail to cooperate with any local authority actions short of an actual offer of suitable accommodation will remain eligible for an offer of settled accommodation.

Section 8: Local connection of a care leaver

Section 8 makes it easier for care leavers to show they have a local connection with both the area of the local authority responsible for them and the area in which they lived while in care, if that was different.

Section 9: Reviews

Section 9 extends an applicant's right to request a review of their local authority's homelessness decisions, so they apply to a number of decisions that a local authority might make when discharging the new prevention and relief duties.

Section 10: Duty of public authority to refer cases to local housing authority

Section 10 requires public authorities, specified in regulations, to notify a local authority of service users they think may be homeless or at risk of becoming homeless. The public authority will need to gain the consent of the individual before referring them. Individuals will be allowed to choose which council they are referred to.

Section 11: Codes of practice

Section 11 enables the Secretary of State to produce mandatory codes of practice dealing with local authorities' functions in relation to homelessness or homelessness prevention. It also allows future codes to apply narrowly to specific councils.

The power for the Secretary of State to impose a code of practice at a later date replaced proposals for a new mandatory code of practice in legislation. The code of practice must be approved by both Houses of Parliament before being issued.

Section 12: Suitability of private rented sector accommodation

Under section 12 local authorities must ensure certain suitability requirements are satisfied when they secure accommodation for vulnerable households in the private rented sector.