

Cambridge City Council

Procedure title	Procedure for S193B(2) non-cooperation notices
Team	Housing Advice Service
Department	Strategic Housing
Date	March 2018
Reviews	After 6 months, then annually
1	Introduction and legislative background
1.1	From 3 rd April 2018, applicants approaching Cambridge City Council 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 the Council are satisfied the applicant is eligible and homeless or threatened with homelessness).
1.2	As part of that duty, the Council will work collaboratively with the applicant to produce a Personalised Housing Plan (PHP). The PHP will contain the reasonable steps that both the Council, and the applicant should take, in order that the applicant's homelessness can be prevented or relieved.
1.3	Chapter 14 of the Homelessness Code of Guidance 2018 outlines the circumstances under which a prevention or relief duty can be brought to an end by the Council. One of these circumstances is 'deliberate and unreasonable refusal to co-operate', i.e 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.
1.3	S193B of the Housing Act 1996 (inserted by the Homelessness Reduction Act 2017) deals with cases when the Council wishes to end their duty for this reason.
1.4	S193B requires a notice to be served by the Council in these circumstances, explaining why the authority are giving the notice, what steps now need to be taken, and the effect of non-compliance (and the fact that the applicant has a right to request a review of the authority's decision to give the notice).
1.5	The notice cannot be served unless a warning has been given first, and sufficient time has passed, to allow the applicant to take the required steps outlined in the warning letter.
1.6	In deciding whether it is appropriate to serve a S193B notice, the Council 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 when an applicant appears not to be co-operating. Each case will be considered on its merits, and there can be no policy to seek to end the duty in all cases.
1.7	In particular, the Council must consider an individual's vulnerability, and whether the applicant has any support needs which remain unmet.
1.8	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.
1.9	This procedure is required to comply with Regulation 3 of the same 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 who is recommending service of the notice. This is to ensure that such notices are only served where there is very good reason to withdraw the homelessness prevention or relief assistance being offered.

Cambridge City Council

2	Procedure for providing warnings
2.1	When a prevention or relief duty is accepted and a PHP is created, the Housing Advisor 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 Housing Advisor should review the PHP at that stage, and adjust it, if appropriate. However, if no agreement can be reached, but the Housing Advisor remains satisfied that the required steps ARE reasonable, the Housing Advisor should record the reasons for disagreement and publish the PHP on the Locata HPA2 system, notifying the applicant of their right of review of the decision (that the steps are reasonable).
2.2	The Housing Advisor should regularly review progress against the actions on all current PHPs, using the Dashboard on Locata HPA2. If satisfactory progress is not seen in the first 2 weeks following publication of the PHP, the Housing Advisor should contact the applicant, to ascertain the reason for the lack of progress. If appropriate, the PHP should be renegotiated and adjusted.
2.3	If appropriate, the Housing Advisor should contact any support agency working with the applicant, to encourage them to impress upon the applicant the importance of cooperation.
2.4	If there continues to be unsatisfactory progress after a further 2 weeks , and further attempts to contact the applicant suggest that he or she does not intend to co-operate with the PHP, the Housing Advisor should consider whether a formal warning is appropriate (see below).
2.5	In deciding on the appropriate course of action, the Housing Advisor should be mindful of The Homelessness Code of Guidance 2018, paragraphs 14.49 to 14.53 . These paragraphs define 'deliberate and unreasonable non-cooperation' and provide guidance on taking into account each individual's needs.
2.6	If service of a formal warning notification is deemed appropriate, a template is in Locata HPA2. The Housing Advisor should edit the warning notification with the actions in the PHP, and the reasons why the Housing Advisor considers the applicant has deliberately and unreasonably failed to cooperate. The Housing Advisor should also insert details of the actions that must now be taken, and the timescales for doing so.
2.7	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 a duty to prevent or relieve homelessness). If the non-cooperation is at prevention stage, the applicant may well become homeless, in which case a relief duty will be owed, and the applicant will 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 Council need only secure that accommodation is available for an unintentionally homeless & priority need household, until a final offer is made (or the duty comes to an end for another reason). For full details see the Process Flow in ENLIGHT.
2.8	There is no set warning period, but adequate opportunity should be given to demonstrate a commitment to co-operate.
2.9	If the applicant does not carry out the required actions, and the Housing Advisor remains satisfied that there is no good reason for failing to co-operate, the procedure for serving formal Notice begins (see below)

Cambridge City Council

3	Procedure for serving formal Notice
3.1	The decision to serve the Notice must be made by someone who works for the Council, and authorised by someone at least as senior, who also works for the Council, but who was not involved in the decision (see Review Regulations 2018).
3.2	Therefore, on expiry of the warning period, the Housing Advisor should send a request for authorisation to serve a S193B Notice to one of the two Housing Advisors, designated as authorisers, provided that authoriser has had no previous involvement in the applicant's case.
3.3	Neither of these two designated officers can authorise their own S193B Notices, or Notices in cases where they have been involved, and must refer to the other designated officer (or in their absence, a Policy and Performance Officer).
3.4	The request for authorisation should include the applicant's Locata HPA2 case reference. The records on Locata HPA2 should be kept fully up to date.
3.5	The authorising officer should carefully review the case and confirm whether the S193B Notice can be served within 3 working days of the request for authorisation.
3.6	If the service is authorised, the case officer (Housing Advisor) should record the authorisation on Locata HPA2, and use the template S193B Notice, editing it as necessary. The Notice must clearly advise the applicant of their statutory right of review.
3.7	The Housing Advisor should serve the Notice on the applicant in person, by email, by tracked postage to a known address, and/ or the applicant should be informed that the Notice is immediately available for collection from Mandela House main reception.
3.8	The Housing Advisor should contact any and all support workers listed on the applicant's case and send a copy of the Notice for information.
3.9	The Housing Advisor 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 can be closed.
4	If authorisation is not given
4.1	If the authorising officer does not agree that the applicant has deliberately and unreasonably failed to co-operate, they should state their reasons (and record them on Locata HPA2).
4.2	The Housing Advisor should continue to assist the applicant until the prevention or relief duty can be ended for another reason.
5	Future re-applications
5.1	An applicant can make a repeat application to the Council, if there is a change in circumstances which is not merely trivial.
5.2	However, past non-cooperation which has resulted in the applicant's homelessness could be taken into account in a subsequent Part VII assessment (when intentionality is considered). If a fresh application is opened, a 56-day prevention and / or 56 relief duty should be met before a decision of intentional homelessness is made (assuming neither the prevention nor relief duties can be ended for other reasons).