

Annex A: Consultation Questions

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?

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)

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

- 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):

LN

Responding to this Consultation

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.

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?

No

Comment: Annexes are a useful supplement to the guide and give Officers clear additional direction of a practical nature, although they do need updating. The following are particularly useful

- Annex 5 - co-operation between registered social landlords and housing authorities
- Annex 8 - how to contact the home office immigration and nationality directorate
- Annex 10 - the habitual residence test
- Annex 16 - definition of overcrowding
- Annex 18 - procedures for referrals of homeless applicants on the grounds of local connection with another local authority

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?

Yes

Comment: The main elements of the supplementary guidance are included in the new code

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:

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: The guidance should be used to help Officers interpret and apply the legislation but not validate case law which may subsequently be superseded.

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 styling is generally good however "Local Authority" is referred to throughout the guidance which does not acknowledge two tier authorities.

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: Too early to comment

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:

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
Chapter 1	1.2	Change	Under section 182(1), social services authorities in England are also required to have regard to guidance given by the Secretary of State (such as this Code) when exercising their functions relating to homelessness and the prevention of homelessness. "Have regard" is not strong enough particularly for two tier areas. First and second tier authorities must work together especially in regard to commissioning of floating support and supported accommodation.
Chapter 1	1.5	Change	Private Registered Providers have become more reluctant to accommodate some homeless persons due to financial and other risks that they might present. The HCA standards need to be updated to reduce the element of discretion and clarify what is expected of the Private Housing Providers when it comes to accommodating homeless persons.
Chapter 4	4.2	Add	There should be an obligation on Public Authorities to work in partnership with the housing authority wherever appropriate to provide a multi-agency approach to the prevention of homelessness. This could be in relation to creation of joint working protocols, information sharing agreements and assisting/supporting their clients.
Chapter 4	4.7	Add	Prior to making a referral it would be advisable for the public authority to contact the housing authority to discuss the case and establish whether that area can provide the person concerned with the required type of housing and support. It would be a waste of the public authority's and applicants time if what they require does not exist.
Chapter 4	4.11	Add	If a person is referred to a local authority in a different area of the country and after speaking to that local

			authority the person finds out that the type of housing or services they require are not available, does the applicant then have to start contacting other councils or does the public authority who made the referral or the local authority have to do this? Unless someone takes responsibility, the person might not receive a service and either become homeless or remain homeless. Further guidance is required.
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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:

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
Chapter 8	8.24	Add	It would be helpful if more detailed guidance was provided on a range of mental health conditions to help the housing authority determine whether the applicant might have a priority need for rehousing. Obtaining advice from medical professionals is often difficult, sometime of minimal use and can incur a charge. More detailed guidance on how to determine whether someone who is Autistic or diagnosed with Aspergers, Bi-polar or a dual diagnosis has a priority need would be helpful.
Chapter 8	8.25	Change	Mental Health services seem to be over-stretched and unlikely to have capacity to carry out joint assessments. This might need changing to make this a duty on both parties.
Chapter 9	9.26a	Delete	The availability of advice on housing benefit, UC and social security benefits is extensive. Therefore it is unlikely that not obtaining this advice could be classed as an omission in good faith.
Chapter 10		Add/Change	The revision of the guidance provides an opportunity to include referrals for victims of domestic abuse which currently fall

			outside of the s193 referral procedure. At the moment it is impossible to refer when the victim has a local connection to the referring Authority as the conditions are not met.
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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

Comments:

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

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:

Although we have answered yes, we would still like to make the following observation. The prevention duty now places a more onerous obligation on Local Authorities to prevent homelessness for clients living outside of their own district. It is hard to envisage how that might be achieved if the client is many miles away and the Authority they have presented to has no local knowledge of the area they are resident in.

Some authorities such as those with popular seaside resorts already receive numerous enquiries from non residents often living in counties many miles away claiming they will be homeless and wanting to move to the coast. By allowing the homeless person to decide which authority they would like to prevent their homelessness, it will place incredible burdens on some authorities more than others.

It is likely that housing authorities will look to assist the person within an area where they do have a local connection rather than their own district and this will be extremely time consuming for Officers to deal with agencies/public bodies/third sector organisations that they have little knowledge of. They will also have no knowledge of the local housing market, information sharing agreements or protocols and procedures which have been developed expressly to make a client's journey more seamless.

This appears to go against the essence of the new legislation and it is hard to see how this would benefit the client. It may also have an adverse effect on the help offered in general as surely Authorities who offer the most assistance will receive the most approaches.

In chapter 12 it talks about collaborating with neighbouring Authorities which would suggest the author is assuming that clients with no local connection are living in close proximity to where they present. This hasn't been our experience when people approach with no local connection. They are mainly from the cities in the East and West Midlands sometimes more than 100 miles away.

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
Chapter 12	12.6	Change	The authority should be able to refer during the prevention stage. As already stated, if the applicant has no local connection to the housing authority they have contacted, it will be much harder for the authority to prevent the homelessness than it would be for the authority where they have a connection due to local knowledge etc.

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

Yes

Comments:

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

Comments:

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:

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
Chapter 16 & 17	16.20 & 17.15	Add	<p>The guidance could be made clearer in regard to the wording “secured for applicants in priority need” and “accommodation that an applicant secures for themselves with the help of a housing authority”.</p> <p>Housing authorities often inform applicants of available private sector accommodation and the applicant requests the authority to liaise with the landlord on their behalf. Also the authority will often pay the deposits direct to the landlord. Would these situations be classed as “securing the accommodation” or “assisting” the applicant? This needs to be made clearer to avoid legal challenges.</p> <p>17.15 does provide some explanation but it refers to accommodation the applicant identified themselves. The housing authority needs to be pro-active with sourcing accommodation and does not want to be in a position of just relying on the applicant to find the accommodation in order to avoid article 3.</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?

No

Comments: As above – see Q14

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?

No

Comments: As above – See Q14.

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:

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

No

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

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

No

Comments:

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:

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

No

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

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

Comments: