



Policy Fact Sheet: Notices in cases of applicant's deliberate and unreasonable refusal to cooperate

Introduction

The Homelessness (Review Procedure etc.) Regulations 2018 have been made under the *Homelessness Reduction Act 2017* (HRA) and will be brought into force at the same time as the Act on 3rd April 2018. Regulations 2 and 3 set out the procedure to be followed by a local housing authority (LHA) when issuing a notice to bring their duties to an end in cases of an applicant's deliberate and unreasonable refusal to co-operate.

What is deliberate and unreasonable refusal to co-operate?

As part of the prevention and relief duties introduced by the HRA, LHAs must work with an applicant to develop a personalised housing plan which will set out the steps to be taken by both parties to ensure the applicant has, and is able to retain, suitable accommodation. LHAs are able to issue a notice bringing their prevention or relief duties to an end if the applicant deliberately and unreasonably refuses to cooperate with the required steps. This is designed to encourage applicants to take responsibility for working proactively with the LHA to resolve their housing situation as soon as possible.

Why have you set out a regulatory procedure for issuing notices of deliberate and unreasonable refusal to cooperate?

The HRA enables the Secretary of State to regulate the procedure to be followed by a LHA in connection with notices of non-cooperation. As committed in Parliament during the passage of the Act, we have worked closely with stakeholders across local government and the charitable sector to develop a workable procedure for the regulations.

To protect vulnerable applicants who may have difficulty co-operating because of poor mental health or complex needs, the HRA contains safeguards to prevent LHAs from ending the prevention or relief duties too soon, such as the requirement for a warning to be given by the LHA before any notice is issued. The regulatory provisions are an addition to these safeguards to ensure that there is additional scrutiny over the issuing of notices.

What do the regulations require local authorities to do?

LHAs must ensure that their procedure in connection with issuing notices of non-cooperation is in writing, kept under review and makes provision for the decision to issue a notice to be authorised by a second officer not involved in the original decision.



The authorising officer should give particular consideration as to whether the original decision to issue the notice had due regard to the circumstances and needs of the applicant, and whether or not these were properly identified in the authority's assessment of the applicant's case.

Key questions and answers

Does the authorising officer have to be more senior to the officer who made the original decision?

The authorising officer does not need to be more senior. They should be of at least equivalent status or grade to the original decision maker.

Does the authorising officer need to be a housing officer?

Local authority procedures may provide that authorisation of the decision to issue a notice can be given by an appropriate person from another service within the local authority who will have an understanding of the individual's particular needs. For example, in the case of a care leaver, second sign off by an officer of at least an equivalent seniority within Children's Services may be appropriate.

What other safeguards are in place to ensure LHAs do not end their duties too soon?

- The bar for non cooperation is high – applicants must deliberately and unreasonably refuse to take steps that they agreed to take or the housing authority set out for them to take in their personalised housing plan before the prevention or relief duty can be ended.
- The steps applicants are required to take must be reasonable and applicants can request a review of their reasonableness.
- Before issuing a notice to end the prevention or relief duty because of deliberate and unreasonable refusal to co-operate, the authority must issue a warning letter explaining the consequences of a notice and giving a reasonable period before issuing the notice.
- A notice ending the prevention or relief duty on these grounds must set out the reasons and effect and notify the applicant of their right to request a review.
- If the prevention duty is ended in this way it will not affect duties owed in future if the person subsequently seeks help having become homeless.
- Those eligible for assistance, homeless through no fault of their own and in priority need will still receive an offer of accommodation of a minimum of a 6 month assured shorthold tenancy.