

Durham County Council Housing Team Non-Compliance Procedure

Legislative Background

From 3rd April 2018, applicants approaching Durham County 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.

As part of that duty, Durham County 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.

[Chapter 14 of the Homeless Reduction Act Code of Guidance 2018](#) outlines the circumstances under which a prevention or relief duty can be brought to an end by Durham County 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 Durham County Council set out for them to take where agreement could not be reached, in their PHP.

S193B of the Housing Act 1996 (inserted by the Homelessness Reduction Act 2017) deals with cases when Durham County Council wishes to end their duty for this reason.

S193B requires a notice to be served by Durham County Council in these circumstances, explaining why the authority are giving the notice, what steps now need to be taken, and the effect of noncompliance (and the fact that the applicant has a right to request a review of the authority's decision to give the notice).

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.

In deciding whether it is appropriate to serve a S193B notice, Durham County 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 cooperating. Each case will be considered on its merits, and there can be no policy to seek to end the duty in all cases.

In particular, Durham County Council must consider an individual's vulnerability, and whether the applicant has any support needs which remain unmet.

Regulation 2 of The Homelessness Review Procedures Regulations 2018 requires Durham County Council 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 same regulations. Regulation 3 states that the decision to serve the notice must be ratified by someone in Durham County 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.

Providing Warnings

- When a prevention or relief duty is accepted and a PHP is created, the Housing Officer 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 Officer should review the PHP at that stage, and adjust it, if appropriate.
- If no agreement can be reached, but the Housing Officer remains satisfied that the required steps are reasonable, the Housing Officer should record the reasons for disagreement and publish the PHP, notifying the applicant of their right of review of the decision (under that the steps are reasonable).
- If satisfactory progress is not seen in the first 2 weeks following publication of the PHP, the Housing Officer should contact the applicant, to ascertain the reason for the lack of progress. If appropriate, the PHP should be renegotiated and adjusted.
- The Housing Officer should contact any support agency working with the applicant, if applicable, to encourage them to impress upon the applicant the importance of cooperation.
- 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 Officer should consider whether a formal warning is appropriate (see actions below.)
- In deciding on the appropriate course of action, the Housing Officer 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.
- If service of a formal warning notification is deemed appropriate, a warning notification should be issued to the applicant outlining the actions that were set in the PHP, and the reasons why the Housing Officer considers the applicant has deliberately and unreasonably failed to cooperate.
- The Housing Officer should also insert details of the actions that must now be taken, and set appropriate timescales for completing the actions. When deciding this the needs and circumstances of the applicant must be taken into account.
- 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.
- If the applicant does not carry out the required actions, and the Housing Officer remains satisfied that there is no good reason for failing to co-operate, the Housing Officer must then follow the procedure for serving formal Notice.

Procedure for serving final Notice

- The decision to serve the Notice must be made by someone who works for Durham County Council, namely a Senior Officer or Team Leader, but who was not involved in the decision (see [Review Regulations 2018](#)). Durham County Council employees cannot serve S193B Notices to applicants in their caseload or where they have had involvement in the decision making of serving a S193B Notice.
- On expiry of the warning period, Housing Officers should send a request for authorisation to serve a S193B Notice to a designated authoriser, provided that the authoriser has had no previous involvement in the applicant's case.
- The authorising officer should carefully review the case and confirm whether the S193B Notice can be served. This should be served within 3 working days of the request for authorisation.
- If the Notice is authorised, the Housing Officer should record this on case notes, and issue a S193B Notice. The Notice should be served to 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 Seaham or Crook office, as appropriate.
- The Notice must clearly advise the applicant of their statutory right of review.
- The Housing Officer should contact all relevant professionals listed on the customer's case and send a copy of the Notice for information.
- The Housing 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 can be closed.
- If the authorising officer does not agree that the customer has deliberately and unreasonably failed to co-operate, they should state their reasons and record this on the case notes. The Housing Officer should continue to assist the customer until the prevention or relief duty can be ended for another reason.

Future Reapplications

- A customer can make a repeat application to Durham County Council, if there is a significant change in circumstances. Any changes in circumstances should be fully investigated.
- 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. This is assuming neither the prevention nor relief duties can be ended for other reasons.