

PROPOSED RESPONSE

The revised Code provides guidance on homelessness legislation, including the new duties introduced through the Homelessness Reduction Act. Whilst we welcome consultation on any element of the revised Code that is of interest to you, the consultation questions below provide an outline of each section and some prompts for your response.

The draft Code incorporates guidance on new legislation to reflect the purpose and intention of the Homelessness Reduction Act. Within the consultation questions we have highlighted some aspects of the guidance where we recognise the issues are more challenging, and particularly encourage responses to these. It would be helpful if responses to the consultation focus on the content of the guidance, and the interpretation of the amended Act, rather than any concerns about the legislation itself.

Personal Information

To help us analyse the consultation responses, we would ask you to answer the following questions:

Q1: Are you responding as (please tick one):

A private individual?

On behalf of an organisation? **X**

Q2: If you are responding as a private individual, is your main interest as:

A individual with experience of homelessness?

An individual who delivers a homeless service?

Other? (Please specify)

N/A

Q3: If you are responding on behalf of an organisation, is the interest of your organisation as (tick all that apply):

x A local authority?

A private registered provider?

A homelessness charity?

A private landlord or organisation representing private landlords?

An organisation providing legal services?

A supplier of management and/or other services to local authorities?

A health agency?

A social care agency?

A children's service?

A criminal justice agency?

Other (please specify)?

Q4: Please enter the first part of the postcode in England in which your activities (or your members' activities) are principally located (or specify areas in the box provided):

CM9

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?

X Yes

No

Comment: **No additional comment**

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:

Agree with withdrawal of existing supplementary 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

No

Comment:

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:

No, case law is extremely useful in interpreting and implementing statute but should not be confused with Guidance. The revised guidance is helpful in setting out the intention of the legislation but should not bind future decision making in the courts or endorse case law which may subsequently be amended.

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:

The style and tone is generally very good and consistent throughout. Although intended for use by Local Housing Authorities the new duties placed on other public bodies to refer and parts relating to strategic links means that this Guidance may have a wider audience who may benefit from a glossary. Phrases such as Private Registered Providers may not always be read as 'housing associations' by others.

Consistent use of Local Housing Authority would help in two tier authority areas where the term Local Authority can be misleading. It would also help if links to the Care Act, Children Act and other relevant statute was also made clearer, paras 8.20 – 8.22 are examples where this is very helpful but no equivalent for those leaving hospital under Care Programme Approach for example.

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 believe that future monitoring will be the best way to identify any actions that may be needed to address impacts from the proposed Code of Guidance

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

No

b) If no please provide further information:

Chapter 2:

The guidance for local housing authorities is clear but less so for those in two-tier authority areas, e.g. decisions to commission support for an upper tier authority may be seen as discretionary but affect statutory services at lower tier level. Is it envisaged that a lower tier authority would cite lack of agreement for commissioning, or considered acceptable to refer to this, in explaining why some possible needs can not be met locally?

Paras 2.35 – 2.40: It would be helpful if NPPF and NPPG, or local authorities in developing local plans, could highlight the distinction between types of housing that contribute towards statutory requirements (such as supported, affordable) and those that may be aspirational or in response to market demand (self-build, Starter Homes). It would also be helpful if this section could elucidate on the possibility of variations to national policies with regard planning as well as housing policies, e.g. thresholds for affordable housing, possibility of securing contributions from mixed-use and non-residential development, Vacant Building Credits.

Chapter 3

3.2 Unclear if advice should also include the rights to access other services and sources of support, e.g. under Children Act, Care Act, etc. This may be more complex and challenging for local housing authorities but likely to be necessary when identifying need for support in some cases.

Chapter 4

4.9 and 4.10 Assumed that any significant change would be the same test as used for repeat applications under Pt VII at present? Clarifying this would help reviews under the new Act.

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

No

Paras 6.33 and 6.34 are very helpful, making it clear that there should not be a blanket policy, each case should be assessed according to the facts and circumstances; as a result of this there can not be any certainty as to the timescale between tenants receiving notice and having to leave as this may depend upon the views and intentions of each party and the ability of the local authority to access alternate accommodation. It is confusing for the Guidance to refer to the Secretary of State's statement without also having regard to the law for eviction. As a result of the Secretary of State's statement, some landlords and others are now interpreting this as law and without more clarity, the Guidance

may be used to perpetuate this misunderstanding between good practice and legal rights.

It would be helpful if the Guidance in this section could explain more clearly the legal precedence of ministerial statements, codes of guidance and statute.

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

Yes

No

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

No

If no please provide further information:

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

Yes

No

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

Yes

No

Comments:

Para 14.49 It would be helpful if the duty to refer also included a duty to assist as well, requiring referring organisations to take reasonable steps to assist and cooperate with applicants' plans

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

No

Comments:

Para 14.49 It would be helpful if the duty to refer also included a duty to assist as well, requiring referring organisations to take reasonable steps to assist and cooperate with applicants' plans

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

No

If no please provide further information:

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

Yes

No

<p>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?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Comments:</p>
<p>c) 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?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Comments:</p> <p>It would be helpful if the Guidance also referred to the need to notify other authorities when placing out of the area, beyond s208 notices, along with the need to be clear if existing support will continue to be provided by the same organisations or may require involvement / referral to others. In some cases applicants who manage without support in the own area find that they need additional help when moving to somewhere different and this should be understood and taken into account as part of assessing what is suitable.</p>
<p>Q15: Taking chapters 18-20 of the Homelessness Code of Guidance which focus on casework administration consider the following questions:</p> <p>a) Having read these chapters are you clear what local authorities responsibilities are?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If no please provide further information:</p>
<p>b) Would you suggest any additions, deletions or changes to these chapters?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>c) When considering Chapter 18: Applications, inquiries, decisions and notifications would any additional information on issuing notifications and decisions be helpful?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>Comments:</p>
<p>Q16: Taking chapters 21-25 of the Homelessness Code of Guidance which focus on particular client groups consider the following questions:</p> <p>a) Having read these chapters are you clear what local authorities responsibilities are?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If no please provide further information:</p>
<p>b) Would you suggest any additions, deletions or changes to these chapters?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>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.</p>
<p>Q17: Are there any other comments that you would like to make on the Homelessness Code of Guidance?</p> <p>Comments:</p> <p>No</p>