

Appendix Two

Legal and Strategic Context

The housing market has been and still is pricing out a significant of people and not just the most vulnerable. It is families both above and below the poverty threshold that are becoming homeless and needing assistance. Furthermore, social factors such as being young, having dependant family members, or having mental health problems make people more susceptible to the difficulties in accessing housing. As a result, housing affordability and sustainability is rapidly emerging as the most challenging issue in the UK.

We have seen an increase in homeless applications, families being provided with temporary accommodation and also rough sleeping. To address these growing issues the government set out clear commitments to help tackle homelessness and rough sleeping, including:-

The Homeless Reduction Act 2017 (HRA) has introduced one of the biggest changes to homeless legislation with a much bigger focus on advice and prevention. The aim of the Act is to expand on the **Housing Act 1996** (as amended) to ensure that local authorities provide meaningful advice and assistance to those who do not fall into a priority need category or who have been found to be intentionally homeless. It is too early to evaluate the impact of this Act nationally as it was only implemented in April 2018. It is anticipated that singles and couples with no children will see a positive impact as previous legislation had not prescribed much to assist this group.

The main points of the HRA are:

- The point at which a homelessness duty can be triggered is brought forward from 28 to 56 days
- A duty to prevent homelessness for all eligible applicants threatened with homelessness, regardless of priority need.
- A new duty to assess each applicant's situation and develop with them a personalised plan. This plan should set out actions for the customer and council to take, to prevent or relieve homelessness.
- A new relief duty for those homeless and have a local connection regardless of priority need. It requires us to take reasonable steps to help secure accommodation
- A new duty on public services to notify a local authority if they believe someone to be homeless or at risk of becoming homeless.
- If homeless households refuse to engage, their support will be limited, showing that it must be a two-way process of engagement.
- Young people leaving care will have a local connection to the authority where they were looked after and who therefore owes them leaving care duties.

Homelessness Code of Guidance for Local Authorities 2018 Local Authorities are required to have due regard to this statutory guidance in exercising their functions relating to homelessness and prevention of homelessness. The Code is issued by the Ministry of Housing, Communities and Local Government and is periodically updated and has been reviewed for the **HRA**.

The Code is also of direct relevance to private registered providers of social housing that have a duty under the 1996 Act to co-operate with housing authorities in exercising their homelessness functions. Private registered providers are subject to the Regulator of Social Housing's Regulatory Standards, in

particular the expectation that they will co-operate with local authority strategic housing functions, as set out in the Tenancy and Home and Community Standards.

Many of the activities discussed in the Code require joint planning and operational co-operation between housing authorities and social services authorities, health authorities, criminal justice agencies, voluntary sector organisations and the diverse range of bodies working in the private rented sectors and so the code is also relevant to these agencies.

Rough Sleeping strategy / No Second Night Out

Successive governments have introduced initiatives to tackle rough sleeping. The No Second Night Out approach was developed 2010-2015 and focused upon 5 principles: identifying rough sleepers, involving the public, assessing need quickly, accessing emergency accommodation and services and reconnecting to support as well as six commitments relating to people who sleep rough which focused on:

- Helping people off the streets
- Helping people to access healthcare
- Helping people into work
- Reducing bureaucratic burdens
- Increasing local control over investment in services
- Developing responsibility for tackling homelessness

The principles behind NSNO is that a person or households housing crisis may mean they are homeless for one night, but that there should be a sufficiently wide ranging, flexible services available to ensure that they are not roofless for a second night

Nationally rough sleeping has increased by 169% over the last 7 years (Homelessness Link, Rough Sleeping – Explore the Data) and in 2018 the government launched a new Rough Strategy with the aim of halving rough sleeping by 2022 and ending it by 2027. The government has committed £100 million to develop local services 2018-2020 with 3 main objectives:

- Prevention – preventing homelessness where possible
- Intervention – to provide rapid support to get people off the streets
- Recovery – support to help people find a new home and rebuild their lives

Housing and Planning Act 2016 contains measures that could have an impact on social housing and homelessness. Some of the provisions are yet to come into force, but the Act includes:

- Local authorities may have to sell 'higher-value' council homes as they become vacant
- The extension of the Right- to-Buy to Housing Association tenants
- Local authority tenants with higher incomes were going to have to pay higher rent, this has now been made optional
- Measures to tackle rouge landlords in the private sector
- The development of Starter Homes for first time buyers aged 23 - 40 years which are new build sold at 20% below market rates, and a duty on local authorities to promote supply.

The Localism Act 2011 introduced a raft of local government reforms across finance, planning and governance as well as significant changes to the Housing Act 1996. Important changes related to homelessness include:

- The right for local authorities to grant fixed term tenancies
- Greater flexibilities in the allocation of social housing
- Discharging of homelessness duties by making use of accommodation in the private sector
- Changes to statutory succession rights
- Reform of the Housing Revenue Account, giving more local control.
- A National Home Swap scheme.
- Changes to the regulation of social housing and the way that complaints about social landlords are handled.

Welfare Reform Act 2012 / Welfare Reform & Work Act 2016

Since 2012 there has been considerable reform of the welfare system reducing the level of support for low income households and to simplify the benefits system. Welfare Reforms that have had the most impact on housing and homelessness are:

- **Removal of the spare room subsidy:** Reducing housing benefit entitlement to social housing tenants considered to be under occupying their homes
- **Housing Benefit Cap:** Limiting maximum benefits that a family can receive. The cap was further reduced in November 2016 expanding the number of households affected.
- **Local Housing Allowance:** LHA rates are used to work out how much housing benefit a private sector tenant receives. LHA rates are now limited to 30th percentile of market rent and the rates have been frozen for 4 years from 2016.
- **Universal Credit:** This has replaced most existing benefits by providing a single means tested benefit. This will include the benefit element towards housing costs which will now be paid directly to residents rather than to their landlord
- **Shared accommodation rate:** Single households under the age of 35 have the amount of benefit capped to the shared room rate. This restriction currently applies to private sector tenants but from 2019 it will be extended to social housing tenancies. The entitlement to housing benefit has been removed for 18-21 year olds.

Children Act 2004

Housing authorities have a duty to safeguard and promote the welfare of children and to co-operate to promote the well-being of all children in the area, including 16-17 year olds. Authorities also have a duty to co-operate with Children's Services in relation to children in need when requested to do so, as long as this is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.

The duties placed on housing authorities are set out in the government's inter-agency statutory guidance: *Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children*. The specific duties towards 16 and 17 year olds who are at risk of homelessness or who are homeless, and the legal duties children's services authorities and housing authorities have towards them are set out in the government's statutory guidance: *Provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation*.

Human Rights Act 1998

Housing authorities are expected to consider the human rights implications of their actions in the exercise of their powers, or risk having their decisions overturned as a result and the planning and

delivery of their services affected. They are required to pay particular attention to the promotion and protection of rights of vulnerable and disadvantaged groups such as people with disabilities, ethnic minorities, victims of sexual discrimination, children and elderly people.

There are 3 Articles which are particularly important:

- Under Article 3, housing authorities have an obligation to prevent a person being subjected to treatment or punishment that is inhuman or degrading, to investigate any allegations of such treatment, and to protect vulnerable individuals who they know or should know are at risk of such treatment.
- Under Article 4, housing authorities should try to ensure that their policies or decisions take measures to protect victims of modern slavery or trafficking and to protect individuals who they are aware are at risk of such treatment.
- Under Article 8, housing authorities should try to ensure that their policies or decisions do not interfere with a person's right to respect for private and family life, their home and their correspondence. If a housing authority does decide that it will be difficult to avoid interfering with someone's Article 8 rights, it will need to make sure that the policy or action is necessary, pursues a recognised legitimate aim and is proportionate to that aim. A housing authority may be asked to produce reasons for its decisions.

Wiltshire Council Business Plan 2017 - 2027

Wiltshire's vision is to create strong communities in Wiltshire by growing the economy, creating strong communities, protecting those who are vulnerable and being an innovative and effective council. Key themes are joint working with communities, businesses and the voluntary and public sectors, and the use of technology to enable partners to better engage with us. The plan establishes these main housing objectives:

- To make best use of existing stock to ensure that it meets current needs including remodelling accommodation and provision for disabled and older people
- To work with housing associations to develop more affordable housing and with the private sector to increase housing including Rent to Buy and other open market housing
- To achieve targets for housing development while protecting and enhancing the historic and natural environment
- To continue to implement the Army Basing Programme
- To identify public land that can be released for homes and jobs and bid for funding in order to accelerate this delivery

Over the last decade the council, with its public and voluntary sector partners, has improved people's lives and helped businesses to develop and relocate in Wiltshire. Looking ahead to the next decade, we plan to continue that success.

Joint Health & Wellbeing Strategy 2015-18

The Homelessness Strategy links into the **JH&W Strategy** which has the twin aims of promoting Healthy Lives and Empowered Lives by:

- Tackling homelessness and the causes of homelessness

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- Providing a range of short term accommodation and support services for homeless young people, young parents and other groups with support needs
- Joint working with Adult Social Care in the provision of high quality accommodation for older people, people with disabilities and mental health needs
- Joint working with Public Health on initiatives to support victims of domestic abuse and people with substance misuse support needs.