

Camden Council Non Co-operation Procedure

The non-cooperation procedure must be followed if you want to discharge duty for an applicant who you have been able to contact but who is deliberately and unreasonably not cooperating (s.193B(2) Housing Act 1996).

Legislative Background

From 3rd April 2018, applicants approaching Camden 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 they are eligible for assistance pursuant to Part VII of the Housing Act 1996 (as amended).

As part of that duty, Camden Council 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 Local Authority 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 Housing Act 1996 deals with cases when the Local Authority wishes to end their duty for this reason. S193B requires a notice to be served by the Local Authority in these circumstances, explaining why they 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 Local Authority 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 Local Authority to publish its procedure in connection with S193B notices. This document constitutes that written procedure.

Please note: non-cooperation occurs when you have been successful in contacting the applicant but they fail to complete the reasonable steps. If you have been unsuccessful in contacting the applicant please consider the informal withdrawal procedure instead.

Stage 0 – accept either relief/prevention duty, record steps within PHP and notify applicant

Stage 1 – Refusal to cooperate and warning

Discussion with applicant

If an applicant refuses to carry out a step(s) in their plan:

Pre warning stage:

1.1 Look at the PHP. Confirm that the steps we are taking are reasonable.

1.2 Ask the applicant why they have not taken the step(s). Consider if the step(s) are appropriate to the applicant's needs and circumstances by carrying out a **needs assessment** (please see page 4)*. Check the applicant understands what is required and identify any support needs. Discuss options that may assist the applicant to take the required steps and make a record of these.

1.3 Explain that, if the applicant does not take the step(s), we may issue a warning and our housing duty may cease. Check that applicant wants to continue with the application.

1.4 If the applicant receives support from another service (e.g. from social services, youth offending), let that service know and ask if they can assist applicant to carry out the step(s).

1.5 Record any changes to needs assessment* on PHP and in your general notes.

1.6 Assess whether applicant is in priority need to decide whether temporary accommodation duty will be owed even if relief duty ceases because of non-cooperation.

Warning stage:

1.7 If the applicant continues not to take the step, contact them (and any support service) to discuss.

1.8 If you decide that the applicant is deliberately and unreasonably not co-operating complete the warning letter. Identify the step that the applicant is not taking and agree a reasonable period to allow the applicant time to achieve the step. Give enough time for the applicant to rectify things and prevent the duty ending, bearing in mind their needs and circumstances.

1.9 Send the warning letter to the applicant (by preferred form of contact where noted eg online, email, post) and inform any supporting service.

1.10 Record any new information relevant to your needs assessment on PHP and your general notes.

Clarify whether applicant feels the steps Camden are taking are reasonable and ensure applicant is aware of ability to review the steps Camden are taking.

Stage 2 – Serving Formal Notice

Notice stage

2.1 If warning period has expired, and the applicant has not taken the step(s), consider whether to issue formal notice. Contact the applicant again (and any support service) to discuss. Complete a needs assessment* to decide whether the applicant has deliberately and unreasonably refused to cooperate and make a record of this on the PHP. Consider as part of the needs assessment if there are issues of disability or other equality protected characteristics which are affecting the applicant carrying out the step.

2.2 If you decide that the non-cooperation is deliberate and unreasonable, complete the formal notice letter. There are different notice letters depending on which duty (prevention or relief) is being discharged, and upon whether the applicant has priority need or not, and is intentionally or unintentionally homeless.

2.3 In your letter, give details of the steps you have taken in the previous stage and why you have concluded that the applicant's refusal is deliberate and unreasonable, bearing in mind their needs and circumstances.

2.4 Seek authorisation to issue the notice from an appropriate person (a housing needs manager).

2.5 Send the notice to the applicant (by preferred form of contact where noted eg online, email, post) and inform any supporting service. Make a record of the updated needs assessment on PHP and record notes.

Stage 3 – Further Actions

Prevention duty cases

If the formal notice ended the prevention duty, you must consider if the applicant is owed the relief duty: are they eligible and homeless, if so we must offer them a relief duty.

Relief duty cases

If the formal notice ended the relief duty, the next steps will depend on whether the applicant is in priority need and whether they became homeless intentionally or unintentionally.

Applicants who are not in priority need, their case must be closed and any temporary accommodation they occupy must end.

Applicants who are PN and Intentionally Homeless

If you have not already done so, you must notify the applicant that they are intentionally homeless and the reasons why. This letter should set out how long you reasonably think the applicant may remain in their temporary accommodation before making their own housing arrangements.

Once the intentional homeless letter has been sent provide the applicant with advice and assistance in any efforts they make to secure their own accommodation.

Applicants who are PN and Unintentionally Homeless

We must secure accommodation for the applicant until we make a final offer of accommodation.

We have a specific offer letter and discharge of duty letter for offers in these cases.

The duty to these applicants can also come to an end if:

- (a) they cease to become eligible;
- (b) they become homeless intentionally from our temporary accommodation;
- (c) they voluntarily cease to occupy our temporary accommodation as their only or main home;
- (d) they accept and offer of an assured tenancy from a private landlord.

***Needs assessment:** Take into account needs and circumstances which might make taking the step difficult for the applicant (such as a vulnerability), including other priorities (such as work, caring, appointments), as well as health issues and any difficulties communicating. (This may include needs and circumstances not recorded in the PHP).

Consider if there are issues of disability which are affecting whether the applicant can carry out the step, as well as issues of age, sex, pregnancy or maternity, race, religion or belief, sexual orientation, marriage and civil partnership or gender reassignment. Consider any needs of the applicant's children which may be relevant.

Once the applicants needs have been identified consider whether these needs are the determining factor in the applicant not cooperating with the required step/s. Consider whether the applicant requires support to achieve the step. If so make a referral to the relevant support agency. Further non-cooperation issues then return to stage 1 warning.

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