

Procedure for s193B (2) Non-Cooperation notices

Version 1
August 2018

1. Purpose

- 1.1 This procedure establishes guidelines for issuing applicants with Notice pursuant to s193B(2).
- 1.2 From the 3 April 2018 applicants approaching the local authority 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).
- 1.3 As part of that duty West Suffolk Council will work with the applicant to produce a Personalised Housing Plan (PHP). This plan will contain the reasonable steps that both the council and the applicant should take in order to prevent or relieve the applicants homelessness.
- 1.4 Chapter 14 of the Code of Guidance 2018 outlines the circumstances under which the council can bring the prevention or relief duty to an end. One of these circumstances is "deliberate and unreasonable refusal to co-operate" this is 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.
- 1.5 S193B of the Housing Act 1996 advises on how the Council can end its duty for this reason. S193B requires that the Council serve a notice in these circumstances, the notice should set out why the notice is being served, what steps now need to be taken and the effect of non-compliance. The notice cannot be served unless a warning has been issued and sufficient time has elapsed to enable the applicant to comply with the steps required. In deciding whether it is appropriate to serve the notice the council must have regard to the particular circumstances and needs of the applicant. The council will not look to end the prevention or relief duty in all cases where the applicant appears not to be co-operating. Each case will be considered on its own merits and a blanket policy will not apply. The council will consider an individuals vulnerabilities and whether the applicant has any unmet support needs.
- 1.6 Regulation 2 of the Homelessness (Review Procedures etc) Regulations 2018 requires the council to publish its procedure in connection with s193B notices. This document constitutes that procedure.
- 1.7 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 council who is at least as senior as the officer recommending the 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. Procedure

• Issuing a warning

- 2.1 When a prevention or relief duty is accepted and a PHP is created, the Advice & Prevention Officer (A&P) is required to keep 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 Advice & Prevention officer should review the Personalised Housing Plan at that stage and adjust if appropriate. If no agreement is reached and the Advice and Prevention Officer is satisfied that the steps are reasonable, the officer should record the reasons for disagreement on the PHP and as a journal note on Locata.
- 2.2 The A&P Officer should review the progress of the plan and the actions on the PHP at least monthly. If no satisfactory progress against the steps has been achieved after one month the A&P officer will discuss this with the applicant to ascertain whether there is a legitimate reason for the lack of progress. If necessary, the PHP should be renegotiated and adjusted.
- 2.3 If there are any support agencies engaged with the applicant, the A&P officer will contact them and encourage them to impress upon the applicant the importance of co-operating with the steps within the PHP.
- 2.4 If there continues to be a lack of progress after a further two weeks and further attempts to contact the applicant suggest that they do not intend to co-operate with the PHP, the A&P officer should consider whether a formal warning is appropriate. In deciding on the appropriate course of action the A&P officer should be mindful of the Code of Guidance, 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.
- 2.5 If service of a formal notification is deemed appropriate and necessary, the relevant template letter should be issued. The letters are titled **S195 Relevant Warning Notification under S193B – Prevention and S189B Relevant Warning Notification under S193B – Relief**. The A&P officer should edit the template with the actions listed in the PHP and the reasons why the officer is satisfied that the applicant has deliberately and unreasonably failed to co-operate. The officer should then insert details of the actions that must now be taken and the timescales for doing so.
- 2.6 The warning notification should make it clear to the applicant what the implications are to them of continued non-cooperation (that is, the ending of

the duty to either prevent or relieve 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 co-operation is at 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 be arise. Alternatively, the council need only secure that accommodation is available for an unintentionally homeless and in priority need household, until a final offer of accommodation is made (or the duty comes to an end for another reason).

- 2.7 There is no set warning period but adequate opportunity should be given to a commitment to co-operate.
- 2.8 If the applicant does not carry out the required actions and the A&P officer remains satisfied that there is no good reason for the failure to co-operate, the procedure for serving formal notice begins.
- **Serving formal notice**
- 2.9 The decision to serve a formal notice must be made by someone who works for the council, and authorized by someone at least as senior who also works for the council but was not involved in the original decision. As the line manager may have been involved in the decision making, the decision should be from the Service Manager.
- 2.10 On expiry of the notice the A&P officer should send a request for authorization to serve the s193B notice to the service manager. In the absence of the service manager, the request should be sent to the **Assistant Director - Families and Communities**. The request should include the applicants name and case reference number, a copy of the request should be saved to the case file.
- 2.11 The Service Manager should carefully review the case and confirm whether the S193B notice can be served within 2 working days of the request.
- 2.12 If the Service Manager concurs with the request, the A&P officer should record the authorization on the case and issue the notice using the template on Locata, editing it as necessary. The template letters are named: S195(10) Decision to End the Prevention Duty – Failing to co-operate prevention and S189B (9)(b) Decision to End the Relief Duty – Failing to co-operate relief respectively

- 2.13 The A&P officer can service the notice on the applicant in person, by email or via the post. If there is no address or contact details for the applicant the letter should be held on the file and a not recorded on Locata confirming the letter should be issued should the applicant make contact.
- 2.14 The A&P officer 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 Locata.
- **If the authorization is not given to serve formal notice**
- 2.15 If the service manager does not agree that the applicant has deliberately and unreasonably failed to co-operate, they should state their reasons and record these on Locata. The case will then remain open for further prevention or relief work.
- **Re-application**
- 2.16 An applicant can make a repeat application to the council if there is a change in circumstances that is not trivial. However, past non-cooperation which has resulted in the applicants homelessness could be taken into account in a subsequent homelessness application (when intentionality is considered). If a fresh application is opened, the prevention and/or relief duty should be met before a decision of intentionality should be made (assuming neither duty can be ended for any other reason).
- **Safeguarding**
- 2.17 If the A&P officer becomes aware of any safeguarding concerns the A&P officer should immediately discuss those with the Safeguarding leads who will advise on next steps.
- **General Data Protection Rules (GDPR)**
- 2.18 All staff in the Housing Options Team should ensure that at all times they consider the requirements of GDPR. This is particularly important when managing electronic data. Staff should be extra vigilant in ensuring emails are sent to the correct person.