

**Agenda Item No:** 8

**Report To:** Cabinet

**Date of Meeting:** 11 January 2018

**Report Title:** Homeless Reduction Act 2017

**Report Author & Job Title:** Rebecca Wilcox – Housing Operations Manager

**Portfolio Holder** Cllr. G White  
**Portfolio Holder for:** Housing



**Summary:** The Homeless Reduction Bill received Royal Assent on 27 April 2017 and is now an Act with the enactment date set as the 3 April 2018.

This report provides an overview of the new duties arising under the Act together with our action plan to prepare for implementation. In addition, the report sets out the impacts and risks arising from the new Act and the proposed resource implications to enable the Council to meet its obligations.

**Key Decision:** YES

**Significantly Affected Wards:** All

**Recommendations:** The Cabinet is recommended to:-

- I. Note the arrangements for the implementation of the Homelessness Reduction Act 2017.**
- II. Endorse the Implementation Programme**

**Policy Overview:** Housing Framework/Homelessness Strategy/Letting Policy

**Financial Implications:** The proposals are within the existing draft budget, and therefore do not represent a growth in expenditure.

This does however represent a risk to the budget that measures are not sufficient and that this could result in an overspend. This has been discussed by the budget scrutiny task group and will be covered in their report.

**Legal Implications** Current legislation (Housing Act 1996), amended by the Homelessness Act 2002 and changes set out in this report.

**Equalities Impact** See Attached - **Appendix 3**

**Assessment**

**Exempt from  
Publication:**

**NO**

**Background  
Papers:**

**Contact:**

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## Report Title: Homelessness Reduction Act 2017

### Introduction and Background

1. The Council has existing statutory duties towards people who are homeless or threatened with homelessness within 28 days under Part 7 of the Housing Act 1996. The Homelessness Reduction Act 2017, (HR Act), which comes into force on 3<sup>rd</sup> April 2018, amends Part 7 adding 13 new clauses. The new clauses add new duties and substantially amends many of the existing duties. The HR Act is not retrospective so applications up to 2<sup>nd</sup> April 2018 will fall under the old framework.
2. The key changes establish two new duties as follows:
  - a. take reasonable steps to help applicants from becoming homeless within 56 days (Prevention) and
  - b. if homelessness has occurred then to help the applicant resolve their situation by finding accommodation within 56 days (Relief).
3. Every person or household approaching the authority who is threatened with homelessness within 56 days will be entitled to proactive support from the local authority to prevent or relieve homelessness. Personal Housing Plans must be drawn up with each household setting out an agreed action list between the local authority and the applicant to prevent and/or relieve homelessness and this will be followed up by proactive casework with each household to achieve that aim. Further each applicant is entitled to a written notification of the prevention and relief stages and has a right to request a review if they think that the local authority has not complied with the duty to prevent.
4. These new duties place a significant emphasis on the local authority taking proactive steps to prevent homelessness at a much earlier stage than the current legislation requires and this is expected to significantly alter the local authorities approach to homelessness and as a result increase workload. The duties to prevent or relieve must be fully exhausted before the Council can consider the existing homelessness duties and there is potential that this may result in longer stays in temporary accommodation if prevention options are not successful. Should the Council be unable to prevent or relieve homelessness, then consideration under the existing legislation must be made to decide whether the Council has a duty to secure accommodation, carry out further investigations and make a homelessness decision about the level of duty owed.
5. In addition to these main key changes, there are a number of amendments, which will have a significant impact on current resources and service provision. The table in **Appendix 1** sets out the main amendments and service implications.

6. Homelessness approaches are likely to increase considerably, with leading experts suggesting that there could be a rise by up to 50%. Our current figures shown below, plot approaches made by applicants with a potential risk of homelessness against homelessness applications accepted, on average this is 129 approaches per month against 20 homelessness acceptances per month. While these figures do not reflect the true level of demand on our service going forward, the number of approaches allows us for a better understanding of the potential baseline figure we could expect.

**Graph 1: Homeless approaches v Homeless acceptance**



7. In view of the impacts of the new HR Act it will be necessary to review the structure of the Housing Options Team to ensure it is fit for purpose and it will also be necessary to ensure that the officers on the frontline have a range of options available which are effective at either preventing or relieving homelessness. This report sets out more information about the HR Act and the proposed implementation plan, financial position and a risk assessment.

## Amendments, Implementation Programme and Referrals

8. The main amendments that the HR Act makes to Part 7 of the Housing Act 1996 are highlighted in the table attached at **Appendix 1**, with the potential impact these will have on our service provision.
9. Another significant change is a new duty to be placed on certain Public Bodies to refer clients who are homelessness or at risk of homelessness to the local authority. A public body is widely defined as “a person (other than a local housing authority) who has functions of a public nature”. This is likely to include services such as NHS Trusts, schools, GPs and all manner of Tier 1 functions. This duty has now been postponed till October 2018, however due to the complexity of bodies that require engagement and potential training requirements we have highlighted an action within our Implementation Programme to relaunch our Homelessness Forum in addition to meeting with

HUB partners to ensure we maximise the partnership arrangements available to clients within the Borough. It should also be recognised that some of our partners are likely to play a key role in supporting clients under threat of homelessness and it is therefore likely that referral to a wide range of partners will form part of the personal housing plan development with individuals.

10. Noting the potential impacts on the service provision has led to us considering how we can mitigate the impact on the Council; this has led to the core officer group within Housing to develop an Implementation Programme, which is attached at **Appendix 2**. The key areas of this programme focus on the finances available to support the implementation of the new Act, a revised toolkit for frontline staff to utilise and a new team structure to support the move to prevention and relief over homelessness acceptances.
11. Re-tendering of a Kent wide IT solution was concluded mid-December and LOCATA (our current provider) have been successful, while the current contract does not conclude until July 2018, LOCATA have agreed to work with the Kent wide partnership to ensure the IT solution is fit for purpose in time for the implementation of the Act.

## **Financial Implications and Risk Assessment**

12. The government have recognised that the HR Act is likely to require additional resources and have allocated various grant-funding streams to assist with the implementation of the Act. Ashford will continue to receive Homelessness Grant of £49,000. In addition, following a change to the housing benefit subsidy system for private sector leased accommodation, a new grant has been introduced called the Flexible Homelessness Support Grant. Ashford has been allocated £224,060 under this grant but approximately £171,600 of this will continue to support the management of the existing leased properties used as temporary accommodation, with the remainder being available to support our implementation programme and restructure. Finally, the government has identified a three-year programme of New Burdens Funding, which provides Ashford with £55,978 in year 1, £51,276 in year 2 and £54,202 in year three. A further one off contribution of £9,000 has been identified by government as a grant towards new IT costs. Total funding can be viewed in Table 1 located in Financial Implications.
13. A new staff structure has been developed to support the new functions and the change in emphasis from processing homelessness applications to proactively preventing homelessness. Whilst this will include a proposal for additional staff, we have taken the opportunity to utilise existing resources and realign these to the new functions. These mean that we are confident that we can contain these costs within the budget and grant funding available. The proposed structure will be presented to Joint Consultative Committee in February following consultation with affected staff.
14. It is essential that the front line staff tasked with preventing homelessness are given the appropriate tools to achieve the desired outcomes. Whilst we already fund assistance with deposits and rent in advance as well as assisting with prevention payments, we are refreshing these tools to ensure that they

are effective. At this stage, we are confident that we can contain these costs within the budgets and grant funding available.

15. Another area of potential support to prevent homelessness is Discretionary Housing Payments (DHP) and we are working with colleagues in finance to give consideration to the best use of this funding.
16. The government aim is that by placing an emphasis on investing in preventing homelessness, this will, over time, reduce the need to accommodate households in temporary accommodation and therefore resources that currently go into the costs of bed and breakfast or other temporary housing can be reinvested into front line prevention work. This is difficult to quantify at this stage and therefore we will need to review the arrangements that we put in place in line with budget monitoring periods to understand the impacts on the service.
17. Whilst we are confident at this stage that we can manage the new demands on the service within the budget and the grant funding available. There is a contingency sum included within the general fund for highlighted high risk areas and the general fund reserve has been identified to manage in year risks for the Council, therefore the council has contingencies in place should our assumptions prove to be incorrect.
18. The table below (Table 2) notes the risks identified with the implementation of the HR Act and what we intend to put in place to mitigate these risks. Risks will be monitored as identified in our Implementation Programme (**Appendix 2**) and be reported back to Management Team and Directors on a quarterly basis as part of the budget monitoring cycle.

**Table 2 – Risk and Mitigation**

<b>Risk</b>	<b>Type of Risk</b>	<b>Mitigation</b>
Unaffordability in the Private Rented Sector	Financial Social	<ul style="list-style-type: none"> <li>i. Review current landlord offer to ensure that it is fit for purpose</li> <li>ii. Develop a new range of landlord incentives</li> <li>iii. Empower staff to make quick and effective decisions about prevention offers on the front line</li> <li>iv. Promotion and expansion of the Social Lettings Agency model</li> <li>v. Working closely with our Private Sector Team regarding suitability of accommodation</li> <li>vi. Continue to liaise with landlords via the Private Sector Landlord working group and the Private Sector Landlord Forum</li> </ul>
Legacy cases under the current legislation (Housing Act 1996 amended by the Homelessness Act 2002)	Financial Resources (staff)	<ul style="list-style-type: none"> <li>i. Applications up to and including 2<sup>nd</sup> April 2018 will need to be managed under current legislation</li> <li>ii. Identified need for staff resources, structure review includes an additional officer on a 12 month fixed term contract to focus on the legacy cases.</li> </ul>
Longer placements in temporary accommodation (TA) due the duty to Prevent and Relieve (up to 112 days).	Financial Resources (accommodation)	<ul style="list-style-type: none"> <li>i. Ensure TA offer is value for money, challenge and market test available</li> <li>ii. Use of Tufton House block booking self-contained accommodation</li> <li>iii. Complete and renovate Christchurch Lodge (short stay accommodation)</li> <li>iv. Ensure periodical reviews of suitability of TA offer, monitoring of collection rates for charges</li> <li>v. Constantly review the need for further temporary accommodation</li> </ul>
Increase workload causing inability to meet new duties	Financial Reputational	<ul style="list-style-type: none"> <li>i. Ensure sufficient focus on frontline prevention in the new structure</li> <li>ii. Ensure staff have effective policies and procedures are in place as well as effective IT support and templates for letters, decisions and Personal Housing Plans</li> <li>iii. Work with IT to create digital solutions to support implementation</li> </ul>
No local connection required for Prevention duty	Financial Resources Reputational	<ul style="list-style-type: none"> <li>i. Monitor the impact of the risk working with neighbouring authorities and Kent Housing Group</li> </ul>

## **Equalities Impact Assessment**

19. Members are referred to the attached Equality Impact Assessment.

## **Consultation Planned or Undertaken**

20. Informal consultation with current staff in the Housing Options Team has taken place and a full report will be taken to the Joint Consultative Committee on 22 February 2018 with formal consultation to follow.
21. The proposed structure re-aligns some of the existing staff duties but there are no proposals for redundancies.

## **Other Options Considered**

22. No other options have been considered.

## **Reasons for Supporting Option Recommended**

23. The HR Act places new statutory duties upon the local authority and therefore it is essential that the authority responds to the new requirements.
24. Consideration has been given to the appropriate resources required to support the implementation of the Act along with identifying the risks to the authority and how best to mitigate these.

## **Next Steps in Process**

25. The draft new structure will be presented to Joint Consultative Committee in February 2018 following informal consultation with the affected staff members. This will be followed by a formal consultation process with staff.
26. Staff are being trained in relation to the requirements of the new Act and the new refreshed 'toolkit of housing options to prevent homelessness will be implemented and monitored to measure effectiveness.
27. The Homelessness Forum to engage with key partners will be launched early in the new year and as more detail is made available about the public bodies duty to refer, this forum and the links we have at the Hub at International House will be utilised to ensure that effective partnership and referral mechanisms are in place.
28. The existing software provider has been successful in re-tendering for the provision of IT solutions across the majority of Kent and their updated software solution will be available in time for commencement of the new Act. This provides the relevant IT support for staff in producing the required Personal Housing Plans and following through the required workflow to meet the new duties.



## Conclusion

29. The introduction of the HR Act is a significant change in approach to responding to homelessness, which requires investment in proactively assisting those threatened with homelessness at an early stage to prevent or relieve homelessness.
30. The implementation plan set out provides an overview of the work towards implementation of the new Act on 3<sup>rd</sup> April, which we believe can be funded within the budget and grant funding available.

## Portfolio Holder's Views

31. The new Act will place a higher emphasis on the prevention of homelessness which is a welcomed change to the current legislation. The working group have identified the resources required both financial and staffing while also considering the needs of the Borough. The implementation programme is realistic and has built in monitoring and reviewing process to allow for flexibility as the changes commence from April 2018. The working group have also identified the potential risks and made sensible suggestions in how to mitigate these, they have also highlighted the need for an appropriate fit for purpose and empowering tool kit to ensure the authority can meet its prevention and relief duties. I therefore endorse the recommendations set out in this report.

## Contact and Email

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## Appendix 1 – Amendments to Part 7 of the Housing Act 1996 by the Homelessness Reduction Act 2017

Amendment	Implication to service provision
Duty to assess every eligible applicant's case and agree a Personal Housing Plan (PHP)	At present significant investigation and casework is required for homelessness applications only. Each eligible approach will require a PHP as part of the Prevention and Relief duty. The authority will have 56 days to work with the client to prevent their homelessness; if this is not achievable, the authority will then have a further 56 days to relieve the homelessness. Only if both duties are exhausted will the authority be required to assess whether they have a full housing duty under Part 6 of the Housing Act 1996.
Duty on Public Bodies to refer to the local authority	Additional case work, as Public Bodies are required to advise us of clients at risk of homelessness. While we already have working relationships with Public Bodies, they do not have a statutory duty to refer. This duty has been postponed to October 2018 (see Appendix 2 Implementation Programme for further information)
Ending the duty	At present we are only required to end a duty once. The Duty is ended once a full investigation into a client's application has taken place, this will be either an intentionality decision, not homeless decision or a Part 6 of the Housing Act 1996 offer of accommodation. Under the new Act the Duty will need to be ended at each stage (prevention, relief and homelessness) meaning a potential 3 discharge letters.
Additional review stages	An applicant can request a review at a number of stages under the new Act including any steps taken under each of the new duties as well as discharge of duty for non-cooperation by the client with the authority.
Priority need and Local Connection	<p>Under the current Act local connection to the Borough has to be established, if a client does not have a proven connection we can refer to the Borough in which they do have a connection (unless fleeing violence or harassment), under the new Act a local connection to the Borough is not required. An applicant can approach any Borough seeking assistance, this has the potential to increase approaches depending on the service provision provided by us and other authorities.</p> <p>Priority need is not required to be assessed until the Prevention and Relief duties have been exhausted.</p>

## Appendix 2 - Homelessness Reduction Act Implementation Programme

Desired Outcome	Description	What needs to be done	Lead Officer responsible	Timetable
1	<b>Member and Corporate understanding within the Council of the likely impact of the Homelessness Reduction Act 2017 (HR Act).</b>	<b>Action: Pre-cabinet briefing and report to Cabinet advising of the potential impact on the Council with regards to service provision, resources (staffing and financial) and risks associated with the implementation of the HR Act.</b> <b>Proposed actions and dates</b> <ol style="list-style-type: none"> <li>1. Pre-cabinet briefing for Members</li> <li>2. Report to Cabinet with recommendations to support the implementation of the Act.</li> <li>3. Implement the recommendations including amendments to staff structure, financial support and mitigation of risks</li> </ol>	Rebecca Wilcox (RW)  RW RW RW	 Nov. 2017 Jan. 2018 Jan-March 2018
2	<b>Working in Partnership to prevent and relieve homelessness arising from the new duties in the Homelessness Reduction Act</b> <b>1) Obtaining a commitment from all relevant statutory and voluntary sector partners to work in partnership to support the new duties within the Act.</b>  <b>2) Deliver bespoke prevention and relief assistance through Personal Housing Plans.</b> <b>3) Review the partnership arrangements with the HUB.</b> <b>seek to make the Personal Housing</b>	<b>Action: Relaunch the Homelessness Forum</b> Plan how prevention work will be delivered through greater partnership working to prevent and relieve homelessness in the Borough ensuring a greater understanding of what is on offer to ensure efficiencies and reduce duplication of work. <b>Proposed actions and progress:</b> <ol style="list-style-type: none"> <li>1. Relaunch in the Homelessness Forum inviting all relevant partners to engage with the Authority to understand the new requirements and the cultural change required to ensure the best outcomes for clients.</li> <li>2. New terms of reference to be agreed</li> <li>3. Overall aim is that all relevant partners understand the new obligations within the HR Act and how as service providers we can</li> </ol>	Rebecca Wilcox (RW)  Sylvia Roberts (SR)	January 2018



		<p>that plan</p> <p>This is to realise the objective of the plan being a live and evolving set of actions to be taken with support from the Council and Partners to try and achieve a solution.</p> <p><u>Piloting delivering PHPs</u></p> <p>Ashford Borough Council will work through options for devolving the delivery of PHPs to selected internal and external partners</p> <ol style="list-style-type: none"> <li>1. Develop a list of relevant potential internal and external partners where the issuing of a PHP could be devolved/supported</li> <li>2. Discussions will take place with all possible partners selected on how they could deliver PHPs</li> <li>3. The aim would be to have pilots in place by February 2018</li> </ol> <p><u>Piloting other ways of delivering PHPs that recognise that some applicants understand information delivered through other means than by written notification</u></p> <p>Action is to develop models for delivering PHPs through other means in addition to a written plan</p> <ol style="list-style-type: none"> <li>1. Consider whether it would be possible to develop visual plans – develop what these might look like and decide whether a pilot is feasible</li> <li>2. Consider whether it will be possible to develop spoken word plans including a link option so that the spoken word plan is available to download</li> </ol> <p><u>Develop Pathway Plans for a number of specific client scenarios</u></p> <p>‘Customer journeys’ will be developed to provide meaningful prevention help, support, and an accommodation pathway for:</p> <ol style="list-style-type: none"> <li>a. 16/17 year old homeless cases</li> <li>b. Care leavers</li> </ol>		<p>January – March 2018</p> <p>November – January 2018</p>
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		<ul style="list-style-type: none"> <li>c. Hospital discharge cases including mental health</li> <li>d. Leaving prison or young offenders</li> <li>e. Victims of domestic abuse</li> <li>f. Service personnel homeless on leaving the armed forces</li> </ul> <p><b>Action: To review the current partnership arrangements with the HUB</b></p> <ul style="list-style-type: none"> <li>1. To arrange a partnership meeting to understand current service provision within the HUB</li> <li>2. Review how this work can provide support with the implementation of the new Act.</li> <li>3. Where necessary review the partners that are involved with the HUB working in particular with the Job Centre Plus (Department of Works and Pensions) who facilitate the HUB provision.</li> </ul>	RW/SW/Vik ki Baker (VB)	January 2018
3	<p><b>Improving the quality and effectiveness of prevention work to meet the requirements of the new prevention and relief of homelessness duties set by the Homelessness Reduction Act</b></p> <p><b>1) Develop and introduce new prevention focused toolkits.</b></p> <p><b>2) Ensure the appropriate financial modelling takes place including central government grants, general fund</b></p>	<p><b>Action: Introduce new prevention casework toolkits to improve the quality of early intervention prevention work for the main causes of homelessness</b></p> <ul style="list-style-type: none"> <li>1. Review the current prevention tool kit to ensure fit for purpose</li> <li>2. Develop new “tools” to ensure an appropriate offer to secure accommodation (revised Landlord Offer within the Private Rented Sector)</li> <li>3. Review the capacity and development potential of the Social Lettings Agency.</li> <li>4. Ensure the financial model to prevent homelessness is fit for purpose and funded appropriately.</li> </ul>	SR	January 2018

	<p>contributions and use of Discretionary Housing Payments.</p> <p><b>3) Ensure a robust review programme is in place at 3/6/12 months post implementation to ensure resources and finances are appropriate</b></p>	<p><b>Action: Work with the finance department to ensure the best use of resources</b></p> <p>1. Understanding the finances available to support the implementation of the Act.</p> <p>2. Review the use of Discretionary Housing Payments to support the Prevention agenda</p> <p><b>Action: Review effectiveness of the new prevention approaches by measuring prevention outcomes for all parental/extended family exclusion cases and all AST/Possession action cases at 3/6/12 months after introduction compared to prevention rates prior to the implementation of the Act.</b></p> <p>1. Review stages will allow for close monitoring of budget spend, understanding if team structure is appropriate and the tool kit is achieving the prevention expected.</p> <p>2. Develop new procedures to support prevention and relief measures and to ensure that these are monitored and review during the implementation.</p>	<p>SR/ Andrew Carney (AC)</p> <p>RW/SW</p>	<p>January 2018</p> <p>June 2018</p>
4	<p><b>To develop more effective “self-help” to support prevention of homelessness work</b></p> <p><b>The objective is to develop models to promote the concept of <i>Customer Choice and Empowerment</i> as a core principle for how the new prevention duties should be delivered.</b></p>	<p><b>Action: Encouraging the principle of self help for applicants who are not so vulnerable that they are able to help themselves to find a solution</b></p> <p>1. This will be achieved through several strands of work</p> <p><b>Developing a fully interactive on-line self help prevention and options advice module</b></p> <p>1. Kent are currently in the process of tendering for a new IT supplier (Successful tender LOCATA – current provider)</p> <p>2. Working with Corporate Customer Services to move towards Digital by Choice</p> <p><b>Develop practically focussed Self Help Packs to be provided to applicants at the earliest point where an approach for help is made</b></p> <p>1. Develop self help packs for the main causes of homelessness and for single people and families who are homeless when they present.</p>	SR/Ben Robinson/Kent Homelessness Officers Group	December – March 2018 (on-going as Act implementation programme continues.
5	<p><b>To work with the DCLG and Trailblazer Councils to prepare the IT changes that will be required by the new legislation</b></p>	<p><b>Action: To support the development and test the new P1E reporting requirements (H-CLIC) with the IT provider for the Homelessness Casework recording and P1E return.</b></p> <p><b>This will involve working with the Trailblazer local authorities</b></p>	SR	November – March 2018

		<b>currently developing the new P1E framework with DCLG.</b>		
6	<b>Anticipating and tackling problems that may undermine the successful implementation of the Act.</b>	<b>Action: Staff restructure to support the implementation of the Act.</b> 1. Review the current structure and provide a structure, which will support the move to Prevention and Relief. 2. Carry out the appropriate consultation with existing staff <ul style="list-style-type: none"> <li>i. Cabinet report</li> <li>ii. Formal staff consultation</li> <li>iii. Report to Joint Consultative Committee</li> <li>iv. Implementation of new structure</li> </ul> 3. Build in where possible a flexible structure that can respond to demand on the Council	RW/SW	October – March 2018
7	<b>Start work on preparing an updated Homelessness Strategy and Review to reflect the changes brought in by the Homelessness Reduction Act. Review where appropriate the Lettings Policy to reflect any changes required due to the implementation of the Act.</b>	<b>Action: Review to Council's Homelessness Strategy and Lettings Policy</b> The Homelessness Strategy does not have to be formally reviewed until 2020 however; it must be kept under review in the context of any major changes. The Homeless Reduction Act will fundamentally alter the approach to preventing and tackling homelessness and therefore the Strategy will need to be reviewed and updated.	RW	April – June 2018
8	<b>Training requirements</b> <b>1) Housing Options Team</b> <b>2) Frontline staff (Corporate)</b> <b>3) Other ABC staff who have been identified</b> <b>4) Partners – statutory and voluntary</b>	<b>Action: Develop a training programme that will cover all training requirements as identified.</b> 1. Work with HR to develop a training programme to ensure all groups are covered. 2. Review the appropriate delivery and level training is required 3. Ensure reviews are in place to ensure staff are up to date with legislation and case law.	SR	July 2017 – on-going.



## Appendix 3 -Equality Impact Assessment

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1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

### Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when

exercising public functions, to have due regard to the need to:

- (a) Eliminate discrimination, harassment and victimisation;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).
3. These are known as the three aims of the general equality duty.

### Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership\*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

### **Due regard**

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
  - removing or minimising disadvantages suffered by people due to their protected characteristics.
  - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
  - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

### **8. In terms of timing:**

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

### **Case law principles**

9. A number of principles have been established by the courts in relation to the equality duty and due regard:
  - Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
  - Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
  - A public authority cannot satisfy the duty by justifying a decision after it has been taken.
  - The duty must be exercised in substance, with rigour and with an

open mind in such a way that it influences the final decision.

- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on “Meeting the Equality Duty in Policy and Decision-Making” (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. *Equality Duty in decision-making*

<b>Lead officer:</b>	Rebecca Wilcox
<b>Decision maker:</b>	Cabinet
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	Homeless Reduction Act 2017
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	January 2018
<b>Summary of the proposed decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> <li>• Who will be affected and how?</li> <li>• How many people will be affected?</li> </ul>	<p>The Homeless Reduction Act will be implemented on 3<sup>rd</sup> April 2018.</p> <p>The aims and objectives of the Act is to have more emphasis on the prevention of homelessness. Every person that approaches for advice will be given a comprehensive personal housing plan which sets out exactly what they have to do, and what assistance the local authority will provide.</p> <p>Based on information from Wales, where the Act is already implemented, and from those Authorities piloting the Act, it is expected that the work load will double as more detailed casework needs to be conducted.</p> <p>This will have a big impact on staff. We are proposing a restructure of the team and need to recruit additional members in order to meet the demand. The will also have an impact on the wider team, as the demand for private rented accommodation will increase as well as needing to amend our current lettings policy.</p> <p>There will also be a significant impact on our partner agencies with the increase duties.</p>
<b>Information and research:</b> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> <li>• Include sources and key</li> </ul>	Research has been conducted over the past few months looking at both the Welsh model and those Authorities piloting the scheme already. The Department for Communities and Local Government (DCLG) have recently issued a Code of Guidance and have made recommendations of

findings.	how to implement the Act.  In addition, we have sought the assistance from an independent consultant.	
<b>Consultation:</b> <ul style="list-style-type: none"><li>• What specific consultation has occurred on this decision?</li><li>• What were the results of the consultation?</li><li>• Did the consultation analysis reveal any difference in views across the protected characteristics?</li><li>• What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics?</li></ul>	<p>Staff directly effected have had an informal discussion with the Housing Operations Manager and the Head of Housing. There have been a couple of SPACE room sessions to outline the proposal for the new structure and to discuss the expected operational procedure.</p> <p>This will take a more formal consultation period in the new year, involving the personnel department.</p> <p>Partner agencies have been informed of the new Act, specifically the Rough Sleepers Working Group and the Supported Accommodation Move On Group.</p> <p>DCLG are intending to run a series of formal training for both Local Authority staff and partner agencies in the new year.</p> <p>Ashford Borough Council are planning to re-launch their Homelessness Forum in January 2018 to bring together all those agencies who work with people that are either homeless, or threatened with homelessness.</p>	
<b>Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.</b> <p>When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.</p>		
<b>Protected characteristic</b>	<b>Relevance to Decision</b> High/Medium/Low/None	<b>Impact of Decision</b> <b>Positive</b> (Major/Minor) <b>Negative</b> (Major/Minor) <b>Neutral</b>
<u>AGE</u>  Elderly	Low	Neutral
Middle age	Low	Neutral

Young adult	Low	Neutral
Children	Low	Neutral
<u>DISABILITY</u>	Low	Neutral
Physical		
Mental	Low	Neutral
Sensory	Low	Neutral
<u>GENDER RE- ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Low	Neutral
<u>SEX</u>	Low	Neutral
Men		
Women	Low	Neutral
<u>SEXUAL ORIENTATION</u>	Low	Neutral

<b>Mitigating negative impact:</b>  Where any negative impact has been identified, outline the measures taken to mitigate against it.	No negative impact
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<b>Is the decision relevant to the aims of the equality duty?</b>  Guidance on the aims can be found in the EHRC's <u><i>Essential Guide</i></u> , alongside fuller <u><i>PSED Technical Guidance</i></u> .	
<b>Aim</b>	<b>Yes / No / N/A</b>
1) Eliminate discrimination, harassment and victimisation	Yes

2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

<p><b>Conclusion:</b></p> <ul style="list-style-type: none"> <li>Consider how due regard has been had to the equality duty, from start to finish.</li> <li>There should be no unlawful discrimination arising from the decision (see guidance above ).</li> <li>Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.</li> <li>How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?</li> </ul>	<p>The Homeless Reduction Act will ensure that those households that are deemed to be “Non priority” and therefore have no duty to be housed by the Local Authority, will receive a robust and more comprehensive advice and assistance service to ensure that they can secure sustainable, long term accommodation.</p> <p>The DCLG are changing the way they collect statistics and therefore this will be closely monitored by the Senior Housing Options Officer, who will send the new H-Clic report through every quarter.</p> <p><i>The council’s revised policy register will assist services to meet this</i></p>
<b>EIA completion date:</b>	18 <sup>th</sup> December 2017