



arden
chambers

Homelessness and housing allocations
14 July 2017

20 Bloomsbury Square
London
WC1A 2NS
tel 020 7242 4244
fax 020 7242 3224
clerks@ardenchambers.com

www.ardenchambers.com

Homelessness Reduction Act 2017

- Private Members' Bill passed with support of Government
- Not yet in force but likely to come into force in 2018
- Act amends the current homelessness provisions in Part 7 of the Housing Act 1996
- It places new duties on local housing authorities and changes some existing duties

New or amended duties

- Most significant new or amended duties
 - Expanded duty to provide advisory services
 - Duty to assess and agree a plan
 - Duty to prevent homelessness
 - Initial duty owed to all eligible persons who are homeless
 - Existing duties to those in priority need under sections 190 and 193 take effect once the initial duty has come to an end

Duty to assess and agree a plan

- Duty owed to those who are homeless or threatened with homelessness and eligible
- Duty to make an assessment of applicant's case including:
 - Circumstances that caused applicant to become homeless or threatened with homelessness
 - The housing needs of applicant
 - What support would be necessary for applicant to be able to have and retain suitable accommodation

Duty to assess and agree a plan

- Following assessment authority must try to agree with applicant:
 - Any steps applicant is required to take for the purposes of securing that applicant has and is able to retain suitable accommodation
 - The steps authority is to take under Part 7 for those purposes
- Authority must record in writing any agreement reached (or, if agreement not reached, why not reached, steps considered reasonable for applicant to be required to take and steps to be taken by authority)

Duty to prevent homelessness

- Duty is owed if applicant is threatened with homelessness and eligible
- Duty to take reasonable steps to help applicant to secure that accommodation does not cease to be available for their occupation
- Authority must have regard to assessment of applicant's case in deciding what steps to take
- Duty replaces existing section 195 and applies regardless of whether applicant has a priority need or became threatened with homelessness intentionally

Initial duty

- Duty is owed if applicant is homeless and eligible for assistance
- Duty to take reasonable steps to help applicant to secure that suitable accommodation becomes available for their occupation for a least 6 months (or longer if prescribed)
- Authority must have regard to assessment of applicant's case in deciding what steps to take
- If authority is satisfied applicant has a priority need and is not satisfied applicant became homeless intentionally, duty comes to an end after 56 days

Initial duty

- Authority can give notice bringing duty to an end if:
 - Applicant has suitable accommodation available for occupation and reasonable prospect of having suitable accommodation available for at least 6 months (or longer if prescribed)
 - Authority has complied with duty and period of 56 days has ended
 - Applicant has refused offer of suitable accommodation
 - Applicant has become homeless intentionally from accommodation made available as a result of the duty
 - Applicant is no longer eligible
 - Applicant has withdrawn Part 7 application

Changes to existing duties

- The interim duty to accommodate under section 188 continues to apply only where authority has reason to believe that applicant may be homeless and eligible and has a priority need
- Where authority decides applicant does not have a priority need, the interim duty ends when applicant is notified either that no initial duty is owed or that no duty under section 190 or 193 will be owed once the initial duty ends
- Otherwise the interim duty lasts until the later of the initial duty coming to an end (or authority deciding it does not owe the initial duty) and authority deciding what other duty (if any) is owed

Changes to existing duties

- The main housing duty under section 193 only arises once the initial duty has ended
- The duty under section 190(2) to those who are homeless and eligible and have a priority need but became homeless intentionally only arises once the initial duty has ended
- Authority must have regard to assessment of applicant's case in deciding what advice and assistance to give under section 190(2)
- The existing advice and assistance duties to those who are homeless and eligible but not in priority need are repealed

Other provisions

- Definition of “homeless” amended where person served with valid section 21 notice
- Period in definition of “threatened with homelessness” extended from 28 to 56 days
- Cases can be referred to another authority in England at the initial duty stage
- Local connection provisions are amended for care leavers
- Provisions accompanied by various obligations to notify applicants
- New rights of review

Housing allocations

- Allocation of housing by local housing authorities governed by Part 6 of the Housing Act 1996
- Includes allocation by nomination
- Housing can be allocated only to eligible and qualifying persons
- Every local housing authority must have an allocation scheme
- Eligibility relates to immigration status
- A local housing authority has power to decide what classes of persons are, or are not, qualifying persons
- The allocation scheme must be framed so as to give reasonable preference to certain classes of people

The reasonable preference classes

- Homeless
- Owed certain duties under Part 7 of the Housing Act 1996
- Insanitary or overcrowded or otherwise unsatisfactory housing conditions
- Need to move on medical or welfare grounds
- Need to move to a particular locality where failure to meet the need would cause hardship

Issues regarding allocation schemes

- Statutory provisions designed to give authorities wide discretion in the framing of their allocation schemes
- But obvious tension between power to decide on classes of applicants who are not qualifying persons and requirement to give reasonable preference to particular classes of applicants
- To what extent can the qualifying provisions be used to disqualify applicants falling within the reasonable preference classes?
- What is a reasonable preference?
- Discrimination