

**“Homelessness Reduction act – Code of Guidance”
Response of Gateshead Council to Government (DCLG) Consultation**

Policy Context

1. The Government has issued a consultation document seeking comments on a draft Code of Guidance that has been developed to support the implementation of the Homelessness Reduction Act. The act comes in force on 1st April 2018.

Background

2. The Government supported the Homelessness Reduction Bill which was introduced to the House of Commons in summer 2016 by Bob Blackman MP, and progressed through Parliament with cross party support. The Act received Royal Assent on Thursday 27th April 2017.
3. The Act is designed to significantly reform England’s homelessness legislation by placing duties on local authorities to intervene at earlier stages to prevent homelessness, irrespective of whether or not an applicant has ‘priority need’ or may be ‘intentionally homeless’. There are 12 new clauses within the act, but the key additional duties include:
 - i) Providing free information and advice on preventing and relieving homelessness and the rights of homeless people, to all residents, to include information tailored to the needs of particularly vulnerable groups;
 - ii) An enhanced prevention duty extends the period a household is threatened with homelessness from 28 days to 56 days, meaning that local authorities will intervene to prevent homelessness at an earlier stage;
 - iii) A new duty for those who are already homeless will mean that local authorities will work with them for 56 days to help secure accommodation to relieve their homelessness; and
 - iv) A duty to work collaboratively with applicants to develop personalised housing plans, with clear actions for both parties to prevent and relieve their homeless situation.
4. Following Royal Assent the Government is reviewing the statutory Homelessness Code of Guidance for Local Authorities, last updated in 2006, and associated supplementary guidance. The Homelessness Code of Guidance provides direction on how housing authorities and others should exercise their homelessness functions and apply the law in practice. It also applies to social services authorities, who are required to have regard to the guidance in exercising their functions in relation to homelessness.

5. The Government worked with a guidance review group made up of local authority and charity representatives, as well as specialists relevant to particular issues, to inform the review of the Code of Guidance. The new draft Code brings together and updates existing guidance, as well as providing new guidance to cover the duties brought in by the Act. In doing so, it focuses more tightly on the legislation itself with less attention to general practice guidance and the wider policy context.
6. This consultation seeks views on the reform to the Code of Guidance ahead of it being finalised for publication in spring 2018

Implications

7. The Code of Guidance itself does not have specific implications for Gateshead, although the additional duties arising from the Act will. There is currently a Homelessness Reduction Implementation plan, which identifies actions that will need to be taken to ready the authority for the act coming into force.
8. The extent of the consultation is limited to specific questions around the code of guidance, however, the opportunity has been taken to provide comments that relate to Gateshead's Homelessness and Complex Needs Health Assessment research paper, as there are clear synergies between this research and the prevention principles the Homelessness Reduction Act seeks to establish
9. Additionally where there has been an opportunity within the scope of the consultation to highlight the associated impact of increased duties; this has been fed into the response.

Gateshead response

10. The consultation period ran from 16th October until 11th December 2017. The response set out in the attached annex, has been compiled in consultation with officers from Housing Services, Housing Growth, The Gateshead Housing Company (who deliver the Homelessness advice and support service on behalf of Gateshead Council and officers from Care, Wellbeing and Learning.
11. Housing & Economy Portfolio Holders have been consulted on the officer response that has been submitted in relation to the above consultation.

Implications of Recommended Option

12. **Resources:**
 - a) **Financial Implications** – There are not considered to be any specific financial implications arising from this consultation.

- b) **Human Resources Implications** – No human resources implications.
- c) **Property Implications** – No property implications.
- 13. **Risk Management Implication** – No risks associated with the consultation.
- 14. **Equality and Diversity Implications** – No equality and diversity implications
- 15. **Crime and Disorder Implications** – No crime implications.
- 16. **Health Implications** – No health implications.
- 17. **Sustainability Implications** – No sustainability implications directly arise from this report
- 18. **Human Rights Implications** - No human rights implications.
- 19. **Area and Ward Implications** – The detail of this consultation would impact on all Ward Areas.

Annex

Gateshead response to:

“Homelessness Reduction act – Code of Guidance” Response of Gateshead Council to Government (DCLG) Consultation

Format of the Homelessness Code of Guidance

The following questions are specific questions on the format of the Homelessness Code of Guidance.

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?

Yes.

Comment:

- This will make the document more user-friendly. We do not feel it is necessary to keep information in annexes and would rather have this detailed in the correct section.

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?

Comment:

- We are satisfied with the overall content of the guidance and therefore support the withdrawal of any supplementary documents, in favour of having one detailed code of guidance, with everything in the one place. Introduction of Hyperlinks where further clarification is needed has improved the accessibility of the 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?

Yes

Comment:

- As above, having everything in the one place would be preferable.

Q8: Are there any other relevant caselaw 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.

Comment:

- We would request that the case of Hotak, Kanu and Johnson is considered within the guidance in greater detail, particularly around the definition of 'more vulnerable than ordinarily vulnerable'.

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?

Comment:

Comment:

- Chapters 14 and 15 are particularly difficult to digest in relation to ending the relief duty and ending the S188 interim duty, but this is more to do with the complexity of the law in these areas than the format of the guidance.

Content of the Homelessness Code of Guidance

The following questions are specific questions on the content of the Homelessness Code of Guidance.

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.

Comment:

- We support the detailed guidance set out in chapter 7 regarding eligibility for assistance, having reference to the Equalities Act 2010.
- Gateshead Council undertook a Homelessness and Multiple and Complex Needs Health Needs Assessment this year which found that:
"Homeless adults are not a homogenous group and some subgroups among homeless people may experience specific risks and needs profiles. The HNA highlighted some groups that have been identified within the literature who may have specific needs.... These groups included; women, ex service personnel, care leavers, those offending and leaving prison, lesbian, gay, bisexual and transgender homeless and migrant and immigrant homeless." Chapter 10 of the health needs assessment (attached) provides references to support these findings.

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?

Yes

If no please provide further information: N/A

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

Yes

If yes please use the form below to detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant. Please expand this table as required.

Chapter	Page and Paragraph number	Change/add/remove	Comment
3	Page 30, 3.4	Change	Extend 'Care Leavers' to cover 'Vulnerable Young People, aged 16-18 years' as an extension of care leavers.
4	4.3 Page 33	Change	Given that Housing Options work requires a coordinated effort across multiple agencies it is disappointing that the early proposal of a 'duty to cooperate' as a means of implementing effective and meaningful partnership work was rejected from the Bill in favour of a 'duty to refer'. It is hoped that any review of the implementation of the Act will strengthen the duty and include a "duty to cooperate". Resourcing for support services linked to homelessness including health, mental health, substance use and prison discharge would benefit from an enhanced duty to cooperate.
4	Page 33, 4.8	Add	A standardised basic referral form would be beneficial in order to keep processes simple for referring professionals who may refer to multiple boroughs.

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?

Yes

If no please provide further information: N/A

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

Yes

If yes please use the form below to detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant. Please expand this table as required.

Chapter	Page and Paragraph number	Change/add/remove	Comment
8	8.3 b, 8.6 – 8.10, Page 55	Add	Recommendation to provide specific guidance on how to define whether or not a household should be considered to be in priority need due to dependent children if there is shared custody. Could state that which parent the child benefit is paid to would be considered to be the child's principal home.
8	8.14 Page 58	Add	Recommendation to add more clarity to the meaning of 'more vulnerable than an ordinary person would be if they became homeless. It would be helpful to have specific examples included.
8	8.37, Page 62	Add	Further guidance on conditions which would be considered to give an applicant a priority need due to mental or physical health conditions would be welcomed. Having listed health conditions with guidance on how to allocate priority need would be helpful i.e. schizophrenia and depression.
9	9.5 Page 64	Add	We would request further guidance regarding what material could be used to indicate the contrary.
9	9.7 and 9.8 Page 65	Remove	We believe this is not in the spirit of the legislation which aims to prevent the cycle of homelessness. We do not wish to find these chaotic, vulnerable people intentionally homeless under such broad criteria and only exasperate the problem further.
10	10.13 Page 72	Add	Guidance provided to give clarity on what is meant by the applicant having a local connection "in real terms".
10	10.5 Page 71	Add	Currently it may be very difficult for an authority to make the necessary enquiries within a reasonable period of time due to difficulties getting the required information (i.e. getting HB details from applicants current authority) additional guidance on information sharing would be welcomed. Including a timescale for responses i.e. 14 days would be beneficial.

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

- Yes we find the guidance regarding ‘reasonable to occupy’ helpful.
- The guidance should outline that the housing authority should firstly determine whether or not the landlord intends to provide another s21 notice and whether any agreement has been reached with the tenant. Whilst notices are still being issued the prevention duty should remain for the maximum of 70 days. This would allow an additional 14 days a landlord to respond to additional information, which we feel is reasonable.

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

- We have no further comments regarding this and are happy with the clarity provided, other than our responses outlined in the table above.

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?

Yes

If no please provide further information: N/A

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

No – only those outlined in (c) regarding Chapter 11 below.

If yes please use the form below to detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant. Please expand this table as required.

Chapter	Page and Paragraph number	Change/add/remove	Comment
N/A	N/A	N/A	N/A

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

No

Comment:

- Further guidance on what can and cannot be considered to be “reasonable steps” regarding the actions which the applicant is required to take to prevent their homelessness would be welcomed.
- There is no guidance on how often the reasonableness of steps contained in the personalised housing plan should be reviewed and if there is a duty to provide a copy of the updated plan to the applicant if there is a change in circumstances resulting in the review of the plan. We would recommend that as standard a review takes place a week before the prevention duty is due to end.
- Clarification on what the difference is between steps that the applicant can choose not to take (recommended steps) and steps the applicant has a duty to take (reasonable steps) and the effect on the homeless duty owed (11.31) is required.
- Guidance is required on right to request a review of ending of duty and for carrying out reviews (either light touch or full review)

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?

Yes

Comment:

- Agree that a warning notice should be issued before duty is brought to an end due to refusal to cooperate. Guidance on what would constitute a reasonable period to allow the applicant to rectify their behaviour would be welcomed.
- Further clarity on the definition of non-co-operation would be welcomed.

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?

Yes

If no please provide further information: N/A

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

Yes

If yes please use the form below to detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant. Please expand this table as required.

Chapter	Page and Paragraph number	Change/add/remove	Comment
15	15.41 E Page 110	Delete	We do not believe that refusal of an offer of temporary accommodation should always discharge the homeless duty. Accommodation is not always the right fit in terms of suitability but more what is available at that time.
16	16.28 Page 116	Add	Further clarity is required on the definition of affordability.

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?

Yes

Comment: N/A

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?

Yes

If no please provide further information: N/A

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

Yes

If yes please use the form below to detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant. Please expand this table as required.

Chapter	Page and Paragraph number	Change/add/remove	Comment
19	19.16	Change	The period for completing a review should be increased from 8 to 12 weeks for all reviews as s202 reviews can be as complex (if not more complex) as reviews regarding referrals to other

			authorities. The additional time would cut down chance of county court appeals when reviews aren't completed within 8 weeks due to delays caused by third parties.
19	19.17	Add	Further guidance for cases where applicants refuse to agree an extension to the timescale for completing a review would be welcomed.

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

No.

Comment: We are satisfied with the guidance provided in this section.

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?

Yes

If no please provide further information: N/A

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

Yes

If yes please use the form below to detail the chapter and paragraph number of the Homelessness Code of Guidance where relevant. Please expand this table as required.

Chapter	Page and Paragraph number	Change/ add/rem ove	Comment
21	21.14 Page 150	Add	Guidance on disclosing/storing information regarding perpetrators would be beneficial to promote information sharing to keep victims safe.
21	21.21	Change	It is welcome that advice is given in the guidance regarding officers seeking additional information, however it should be made clear that evidence is not required' rather than just stating that it may not be available.
21	21.22	Add	The addition of officers discussing safe means of follow up contact with the victim, considering if there are particular times it will not be safe to call, a plan of what to say if someone else

			answers the phone and/or having a safe/code sentence that alerts the officer it is not a good time to talk, would be appreciated.
21	21.25	Remove	Remove the last sentence; it is not just single people who may access these options.
22	All	Add	Including further guidance on vulnerable young people who may not be care leavers would be welcomed, as the same issues may apply i.e. the unsuitability of bed and breakfast accommodation.
22	22.9 Page 158	Add	It would be beneficial to have the specified public bodies named. We would also request that it is made clear how non-public agencies that are major players be expected to take forward their duty to refer – for example RSLs - Given that they are not classed as public bodies yet receive public grant to support affordable housing market.
23	23.15	Change	Remove the assumption that ‘there will usually be enough time’ and set clear referral timescales especially for long term custody stays that contact is made by the prison service with the relevant housing authority prior to the 56 days prevention timescale to allow an appropriate housing plan to be put in place.

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

Comment:

- We support the duty to intervene earlier and increase in timescale for being threatened with homelessness to 56 days.
- We particularly welcome the support for the good practice around AST.
- We also support the duty to provide increased assistance to applicants who do not meet the criteria to qualify to be in priority need.
- We support people no longer being advised to remain in property until eviction notice is served but this will cause increase in demand for TA which will be a strain on authorities housing stock and budget.
- Assessment and Personalised Housing Plans (Chapter 11). While this is a good idea and makes it clear to the applicant what the authority will do and that that there is an onus on them to also help themselves the duty to provide plans for everyone who requests homeless assistance will be very labour intensive and will put pressure on resources which funding provided by DCLG will not be enough to address.
- The Code of Guidance makes insufficient reference to homelessness and those with multiple and complex needs. A recent health needs assessment for those experiencing homelessness and multiple and complex needs in Gateshead suggested that the numbers of people facing the three problems of homelessness, substance misuse and crime in Gateshead equates to an annual cost of £5,578,895 for 245 people (see attached documentation for evidence). This alone provides a compelling argument for the Code to recognise the needs of this group more explicitly and for local homelessness prevention strategies to

adopt a more holistic approach to prevention using a primary, secondary and tertiary prevention model, as set out in the model proposed for Gateshead (page 119 of the health needs assessment, attached). This assessment makes it clear that a) Homelessness is not inevitable or just a housing issue and

- b) Homelessness is evidence of health inequalities and is a late marker of exclusion and disadvantage.
- While the reference to Housing First in the draft Code (Para 16.42, p.118), an evidence-based response to tackling homelessness amongst those with multiple and complex needs, the paragraph is a stand-alone statement. The draft Code does not suggest any actions for local authorities to undertake regarding this model (ie. “consider as part of the preparation of your local homelessness reduction strategy” etc.) in the same way that preceding and subsequent paragraphs in the same section do (“Accommodation arrangements to meet particular needs”).

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