

Procedure for S193B(2) Non-cooperation notices

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Author:	Bev Faulkner	Authorised by:	
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1. Purpose

This procedure establishes guidelines for issuing applicants with Notice pursuant to s193B(2).

From 3rd April 2018, applicants approaching the LA as a homeless person (or as a person threatened with homelessness within 56 days) will be subject to a statutory duty to prevent or relieve their homelessness, if they are eligible for assistance pursuant to Part VII of the Housing Act 1996 (as amended).

As part of that duty the LA will work collaboratively with the applicant to produce a Personalised Housing Plan (PHP). The PHP will contain the reasonable steps that both the LA and the applicant should take in order to prevent or relieve the applicant's homelessness.

Chapter 14 of the Homelessness Code of Guidance 2018 outlines the circumstances under which the LA can bring the prevention or relief duty to an end. One of these circumstances is 'deliberate and unreasonable refusal to co-operate', i.e. a deliberate and unreasonable refusal to take any of the steps that they agreed to take, or the Council set out for them to take where agreement could not be reached in their PHP.

S193B of the HA96 deals with cases when the LA wishes to end their duty for this reason. S193B requires a notice to be served by the LA in these circumstances, explaining why the LA are giving the notice, what steps now need to be taken and the effect of non-compliance. S193B also states that the notice cannot be served unless a warning has been issued and sufficient time has passed to enable the applicant to comply with the steps required. In deciding whether it is appropriate to serve a S193B notice the LA must have regard to the particular circumstances and needs of the applicant. It will not be appropriate to seek to discharge the prevention or relief duty in all cases where an applicant appears not to be co-operating. Each case will be assessed on its own merits and a blanket policy must not be applied. In particular, the LA must consider an individual's vulnerability and whether the applicant has any unmet support needs.

Regulation 2 of the Homelessness (Review Procedure etc) Regulations 2018 requires the LA to publish its procedure in connection with S193B notices. This document constitutes that procedure.

This procedure is required to comply with Regulation 3 of the above regulations. Regulation 3 states that the decision to serve the notice must be ratified by someone in the organisation who is at least as senior as the

officer recommending service of the notice. This is to ensure that notices are only served where there is very good reason to withdraw the support offered under the prevention and relief duties.

2. Linked policies and procedures

N/A

3. Scope

The scope of this procedure covers applicants who have made a homelessness application to the Local Authority who, in the opinion of the Local Authority have deliberately and unreasonably failed to co-operate with the steps in their personal housing plan to prevent or relieve their homelessness.

4. Definitions

LA	Local Authority
PHP	Personalised Housing Plan
HRAct	Homelessness Reduction Act 2017
HA96	Housing Act 1996 (as amended)
HNO	Housing Needs Officer
SHNO	Senior Housing Needs Officer
HNM	Housing Needs Manager
SP	Sharepoint
CoG	The Homelessness Code of Guidance 2018
NPS	Northgate Management System

5. Procedure

5.1 Issuing a warning

5.1.2 When a prevention or relief duty is accepted and a PHP is created, the HNO is required to keep the progress against the plan under constant review. If the applicant disagrees that the steps they are required to take are reasonable in their circumstances, the HNO should review the PHP at that stage and adjust it if appropriate. However, if no agreement is reached and the HNO is satisfied that the steps are reasonable, the HNO should record the reasons for disagreement on the PHP and as a file note on SP.

5.1.3 The HNO should review the progress against actions on the PHP at least monthly. If no satisfactory progress against the steps has been achieved

after one month (or earlier if the steps require attendance at viewings, assessments etc) the HNO should discuss this with the applicant to ascertain whether there is a legitimate reason for the lack of progress. If appropriate, the PHP should be renegotiated and adjusted.

5.1.4 If there are any support agencies engaged with the applicant, the HNO should contact them and encourage them to impress upon the applicant the importance of co-operating with the steps in their PHP.

5.1.5 If there continues to be a lack of progress after a further two weeks and further attempts to contact the applicant suggest that he/she does not intend to co-operate with the PHP, the HNO should consider whether a formal warning is appropriate. In deciding on the appropriate course of action the HNO should be mindful of the CoG sections 14.49 to 14.53. These sections define ‘deliberate and unreasonable non-cooperation’ and provide guidance on taking into account each individual’s needs.

5.1.6 If service of a formal warning notification is deemed appropriate, the relevant template letter on SP should be issued. The letters are titled S193B(5) Warning Notice – Prevention and S193B(5) Warning Notice – Relief. The HNO should edit the template with the actions listed in the PHP and the reasons why the HNO is satisfied that the applicant has deliberately and unreasonably failed to co-operate. The HNO should insert details of the actions must now be taken and the timescales for doing so,

5.1.7 The warning notification should make it clear to the applicant what the implications are to them of continued non-cooperation (i.e. the ending of the duty to either prevent or relieve their homelessness). If the non-cooperation is at prevention stage the applicant may later become homeless, in which case a relief duty will be owed and the applicant will then be required to co- operate with relief steps in any event (unless they withdraw their application). If non-cooperation is at the relief stage and the applicant is not in priority need (or is homeless intentionally), there will be no further duty when the relief duty is ended. If the applicant is in priority need and is unintentionally homeless, and a final offer has been made to the applicant in the relief period, no full housing duty will arise. Alternatively, the LA need only secure that accommodation is available for an unintentionally homeless and priority need household , until a final offer of accommodation is made (or the duty comes to an end for another reason).

5.1.8 There is no set warning period but adequate opportunity should be given to a commitment to co-operate.

5.1.9 If the applicant does not carry out the required actions and the HNO remains satisfied that there is no good reason for the failure to co-operate, the procedure for serving formal notice begins.

5.2 Serving formal notice

5.2.1 The decision to serve the Notice must be made by someone who works for the LA, and authorised by someone at least as senior who also works for the LA but who was not involved in the decision. As the line manager may have been involved in decision making, the authorisation should be from the HNM.

5.2.2 On expiry of the warning period, the HNO should sent a request for authorisation to serve a S193B Notice to the HNM. In the absence of the HNM in the officer's team, the request should be sent to one of the other HNMs. The request should include the applicants name and case reference number and a copy of the request saved to SP.

5.2.3 The HNM should carefully review the case and confirm whether the S193B Notice can be served within 2 working days of the request.

5.2.4 If the HNM concurs with the request, the HNO should record the authorisation on SP and issue the Notice using the template on SP, editing it as necessary. The template letters are named S195(10) Duty End – Failing to Co-operate Prevention and S189B(9b) Duty End – Failing to Co-operate Relief respectively.

5.2.5 The HNO can serve the Notice on the applicant in person, by email, or via post. If there is no address or contact details for the applicant the letter should be held on file.

5.2.6 The HNO can choose not to cease prevention or relief efforts if the applicant immediately takes steps to rectify the situation and a successful resolution is likely. Otherwise the case should be closed on NPS.

5.3 If authorisation is not given to serve formal Notice

5.3 If the HNM does not agree that the applicant has deliberately or unreasonably failed to co-operate, they should state their reasons and

record these on SP. The case will then remain open for further prevention or relief activity.

5.4 Re-applications

5.4.1 An applicant can make a repeat application to the LA if there is a change in circumstances that is not trivial. However, past non-cooperation which has resulted in the applicant's homelessness could be taken into account in a subsequent homelessness assessment (when intentionality is considered). If a fresh application is opened, the prevention and/or relief duty should be bet before a decision of intentionality should be made (assuming neither duty can be ended for any other reason).

5.5 Safeguarding

If the HNO becomes aware of any safeguarding concerns, the HNO should immediately speak to a SHNO/HNM who will advise on next steps.

5.6 GDPR

All staff in Housing Needs should ensure that at all times they consider the requirements of GDPR. This is particularly important when managing electronic data. It is essential that emails containing any personal information being sent externally are sent by secure emails and staff should be extra vigilant in ensuring they are emailing the correct person.

6. Version control

Revision	Date	Description of changes	Consultation? Who	Reviewed by
1.0	01/05/18	Initial Release		B Mooney
1.1	29/11/22	Review/ rebranding from HFH to Council	n/a	B Faulkner