STATUTORY INSTRUMENTS

2018 No. 223

HOUSING, ENGLAND

The Homelessness (Review Procedure etc.) Regulations 2018

Made - - - - 21st February 2018

Laid before Parliament 22nd February 2018

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 193B(7), 203(1), (2) and (7), and 213B(4) of the Housing Act 1996(**1**).

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Homelessness (Review Procedure etc.) Regulations 2018.

(2) This Part, and Parts 2, 3 and 5, come into force on 3rd April 2018.

(3) Part 4 comes into force on 1st October 2018.

(4) In these Regulations any reference to a section, save where the context otherwise appears, is to that section in the Housing Act 1996.

(**1**) 1996 c.52. Sections 193B and 213B were inserted by sections 7 and 10 respectively of the Homelessness Reduction Act 2017 (c.13). See section 215(1) of the Housing Act 1996 ('the Act') for the definition of 'prescribed'.

PART 2

Notices in cases of applicant's deliberate and unreasonable refusal to co-operate

Notice procedure

2. A local housing authority(**2**) must ensure that its procedure in connection with notices under section 193B(2) (Notices in cases of applicant's deliberate and unreasonable refusal to co-operate)—

(a) is in writing,

(b) is kept under review, and

(c) makes provision which complies with regulation 3.

Decision to give notice

3.—(1) A local housing authority may not give a notice under section 193B(2) unless the decision to give the notice—

(a) is made by an officer of that local housing authority, and

(b) is authorised by an appropriate person.

(2) For the purposes of paragraph (1)(b)—

(a) "appropriate person" means a person who—

(i) is at least as senior as the person mentioned in paragraph (1)(a),

(ii) works for that local housing authority or the local authority, and

(iii) was not involved in the decision to give the notice, and

(b) a person works for a local housing authority or a local authority if the person—

(i) works under a contract of employment with that authority,

(ii) works under any other contract with that authority,

(iii) is supplied to that authority as an agency worker (within the meaning of regulation 3 of the Agency Workers Regulations 2010(**3**)), or

(iv) is seconded to work for that authority.

PART 3

Review of local housing authority decisions under section 202

Interpretation of this Part

4. In this Part—

"A" means the applicant(**4**);

"the authority" means the local housing authority who made the original decision;

"notified authority" means a local housing authority who receive a notification under section 198(A1) or (1)(**5**);

(**2**) See section 230 of the Act, which in turn refers to section 1 of the Housing Act 1985 (c.68), for the definition of 'local housing authority'.
(**3**) S.I. 2010/93; regulation 3 was amended by S.I. 2011/1941.
(**4**) See section 183(2) of the Act for the definition of 'applicant'.
(**5**) Section 198(A1) was inserted by section 5(8) of the Act.

"notifying authority" means a local housing authority who give a notification under section 198(A1) or (1);

"original decision" means a decision of a local housing authority in relation to which a request for a review has been made;

"request for a review" means a request for a review made under section 202(**6**);

"the reviewer" means—

(a) where the original decision falls within section 202(1)(d)—

(i) the notifying authority and the notified authority, where the review is carried out by those authorities,

(ii) the person appointed to carry out the review in accordance with regulation 6, where the case falls within that regulation,

(b) where the original decision falls within any other sub-paragraph of section 202(1), the authority.

Request for a review and notification of review procedure

5.—(1) A request for a review must be made to the authority where the original decision falls within—

(a) section 202(1)(a) (decision as to A's eligibility for assistance),

(b) section 202(1)(b) (decision as to what duty, if any, is owed to A under sections 189B to 193C and 195: duties to persons found to be homeless or threatened with homelessness),

(c) section 202(1)(ba) (decision as to the steps they are to take under section 189B(2) or to give notice under section 189B(5) to bring to an end their duty to A under section 189B(2)),

(d) section 202(1)(bb) (decision to give notice to A under section 193B(2): notice given to those who deliberately and unreasonably refuse to cooperate),

(e) section 202(1)(bc) (decision as to the steps they are to take under section 195(2) or to give notice under section 195(5) bringing to an end their duty to A under section 195(2)),

(f) section 202(1)(c) (decision to notify another authority under section 198(1): referral of cases),

(g) section 202(1)(e) (decision under section 200(3) or (4): decision as to the duty owed to A whose case is considered for referral or referred),

(h) section 202(1)(f) (decision as to the suitability of accommodation offered to A in discharge of their duty under any of the provisions mentioned in section 202(1)(b) or (e) or as to the suitability of accommodation offered to A as mentioned in section 193(7)),

(i) section 202(1)(g) (decision as to the suitability of accommodation offered to A by way of a private rented sector offer within the meaning of section 193), or

(j) section 202(1)(h) (decision as to the suitability of accommodation offered to A by way of a final accommodation offer or a final Part 6 offer within the meaning of section 193A or 193C).

(2) A request for a review must be made to the notifying authority where the original decision falls within section 202(1)(d) (decision under section 198(5) whether conditions are met for the referral of A's case).

(3) Except in the case of a request for a review falling within regulation 6, the authority must—

(**6**) Section 202 was amended by section 8(2) of, and paragraph 16 of Schedule 1 to, the Homelessness Act 2002 (c.7); by paragraph 7(2) and (3) of Schedule 15, and paragraph 1 of Schedule 16, to the Housing and Regeneration Act 2008 (c.17); by section 149(9) of the Localism Act 2011 (c.20); and by section 9 of the Homelessness Reduction Act 2017.

(a) notify A that A, or someone acting on A's behalf, may make representations in writing to the authority in connection with the review,

(b) in the case of a request for a review falling—

(i) within section 202(1)(ba)(i) or (bc), or

(ii) within section 202(1)(bb) where the effect of the notice given under section 193B(2) is to bring the authority's duty to A under section 195(2) to an end,

notify A that any such representations must be made within two weeks beginning with the day on which A requested the review, or such longer period as A and the reviewer may agree in writing,

(c) if they have not already done so, notify A of the procedure to be followed in connection with the review.

(4) In the case of a request for a review falling within regulation 6, the person appointed in accordance with that regulation must—

(a) notify A that A, or someone acting on A's behalf, may make representations in writing to that person in connection with the review, and

(b) notify A of the procedure to be followed in connection with the review.

Initial procedure where the original decision was made under the Decisions on Referrals Order

6.—(1) Where the original decision under section 198(5) (whether the conditions are met for the referral of the case) was made under the Homelessness (Decisions on Referrals) Order 1998(**7**) ("the Decisions on Referrals Order"), a review of that decision must, subject to paragraph (2), be carried out by a person appointed by the notifying authority and the notified authority.

(2) If a person is not appointed in accordance with paragraph (1) within five working days beginning with the day on which the request for a review is made, the review must be carried out by a person—

(a) from the panel constituted in accordance with paragraph 3 of the Schedule to the Decisions on Referrals Order ("the panel"), and

(b) appointed in accordance with paragraph (3) below.

(3) The notifying authority must within five working days beginning with the end of the period specified in paragraph (2) request the chairman of the Local Government Association or their nominee ("the proper officer") to appoint a person from the panel and the proper officer must do so within seven days of the request.

(4) The notifying authority and the notified authority must within five working days of the appointment of the person from the panel ("the appointed person") provide the appointed person with the reasons for the original decision and the information and evidence on which that decision was based.

(5) The appointed person must—

(a) send to the notifying authority and the notified authority any representations made under regulation 5, and

(b) invite those authorities to respond to those representations.

(6) The appointed person must not be the same person as the person who made the original decision.

(**7**) S.I. 1998/1578.