



**MARK
PRICHARD**
SOCIAL HOUSING CONSULTANT

Guide to the new homelessness duties

Under the Homelessness Reduction Act 2017





Aim of this guide

This guide aims to help you quickly identify:

- when councils will owe people duties when the homelessness legislation (Housing Act 1996, [Part 7](#)) is amended by the [Homelessness Reduction Act 2017](#);
- what action councils will have to take when performing each homeless duty; and
- how councils will be able to end homelessness duties.

How to use this guide

Each chapter deals with a specific duty that will be owed to people who have applied to a local authority in England for accommodation or assistance because they're homeless (or at risk of becoming homeless).

Use the [contents](#) on page 3 to find the relevant duty. For example, go to [Chapter 2](#) if your query is about the duty to arrange temporary accommodation.

If you're using the [pdf version](#) of this guide you can return to the [contents page](#) at any time by clicking on the contents icon in the top right hand corner of the page.

Version

This version was uploaded on 12 August 2017. Please note that the guide may be amended.

Access this guide online

An electronic version (pdf) of the latest version of this guide is available at:

markprichard.co.uk/documents/homeless-duties-guide

Comments and corrections:

The author welcomes comments and suggested amendments. Please email any comments to

mark@markprichard.co.uk

About the author

Mark Prichard is an independent housing consultant who works across England and Wales.

Mark is providing training and consultancy support to councils as they prepare to implement the homelessness changes.

Mark has written the following guides:

- '[Housing Act 1996 Part 7 incorporating amendments under the Homelessness Reduction Act 2017](#)'
- '[Guide to homelessness duties in Wales](#)'
- '[Section 21 notice validity checker](#)' and
- '[Direct payments of housing benefit to private landlords – a guide for tenants](#)'

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Definitions of legal terms

This guide assumes you have a working knowledge of how certain key terms are defined in the legislation, e.g. eligibility for assistance, homelessness, priority need, intentional homelessness, suitable accommodation etc. [Section 218](#) of the Housing Act 1996 provides an index of statutory definitions.

Disclaimer

Every effort has been made to ensure this document is accurate at the date of publication. However, the author cannot guarantee the accuracy of the contents and does not accept responsibility for any loss or damage. Please note the law changes. You should obtain legal advice. There are links to www.legislation.gov.uk in the pdf version of this guide. You will need to check that the legislation is provided in its amended form (i.e. incorporating any changes made by subsequent legislation).

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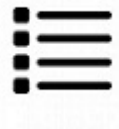
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OVERVIEW OF THE FOUR PRIMARY ACCOMMODATION AND ASSISTANCE DUTIES

Duty	Duty owed if applicant:*	Section	Chapter
Duty to help prevent homelessness	Threatened with homelessness	195	4
Duty to secure interim accommodation	May be homeless and may have a priority need	188	2
Duty to <i>help</i> to secure accommodation	Homeless	189B	6
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*The descriptions of who is owed each duty are only summaries for the purpose of providing an overview. For example applicants must also be eligible for assistance to qualify for each duty (or, in the case of the interim accommodation duty, there must also be reason to believe that the applicant may be eligible). Please refer to the relevant chapter for a full explanation of when each duty is owed.





1. DUTY TO MAKE INQUIRIES INTO CASES OF HOMELESSNESS OR THREATENED HOMELESSNESS AND DUTY TO NOTIFY A DECISION (s.184)

When is the duty owed?

- (1) A person has applied to the local housing authority:
 - (a) for accommodation
 - OR
 - (b) for assistance in obtaining accommodation

AND

- (2) The authority has reason to believe that he is or may be homeless or threatened with homelessness (s.183(1), s.184(1))

Performing the duty (what must the council do?)

- (1) The authority must make such inquiries as are necessary to satisfy themselves whether the applicant is eligible for assistance (s.184(1)(a))

AND

- (2) *IF* the applicant is eligible for assistance, the authority must make such inquiries as are necessary to satisfy themselves whether any duty, and if so what duty, is owed to the applicant under ss.184 to 218 of the Housing Act 1996 (s.184(1)(b))

AND

- (3) On completing their inquiries the authority must:
 - (a) notify the applicant in writing of their decision (s.184(3) and (6)), AND
 - (b) inform the applicant of the reasons for the decision in relation to any issue that is decided against his interests (s.184(3)), AND
 - (c) inform the applicant of his right to request a review of the decision (s.184(5)), AND
 - (d) inform the applicant of the time within which a review must be requested (s.184(5)) (i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3))).

Additional duties if the applicant is eligible for assistance

Additional assessment duties are owed *IF* the applicant is eligible for assistance:

- Duty to carry out an assessment and attempt to agree the steps to be taken, and ➡ see [Chapter 3](#)
- Duty to review the assessment. ➡ see [Chapter 5](#)





Power to make inquiries into local connection

The authority may:

- make inquiries into whether the applicant has a local connection with the district of another local housing authority in England, Wales or Scotland (s.184(2)).

Local connection referral –notification duties

IF:

the authority intends to notify (or has notified) another English authority under section 198(A1) (see [Chapter 11](#)) the section 184 decision notification must:

- (1) notify the applicant in writing of that decision (s.184(4),(6)), *AND*
- (2) inform the applicant of the reasons for the decision (s.184(4)), *AND*
- (3) inform the applicant of his right to request a review of the decision (s.184(5)), *AND*
- (4) inform the applicant of the time within which a review must be requested (s.184(5)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority’s decision, or within such longer period as the authority may allow in writing (s.202(3)).

Additional notification duties in ‘restricted cases’

There are additional matters that must be notified to the applicant if the authority decides that:

- (1) a duty:
 - (a) is owed to the applicant under section 193(2) (the main housing duty; see [Chapter 8](#)),

OR

 - (b) would be owed to the applicant under section 193(2) after the authority’s duty under s.189B(2) comes to an end (see pages [25](#) to [28](#))

AND

- (2) the main housing duty would not have been owed if the authority were not having regard to a restricted person (see [page 41](#) for the definition of “restricted person”).

Additional matters that must be notified

In these circumstances the notice of the authority’s decision under s.184(3) must also:

- (1) inform the applicant that the section 193(2) duty would not have been owed (or would not be owed after the section initial 189B(2) homelessness duty comes to an end) were the authority not having regard to a restricted person, *AND*
- (2) include the name of the restricted person, *AND*





- (3) explain why the person is a restricted person, *AND*
- (4) explain the effect of section 193(7AD) (i.e. that the authority must, so far as reasonably practicable, bring the main housing duty to an end by securing a private rented sector offer) (s.184(3A)).





2. DUTY TO SECURE INTERIM TEMPORARY ACCOMMODATION (s.188)

When is the duty owed?

- (1) The authority has reason to believe that the applicant:
 - (a) may be eligible for assistance
AND
 - (b) may be homeless
AND
 - (c) may have a priority need (s.188(1))
- OR*
- (2)
 - (a) The applicant accepted a private rented sector offer under section 193(7AA) in connection with a previous application to the authority
AND
 - (b) The applicant has re-applied (for accommodation or for assistance in obtaining accommodation) within two years of the date on which he accepted the private rented sector offer
AND
 - (c)
 - (i) The authority is satisfied that the applicant is:
 - I eligible for assistance, *AND*
 - II homeless*
AND
 - (ii) The authority is satisfied that the applicant did not become homeless intentionally (s.188(1A), 195A(1))
AND
 - (d) The authority has reason to believe that the main housing duty (under s.193(2)) may apply** (s.188(1A))
AND
 - (e) The previous application was not one to which s.195A(1) applied (i.e. the applicant did not benefit on his previous application from the 're-application following private rented sector offer' provision) (s.195A(6))
AND
 - (f) The case is not one where the authority are satisfied that the applicant is homeless, eligible for assistance or unintentionally homeless because they are having regard to a restricted person*** (s.195A(5)).





Notes

- I The interim accommodation duty arises irrespective of any possible referral of the applicant's case to another local housing authority (s.188(2)).
- * II In the circumstances set out at (2) above an applicant who has received a valid section 21 notice becomes homeless upon the notice expiring (s.195A(2)).
- ** III In respect of (2)(d) above the main s.193(2) housing duty applies irrespective of whether the applicant has a priority need when a decision is made on their second application (s.188(1A), s.195A(1)).
- *** IV See [page 41](#) for the definition of a "restricted person".

Performing the duty (what must the council do?)

The authority must secure that suitable accommodation is available for occupation by:

- (1) the applicant (s.188(1),(1A))
AND
- (2) any other person who normally resides with the applicant as a member of his family (s.188(1),(1A), s.176(a))
AND
- (3) any other person who might reasonably be expected to reside with the applicant (s.188(1),(1A), s.176(b)).

When does the duty end?

- (1) ***Inquiries have been completed and the initial homelessness duty is not owed***
 - (a) The authority has concluded its inquiries under section 184 (see [Chapter 1](#))
AND
 - (b) The authority has decided that the applicant does not have a priority need (s.188(1ZA))
AND
 - (b) The authority has decided that the initial section 189B(2) homelessness duty (see [Chapter 6](#)) is not owed
AND
 - (d) The authority has notified the applicant of its decision that the s.189B(2) duty is not owed (s.188(1ZA)(a))
AND
 - (e) The case is not one where the interim accommodation duty is owed because the applicant was, under a previous application, owed the main housing duty and accepted a private rented sector offer (s.188(1A))**
AND
 - (f) (i) The applicant has not requested a review under s.202(1)(h) of a





decision by the authority that accommodation offered as a final accommodation offer or final Part 6 offer* was suitable.

OR

- (ii) IF the applicant has requested such a review the review decision has been notified to the applicant (s.188(2A)).

OR

(2) The initial homelessness duty ends and neither the main housing duty nor the s.190 intentional homelessness duty is owed

- (a) The authority has concluded its inquiries under section 184 (see [Chapter 1](#)) (s.188(1ZA))

AND

- (b) The authority has decided that it owes the applicant the initial s.189A(2) homelessness duty (see [Chapter 6](#)) (s.188(1ZA)(b))

AND

- (c) The authority has decided that the applicant does not have a priority need (s.188(1ZA))

AND

- (d) The authority has notified the applicant of their decision that, upon the initial s.189B(2) homelessness duty coming to an end, the applicant will not be owed a duty under either:

- (i) section 190 (the duty owed to applicants who are eligible, homeless and priority need but intentionally homeless when the initial s.189B homelessness duty ends – see [Chapter 9](#)), OR

- (ii) section 193 (the main housing duty owed to applicants who are eligible, homeless, priority need and unintentionally homeless, where the initial s.189B homelessness duty has ended and where notice under s.193B(2) has not been given on the grounds of a deliberate and unreasonable failure to co-operate – see [Chapter 8](#))

AND

- (e) The case is not one where the interim accommodation is owed because the applicant was, under a previous application, owed the main housing duty and accepted a private rented sector offer (s.188(1A))**

AND

- (f) (i) The applicant has not requested a review under s.202(1)(h) of a decision by the authority that accommodation offered as a final accommodation offer or final Part 6 offer* was suitable

OR

- (ii) IF the applicant has requested such a review the review decision has been notified to the applicant (s.188(2A)).





OR

(3) The initial homelessness duty otherwise ends or is not owed

(a) Neither of the discharge conditions set out above at (1) or (2) apply

AND

(b) The last of the following three events has occurred:

- (i) The authority has notified the applicant that the initial s.189B(2) homelessness duty (see [Chapter 6](#)) is not owed (s.188(1ZB)(a)).
- (ii) The initial s.189B(2) homelessness duty has ended (s.188(1ZB)(a)).
- (iii) The authority has notified the applicant of their decision as to what other homelessness duty (if any) is owed, upon the initial s.189B(2) homelessness duty coming to an end (s.188(1ZB)(b)).

AND

(c) (i) The applicant has not requested a review under s.202(1)(h) of a decision by the authority that accommodation offered as a final accommodation offer or final Part 6 offer* was suitable

OR

(ii) IF the applicant has requested such a review the review decision has been notified to the applicant (s.188(2A)).

Notes:

*I Meaning of “final accommodation offer” and “final Part 6 offer”

For the purpose of ending the interim accommodation duty:

- A *final accommodation offer* is an offer of accommodation by a private landlord of an assured shorthold tenancy with a fixed term of at least six months where the offer is made with the approval of the local authority under arrangements to discharge the initial s.189B(2) homelessness relief duty (s.193A(4)).
- A *final Part 6 offer* is an offer of accommodation under Part 6 of the Housing Act 1996 (i.e. resulting from an allocation under the council’s social housing allocation scheme) that is made in writing by the local authority to discharge the initial s.189B(2) homelessness relief duty, and which states it is a final offer for the purposes of section 193A of the Housing Act 1996 (s.193A(5))

**II Repeat application after acceptance of private rented sector offer

Where the interim accommodation duty is owed because the applicant was, under a previous application, owed the main housing duty and accepted a private rented sector offer (see (2) on [page 8](#)) the interim duty will be owed irrespective of priority need until the third discharge category above (3) applies (s.188(1A)).





Power to secure interim temporary accommodation in other circumstances:

The authority may secure that accommodation is available for the applicant's occupation:

- (1) pending a decision on a review (s.188(3))

OR

- (2) during the period for appealing a s.202 review decision if the authority formerly owed the applicant a duty under:
 - (a) section 188 (interim duty to secure accommodation)
 - (b) section 190 (the duty owed when the initial s.189B duty ends to applicants who are eligible, homeless and priority need but who became homeless intentionally – see [Chapter 9](#))
 - (c) section 199A (the duty owed where the authority is seeking to refer the applicant's case to another English local housing authority on local connection grounds under s.198(A1), in circumstances where the applicant would otherwise be owed the initial homelessness duty – see [Chapter 11](#))
- OR
- (d) section 200 (the duty owed where the authority is seeking to refer the applicant's case to another local housing authority on local connection grounds under s.198(1), in circumstances where the applicant would otherwise be owed the main housing duty – see [Chapter 12](#)) (s.204(4)(a)).

OR

- (3) pending the determination of a county court appeal or a further appeal if:
 - (a) an appeal has been brought, AND
 - (b) the authority formerly owed a duty under
 - (i) section 188 (the interim duty to secure accommodation), OR
 - (ii) section 190 (the duty owed when the initial s.189B duty ends to applicants who are eligible, homeless and priority need but who became homeless intentionally – see [Chapter 9](#)), OR
 - (iii) section 199A (the duty owed where the authority is seeking to refer the applicant's case to another English local housing authority on local connection grounds under s.198(A1), in circumstances where the applicant would otherwise be owed the initial homelessness duty – see [Chapter 11](#)), OR
 - (iv) section 200 (the duty owed where the authority is seeking to refer the applicant's case to another local housing authority on local connection grounds under s.198(1), in circumstances where the applicant would otherwise be owed the main housing duty – see [Chapter 12](#)) (s.204(4)(b)).





3. DUTY TO CARRY OUT AN ASSESSMENT AND ATTEMPT TO AGREE THE STEPS TO BE TAKEN (s.189A)

When must the council undertake an assessment?

- (1) The authority is satisfied that the applicant is:
 - (a) eligible for assistance

AND

 - (b) either:
 - (i) threatened with homelessness

OR

 - (ii) homeless (s.189A(1))

Performing the duty (what must the council do?)

- (1) The authority must make an assessment of the applicant's case (s.189A(1))
- AND*
- (2) The assessment must include an assessment of:
 - (a) the circumstances that caused the applicant to become homeless or threatened with homelessness (s.189A(2)(a)), *AND*
 - (b) the housing needs of the applicant including, in particular, what accommodation would be suitable for the applicant and any persons with whom the applicant resides or might reasonably be expected to reside ("other relevant persons") (s.189A(2)(b)), *AND*
 - (c) what support would be necessary for the applicant and any other relevant persons to be able to have and retain suitable accommodation (s.189A(2)(c)).

AND

After the assessment:

- (3) The authority must notify the applicant in writing of the assessment it has made (s.189A(3)).

AND

- (4) The authority must try to agree with the applicant:
 - (a) any steps the applicant is to be required to take for the purposes of securing that he and any other relevant persons have and are able to retain suitable accommodation (s.189A(4)(a)), *AND*
 - (b) the steps the authority are to take under Part 7 of the Housing Act 1996 for the purpose of securing that the applicant and any other relevant persons have and are able to retain accommodation (s.189A(4)(b)).





IF the authority and applicant agree the steps to be taken:

(5) The authority must record the agreement in writing (s.189A(5))

AND

(6) The authority must give the applicant a copy of the written record of the agreement (s.189A(8)).

IF the authority and the applicant cannot reach an agreement:

(7) The authority must record in writing:

(a) why they could not agree (s.189A(6)(a)), *AND*

(b) any steps the authority consider it would be reasonable to require the applicant to take for the purposes of securing that he and any other relevant persons have and are able to retain suitable accommodation (s.189A(6)(b)), *AND*

(c) the steps the authority are to take under Part 7 of the Housing Act 1996 for the same purposes (s.189A(6)(c)).

AND

(8) The authority must give the applicant a copy of the written record (s.189A(8)).

Power to include non-obligatory steps in the advice record

The authority may include in the written record (under s.189A(5) or (6); see (5) and (7) above) advice for the applicant that the authority considers appropriate, including any steps it considers would be a good idea for the applicant to take, but which the applicant should not be required to take (s.189A(7)).

The duty to review the assessment

See also [Chapter 5](#) for the duty to keep the assessment under review and the duties that may arise when specific elements of the assessment change.





4. DUTY TO PREVENT HOMELESSNESS (s.195)

When is the duty owed?

The authority is satisfied that the applicant is:

- (1) threatened with homelessness

AND

- (2) eligible for assistance (s.195(1)).

Performing the duty (what must the council do?)

The authority must

- take reasonable steps to help the applicant to secure that accommodation does not cease to be available for the applicant's occupation (s.195(2))

having regard to:

- their assessment of the applicant's case under section 189A (see Chapters 3 and 5) (s.195(3)).

Note:

The prevention duty does not affect any right of the authority to secure vacant possession of any accommodation (s195(4)).

When does the duty end?

- (1) *[The factual requirements – one of (a) to (g) – must apply AND the notification requirements set out at (2) must also be satisfied]*

- (a) **Accommodation available for six months**

The authority is satisfied that:

- (i) the applicant has suitable accommodation available for occupation, AND
- (ii) the applicant has a reasonable prospect of having suitable accommodation available for occupation for at least six months from the date of the notice (s.195(8)(a)).

OR

- (b) **56 days have passed and reasonable steps have been taken**

The authority is satisfied that:

- (i) the authority has complied with the s.195(2) duty to take reasonable steps to help the applicant to secure that accommodation does not cease to be available for their occupation, AND
- (ii) a period of 56 days, beginning with the day that the authority were first satisfied that the applicant was threatened with





homelessness and eligible for assistance, has ended (whether or not the applicant is still threatened with homelessness) (s.195(8)(b)) , *AND*

- (iii) The circumstances are *not* that:
- I A valid notice has been given to the applicant under section 21 of the Housing Act 1988; *AND*
 - II The notice:
 - will expire within 56 days, *OR*
 - has expired, *AND*
 - III The notice is in respect of the only accommodation that is available for the applicant's occupation (s.195(6)).

(c) Applicant has become homeless

The authority is satisfied that the applicant has become homeless (s.195(8)(c)).

OR

(d) Offer of accommodation refused

The authority is satisfied that:

- (i) the applicant has refused an offer of accommodation *AND*
- (ii) the accommodation was suitable for the applicant, *AND*
- (iii) on the date of refusal there was a reasonable prospect that suitable accommodation would be available for the applicant's occupation for at least six months (s.195(8)(d)).

OR

(e) Intentionally homeless from s.195(2) accommodation

The authority is satisfied that:

- (i) the applicant has become homeless intentionally from accommodation, *AND*
- (ii) the accommodation was made available to the applicant as a result of the authority taking reasonable steps to help the applicant to secure that accommodation did not cease to be available for his occupation ("made available to the applicant as a result of the authority's exercise of their functions under [s.195(2)]") (s.195(8)(e)).

OR

(f) No longer eligible

The authority is satisfied that the applicant is no longer eligible for assistance (s.195(8)(f)).





OR

(g) Withdrawn application

The authority is satisfied that the applicant has withdrawn his application (s.195(8)(g)).

AND

(2) [The notification requirements]*

- (a) The authority has given written notice to the applicant to bring the s.195(2) duty to an end (s.195(5),(9)).

AND

- (b) The notice:
- (i) specifies which of the statutory discharge circumstances set out at s.195(8) applies (see (1)(a) to (g) above) (s.195(7)(a)), AND
 - (ii) informs the applicant that he has a right to request a review of the authority's decision to bring the s.195(2) duty to an end (s.195(7)(b)), AND
 - (iii) informs the applicant of the time within which a review must be requested (s.195(7)(b)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3)).

OR

(3) Deliberate and unreasonable refusal to co-operate**

- (a) The authority considers that the applicant has deliberately and unreasonably refused to take a step:
- (i) that the applicant agreed to take under s.189A(4) for the purposes of securing that he and any other relevant persons have and are able to retain suitable accommodation (see [page 13](#)) (s.193B(2)(a)), OR
 - (ii) that was recorded by the authority under s.189A(6)(a) as a step that the authority considered would be reasonable to require the applicant to take for the purposes of securing that he and any other relevant persons have and are able to retain suitable accommodation, in circumstances where the authority and applicant could not agree the steps that the applicant and authority should take for those purposes (see [page 14](#)) (s.193B(2)(b))

AND

- (b) The authority has given notice to the applicant in writing:
- (i) explaining why the authority are giving the notice (s.193B(3)(a)),





AND

- (ii) explaining the effect of the notice (s.193B(3)(a)), *AND*
- (iii) informing the applicant that he has a right to request a review of the authority's decision to give the notice (s.193B(3)(b)), *AND*
- (iv) informing the applicant of the time within which a review must be requested (s.193B(3)(b)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3))

AND

- (c) Before giving notice to the applicant to end the duty (under s.193B(2); see (3)(b) above)
 - (i) the authority gave a warning to the applicant in writing (s.193B(4)(a),(8)):
 - I that was given after the applicant had deliberately and unreasonably refused to take a step under s.189A(4) (see [page 13](#)) or that the authority recorded under s.189A(6)(b) (see [page 14](#)) (s.193B(5)), *AND*
 - II that warned the applicant that if he should deliberately and unreasonably refuse to take any such step after receiving the notice, the authority intended to give him notice under s.193B(2) (s.193B(5)(b)), *AND*
 - III that explains the consequences of a notice under s.193B(2) (see (3)(b) above) being given to the applicant (s.193B(5)(c))

AND

- (ii) a reasonable period has elapsed since the "relevant warning" notice (see (3)(c)(i) above) was given to the applicant (s.193B(4)(b)), s.193C(2), s.195(10)).

Notes:

- *I The factual (1) and notification (2) requirements must be satisfied for the duty to end (s.195(5)), unless the duty is being ended because the applicant has deliberately and unreasonably refused to co-operate (see (3) above) (s.195(10)).
- **II When deciding whether a refusal by the applicant to take a step is unreasonable (see (3)(a) above) the authority must have regard to the particular circumstances and needs of the applicant, whether or not identified in the authority's assessment of the applicant's case under section 189A (s.193B(6)).





Circumstances in which another duty will be owed when the prevention duty ends

In certain circumstances the authority will owe the applicant another duty when the s.195 prevention duty ends. The most common duties which follow the prevention duty are summarised below:

(1) **Change in action required, agreement or assessment**

When the duty is owed:

The authority's assessment of the following changes:

- the circumstances that caused the applicant to become homeless or threatened with homelessness, *OR*
- the housing needs of the applicant including, in particular, what accommodation would be suitable for the applicant, *OR*
- what support would be necessary for the applicant and any other relevant persons to be able to have and retain suitable accommodation,

OR IF:

- the assessment of the applicant's case otherwise changes such that the authority considers it appropriate to notify the applicant in writing of how their assessment of his case has changed (s.189A(10))

Duty owed:

The authority:

- must notify the applicant in writing of how their assessment of his case has changed, and
- must notify the applicant in writing if they consider the agreement, an agreed action or imposed action is no longer appropriate (s.189A(11)(a)).

➔ see [Chapter 5](#).

(2) **Applicant becomes homeless**

When the duty is owed:

The applicant becomes homeless and the authority has not exercised the power to refer the applicant's case to another English local authority because of local connection (s.189B(1),(2)).

Duty owed:

The authority must:

- take reasonable steps to help the applicant to secure that suitable accommodation becomes available for at least six months (s.189B(2)).

➔ see [Chapter 6](#).

(3) **Interim accommodation duty**

When the duty is owed:

The authority has reason to believe that the applicant may be eligible for





assistance, may be homeless and may have a priority need (s.188(1)).

Duty owed:

The authority must:

- secure interim accommodation (s.188(1)).

➔ see [Chapter 2](#).

(4) **Applicant becomes homeless but a local connection referral is initiated before the initial s.189B(2) duty is accepted**

When the duty is owed:

- The authority would otherwise be subject to the s.189B duty to help the applicant to secure accommodation (the initial 56-day homelessness duty), *AND*
- The authority considers that the local connection referral conditions are met (s.198(A1)), *AND*
- The authority have notified, or intend to notify, the other authority of their opinion (s.198(A1)).

Duty owed:

The authority must:

- notify the applicant in writing of its decision and the reasons for it (s.184(4)), *AND*
- when it has been decided whether the conditions for referral are met, notify the applicant in writing of its decision and the reasons for it (s.199A(3))

IF the authority has reason to believe that the applicant may have a priority need, it must also:

- secure that suitable accommodation is available for the applicant until the applicant is notified of the decision as to whether the conditions for referral of the applicant's case are met (i.e. until the second notification) (s.199A(2)).

➔ see [Chapter 11](#).

(5) **Applicant has deliberately and unreasonably refused to co-operate and is unintentionally homeless and has a priority need**

When the duty is owed:

- The authority has given the applicant a 'relevant warning' notice (s.193B(4),(5)), *AND*
- A reasonable period has elapsed (s.193B(4)(b)), *AND*
- The authority has given the applicant notice under s.193B(2), *AND*
- The authority is satisfied that the applicant:
 - is eligible for assistance
 - is homeless
 - has a priority need, *AND*





- did not become homeless intentionally (s.193C(3))

Duty owed:

The authority must:

- secure that accommodation is available for the applicant's occupation (s.193C(4)).

➔ see [Chapter 7](#).





5. DUTY TO REVIEW THE ASSESSMENT (s.189A(9)-(11))

The general duty to keep the s.189A assessment under review

The authority must keep under review:

- (1) their assessment of the applicant's case (see [Chapter 3](#)) (s.189A(9)(a)), *AND*
- (2) the appropriateness of:
 - (a) any agreement reached as to:
 - (i) what steps the applicant is required to take for the purpose of securing that he and any relevant persons have and are able to retain suitable accommodation (under s.189A(4) – see [page 13](#)) (s.189A(9)(b)), *AND*
 - (ii) what steps the authority were to take under Part 7 of the Housing Act 1996 for the purpose of securing that he and any relevant persons have and are able to retain suitable accommodation (under s.189A(4) – see [page 13](#)) (s.189A(9)(b)), *AND*
 - (b) any steps the authority recorded, if the authority and applicant could not agree what steps should be taken, and which:
 - (i) the authority considered would be reasonable to require the applicant to take for the purpose of securing that he and any relevant persons have and are able to retain suitable accommodation (under s.189A(6)(b) – see [page 14](#)), *OR*
 - (ii) the authority were to take under Part 7 of the Housing Act 1996 for the purpose of securing that he and any relevant persons have and are able to retain suitable accommodation (under s.189A(6)(c) – see [page 14](#))

When does the general duty end?

The general duty to keep the assessment under review ends when:

- the authority no longer considers that the applicant is owed any duty under sections 189B to 218 of the Housing Act 1996 (s.189A(9)).

When must the s.189A assessment be reviewed?

- (1) The authority's assessment of any the following changes:
 - (i) the circumstances that caused the applicant to become homeless or threatened with homelessness, *OR*
 - (ii) the housing needs of the applicant including, in particular, what accommodation would be suitable for the applicant and any persons with whom the applicant resides or might reasonably be expected to reside ("other relevant persons"), *OR*
 - (iii) what support would be necessary for the applicant and any other relevant persons to be able to have and retain suitable accommodation





(s189A(10)(a)).

OR

- (2) The authority's assessment of the applicant's case otherwise changes such that the authority considers it appropriate to notify the applicant in writing of how their assessment of the applicant's case has changed (s.189A(10)(b)).

Performing the duty (what must the council do?)

- (1) The authority must notify the applicant in writing of how their assessment of the applicant's case has changed, whether by providing the applicant with a revised written assessment or otherwise (s.189A(10)).

AND

- (2) IF the authority considers that any of the following are no longer appropriate:
- (a) any agreement as to:
 - (i) what steps the applicant is required to take for the purpose of securing that he and any other relevant persons have and are able to retain suitable accommodation (under s.189A(4)(a) – see [page 13](#)), OR
 - (ii) what steps the authority are to take under Part 7 of the Housing Act 1996 for the purpose of securing that the applicant and any other relevant persons have and are able to retain suitable accommodation (under s.189A(4)(b) – see [page 13](#))

OR

- (b) any step the authority recorded, if the authority and applicant could not reach an agreement as to what steps should be taken, and which:
 - (i) the authority considered would be reasonable to require the applicant to take for the purpose of securing that he and any relevant persons have and are able to retain suitable accommodation (under s.189A(6)(b) – see [page 14](#)), OR
 - (ii) the authority are to take under Part 7 of the Housing Act 1996 for the purpose of securing that he and any relevant persons have and are able to retain suitable accommodation (under s.189A(6)(c) – see [page 14](#))

the authority must:

- (c) notify the applicant in writing that they consider the agreement or step is no longer appropriate (s.189A(11)(a))

AND

After the assessment has been reviewed:

- (d) the authority must try and agree with the applicant:
 - (i) any steps the applicant is to be required to take for the purpose of securing that he and any other relevant persons have and are able





- to retain suitable accommodation (s.189A(4)(a) and (11)(c)), *AND*
- (ii) the steps the authority are to take under Part 7 of the Housing Act 1996 for the purpose of securing that the applicant and any other relevant persons have and are able to retain accommodation (s.189A(4)(b) and (11)(c)).

AND

IF the authority and the applicant reach an agreement:

- (e) The authority must:
 - (i) record the agreement in writing (s.189A(5) and (11)(c)), *AND*
 - (ii) give the applicant a copy of the written record of the agreement (s.189A(8) and (11)(c)).

IF the authority and the applicant cannot reach an agreement:

- (f) The authority must record in writing:
 - (i) why they could not agree (s.189A(6)(a) and (11)(c)), *AND*
 - (ii) any steps the authority consider it would be reasonable to require the applicant to take for the purpose of securing that he and any other relevant persons have and are able to retain suitable accommodation (s.189A(6)(b) and (11)(c)), *AND*
 - (iii) the steps the authority are to take under Part 7 of the Housing Act 1996 for the same purposes (s.189A(6)(c) and (11)(c)).
- (g) The authority must give the applicant a copy of the written record (s.189A(8) and (11)(c)).





6. DUTY TO HELP HOMELESS PERSONS SECURE ACCOMMODATION (THE INITIAL RELIEF DUTY) (s.189B)

When is the duty owed?

(1) (a) The authority is satisfied that the applicant is:

- (i) homeless, and
- (ii) eligible for assistance (s.189B(1))

AND

(b) The authority has not referred the application to another local housing authority in England under section 198(A1) (see [Chapter 11](#)) (s.189B(2)).

OR

(2) (a) The authority has received a referral from another local housing authority in England under section 198(A1) of the Housing Act 1996 (see [Chapters 11](#) and [13](#))

AND

(b) The authority accepts that the referral conditions are met (see [Chapter 10](#))

AND

(c) The other (referring) authority has notified the applicant of the decision that the referral conditions are met (i.e. a second notification has been given to the applicant – see [page 51](#)) (s.199A(3) and (5)(a)).

Performing the duty (what must the council do?)

The authority must

- take reasonable steps to help the applicant to secure that suitable accommodation becomes available for his occupation for at least six months (s.189B(2))

having regard to:

- their assessment of the applicant's case under section 189A (see [page 13](#)).

When does the duty end?

(1) ***56 days has passed and the applicant has a priority need and is unintentionally homeless***

(a) The authority is satisfied that:

- (i) the applicant has a priority need, AND
- (ii) the applicant did not become homeless intentionally, AND

(b) A period of 56 days, beginning with the day the authority were first satisfied that the applicant was homeless and eligible for assistance, has ended (s.189B(4)).

OR





(2) **Refuses a final offer**

- (a) The applicant has been informed of:
- (i) the consequences of refusing a final accommodation offer* or a final Part 6 offer** *AND*
 - (ii) his right to request a review of the suitability of accommodation
- AND*
- (b) The applicant subsequently refuses:
- (i) a final accommodation offer* *OR*
 - (ii) a final Part 6 offer** (s.193A(1),(2)).

(3) **Deliberate and unreasonable refusal to co-operate (see Note IV on page 29)**

- (a) The authority considers that the applicant has deliberately and unreasonably refused to take a step:
- (i) that the applicant agreed to take under s.189A(4) for the purpose of securing that he and any other relevant persons have and are able to retain suitable accommodation – see [page 13](#) (s.193B(2)(a))
- OR*
- (ii) that was recorded by the authority under s.189A(6)(a) as a step that the authority considered would be reasonable to require the applicant to take for the purpose of securing that he and any relevant persons have and are able to retain suitable accommodation, in circumstances where the authority and applicant could not agree the steps that the applicant and authority should take for those purposes (see [page 14](#)) (s.193B(2)(b))

AND

- (b) The authority has given notice to the applicant in writing to end the s.189(2) duty, which:
- (i) explains why the authority are giving the notice (s.193B(3)(a)), *AND*
 - (ii) explains the effect of the notice (s.193B(3)(a)), *AND*
 - (iii) informs the applicant that he has a right to request a review of the authority's decision to give the notice (s.193B(3)(b)), *AND*
 - (iv) informs the applicant of the time within which a review must be requested (s.193B(3)(b)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3))

AND

- I Before giving notice to the applicant to end the duty (under s.193B(2); see (3)(b) above)





- (i) the authority gave a warning to the applicant in writing (s.193B(4)(a),(8)) that:
 - I was given after the applicant had deliberately and unreasonably refused to take a step that he agreed to take under s.189A(4) (see [page 13](#)) or that the authority recorded under s.189A(6)(b) (see [page 14](#)) (s.193B(5))
 - AND
 - II warned the applicant that if he should deliberately and unreasonably refuse to take any such step after receiving the notice, the authority intended to give him notice under s.193B(2) (s.193B(5)(b))
 - AND
 - III explained the consequences of a notice under s.193B(2) (see (3)(b) above) being given to the applicant (s.193B(5)(c))
 - AND
 - (ii) a reasonable period has elapsed since the “relevant warning” notice was given (s.189B(9)(b), s.193B(4)(b), s.193C(2))

OR

- (4) ***[The factual requirements – one of (a) to (f) must apply AND the notification requirements – see (5) – must also be satisfied; see Note V on [page 30](#)]***

(a) Accommodation available for six months

The authority is satisfied that:

- (i) the applicant has suitable accommodation available for occupation, AND
- (ii) the applicant has a reasonable prospect of having suitable accommodation available for occupation for at least six months from the date of the notice (s.189B(7)(a)).

OR

(b) 56 days have passed

The authority is satisfied that:

- (i) the authority has complied with the s.189B(2) duty to take reasonable steps to help the applicant to secure that suitable accommodation becomes available for his occupation for at least six months, AND
- (ii) a period of 56 days, beginning with the day on which the authority were first satisfied that the applicant was homeless and eligible for assistance, has ended (whether or not the applicant has secured accommodation) (s.189B(7)(b)).

OR





(c) Offer of accommodation refused

The authority are satisfied that:

- (i) the applicant has refused an offer of accommodation, *AND*
- (ii) the accommodation was suitable for the applicant, *AND*
- (iii) on the date of refusal there was a reasonable prospect that suitable accommodation would be available for the applicant's occupation for at least six months (s.189B(7)l).

OR

(d) Intentionally homeless from s.189B(2) accommodation

The authority are satisfied that:

- (i) the applicant has become homeless intentionally from accommodation, *AND*
- (ii) the accommodation was made available to the applicant as a result of the authority taking reasonable steps to help the applicant to secure that suitable accommodation became available for the applicant's occupation for at least six months ("made available to the applicant as a result of the authority's exercise of their functions under [s.189B(2)]"; s.189B(7)(d)).

(e) No longer eligible

The authority is satisfied that the applicant is no longer eligible for assistance (s.189B(7)(e)).

(f) Withdrawn application

The authority is satisfied that the applicant has withdrawn his application (s.189B(7)(f)).

AND

(5) [The notification requirements – see Note V on page 30]

The authority has given notice to the applicant in writing:

- (a) specifying which of the discharge criteria (see (4) above) applies (s.189B(6)(a)), *AND*
- (b) informing the applicant that he has a right to request a review of the decision to bring the s.189B(2) duty to an end (s.189B(6)(b)), *AND*
- (c) informing the applicant of the time within which a review must be requested (s.189B(6)(b)) i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3)).



Notes:

- * I **A "final accommodation offer" is:**
 - i an offer by a private landlord
 - ii to the applicant
 - iii with the approval of the authority
 - iv of an assured shorthold tenancy
 - v with a fixed term of at least six months
 - vi where the accommodation is, or may become, available for the applicant's accommodation
 - vii under arrangements the authority has made for ending the s.189B(2) duty (s.193A(4)).

- ** II **A "final Part 6 offer" is:**
 - i an offer of accommodation under Part 6 of the Housing Act 1996 (i.e. resulting from an allocation under the council's social housing allocation scheme) that
 - ii is made in writing
 - iii by the authority
 - iv to discharge the authority's duty under s.189B(2), and
 - v which states it is a final offer for the purposes of section 193A (s.193A(5)).

- III **Restriction on making a final accommodation offer or final Part 6 offer**
 The authority may not approve a final accommodation offer or make a final Part 6 offer unless:
 - i they are satisfied that the accommodation is suitable for the applicant, *AND*
 - ii *IF* the applicant is under contractual or other obligations in respect of their existing accommodation, he is able to bring those obligations to an end before being required to take up the offer (s.193C(9)).

- IV **Deliberate and unreasonable refusal to co-operate**
 When deciding whether a refusal by the applicant to take a step is unreasonable (see (3)(a) on [page 26](#)) the authority must have regard to the particular circumstances and needs of the applicant whether identified in the authority's assessment of the applicant's case under section 189A (see [page 13](#)) or not (s.193B(6)).



V **(4) & (5): factual and notification requirements**

The factual (4) and notification (5) requirements must be satisfied before the initial homelessness duty can be treated as having ended

UNLESS the duty is being ended because:

- 56 days have passed and the applicant has a priority need and the applicant is unintentionally homeless – see discharge ground (1) on [page 25](#)

OR

- the applicant has refused a final offer – see discharge ground (2) on [page 26](#) (s.193A(2)) – in which case the applicant must have first been informed of certain information – see (2)(a).

OR

- the applicant has deliberately and unreasonably refused to cooperate – see discharge ground (3) on [page 26](#) (s.189B(9)(b)) – in which case there are different notification requirements – see (3)(b) and (c).

Circumstances in which another duty will be owed when the prevention duty ends

In certain circumstances the authority will owe the applicant another duty when the initial s.189B(2) homelessness duty ends. The most common duties which follow the initial duty are summarised below:

(1) **The main housing duty**

Circumstances:

- The authority is satisfied that the applicant:
 - is eligible for assistance
 - is homeless
 - has a priority need, and
 - is unintentionally homeless (s.193(1)(a) and (b)), and
- The authority's duty under s.189(2) has ended (s.193(1)(c)), and
- Section 193 has not been dis-applied because the applicant has refused a final accommodation offer or a final Part 6 offer (s.193(1A)), and
- The authority has not given written notice to the applicant under s.193B(2) because the applicant has deliberately and unreasonably refused to co-operate (see [Chapter 7](#)), and
- The authority has not referred the application to another local housing authority under section 198(1) (see [Chapter 12](#) for the circumstances in which a referral can be made under s.198(1)).

Duty owed:

The authority must:

- secure that suitable accommodation is available for the applicant until one





of the circumstances at section 193(5) to (7) applies (s.193(2)).

➡ see [Chapter 8](#).

(2) **Interim s.200(1) accommodation duty pending local connection referral**

Circumstances:

- The authority is satisfied that the applicant:
 - is eligible for assistance
 - is homeless
 - has a priority need, and
 - is unintentionally homeless

But:

- The authority consider that the conditions are met for the referral of the case to another local housing authority (see [Chapter 10](#)) and
- The authority decides to exercise its discretion to seek a referral (s.198(1)).

Duty owed:

The authority must:

- secure that accommodation is available for the applicant's occupation until he is notified of the decision of whether the referral conditions are met (s.200(1)).

➡ see [Chapter 12](#).

(3) **Applicant has a priority need and is unintentionally homeless but deliberately and unreasonably refused to co-operate**

Circumstances:

- The authority has given the applicant a 'relevant warning' notice and a reasonable period has elapsed (s.193B(4))
- The authority has given the applicant notice under s.193B(2) to end the initial s.189B(2) duty, and
- The authority is satisfied that the applicant:
 - is eligible for assistance
 - is homeless
 - has a priority need, and
 - did not become homeless intentionally (s.193C(3))

Duty owed:

The authority must:

- secure that accommodation is available for the applicant's occupation until one of the circumstances at s.193C(5) or (6) applies (s.193C(4)).

➡ see [Chapter 7](#).





7. DUTY TO PRIORITY NEED APPLICANTS WHO HAVE DELIBERATELY AND UNREASONABLY REFUSED TO CO-OPERATE (s.193C(4))

When is the duty owed?

- (1) The authority owed the applicant a duty under:
- (a) section 195(2) – the homelessness prevention duty (see [Chapter 4](#))
- OR*
- (b) section 189B(2) – the initial homelessness duty (see [Chapter 6](#)) (s.193B(1)(a))

AND

- (2) The authority has ended the duty (s.195(2) or s.189B(2)) by giving the applicant a notice under section 193B(2) because it considers that the applicant deliberately and unreasonably refused to co-operate (see next section) (s.193B(1) to (3), s.193C(1))

AND

- (3) The authority is satisfied that the applicant:
- (a) is eligible for assistance, *AND*
 - (b) is homeless, *AND*
 - (c) has a priority need, *AND*
 - (d) did not become intentionally homeless (s.193C(3)).

When can a s.193B(2) notice be given?

The authority may give the applicant notice under s.193B(2) to end either the s.195(2) prevention duty or initial s.189B(2) homelessness duty *IF*:

- (1) it considers that the applicant has deliberately and unreasonably refused to take a step that either:
- (a) he agreed to take under s.189A(4) (see [page 13](#)), *OR*
 - (b) the authority recorded under s.189A(6)(b) (see [page 14](#)) (s.193B(2)).

AND

- (2) the authority has given a “relevant warning” notice to the applicant in writing (s.193B(4)(a),(8)) that:
- (a) warns the applicant that if, after receiving the notice, he deliberately and unreasonably refuses to take a step (agreed under s.189A(4)(a)) or recorded under s.189A(6)(b)) the authority intends to give him notice under s.193B(2) (s.193B(5)(b)) *AND*
 - (b) explains the consequences of him being given a s.193B(2) notice (s.193B(5)(c)),

AND



- (3) a reasonable period has elapsed since the “relevant warning” notice was given (s.193B(4)(b)).

What must a s.193B(2) notice contain?

A notice given under s.193B(2) must:

- (1) explain why the authority are giving the notice (s.193B(3)(a)), *AND*
- (2) explain the effect of the notice (s.193B(3)(a)), *AND*
- (3) inform the applicant that he has a right to request a review of the authority’s decision to give the notice (s.193B(3)(b)), *AND*
- (4) inform the applicant of the time within which a review must be requested (s.193B(3)(b)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority’s decision, or within such longer period as the authority may allow in writing (s.202(3)).

Performing the duty (what must the council do?)

The authority must secure that suitable accommodation is available for occupation by:

- (1) the applicant (s.193C(4)), *AND*
- (2) any other person who normally resides with the applicant as a member of his family (s.193C(4), s.176(a)), *AND*
- (3) any other person who might reasonably be expected to reside with the applicant (s. 193C(4), s.176(b)).

When does the duty end?

(1) *No longer eligible*

The applicant ceases to be eligible for assistance (s.193C(5)(a)).

OR

(2) *Intentionally homeless from s.193C accommodation*

The applicant becomes homeless intentionally from accommodation the authority made available for his occupation under s.193C(4) (s.193C(5)(b)).

OR

(3) *Accepts an assured tenancy*

The applicant accepts an offer of an assured tenancy (shorthold or non-shorthold) from a private landlord (s.193C(5)(c)).

OR

(4) *Voluntarily ceases to occupy s.193C accommodation*

The applicant voluntarily ceases to occupy, as his only or principal home, accommodation that the authority made available for his occupation under s.193(4) (s.193C(5)(d)).

OR



(5) Accepts a final offer

(a) The applicant accepts:

(i) a final accommodation offer (see Note I on [page 35](#))

OR

(ii) a final Part 6 offer (see Note II on [page 35](#))

AND

(b) Before the applicant accepted the offer he:

(i) was informed of the possible consequences of acceptance or refusal

AND

(ii) was informed of his right to request a review of the suitability of the accommodation (s.193C(6))

AND

(c) Before approving the final offer the authority were satisfied that:

(i) the accommodation was suitable for the applicant (s.193C(9))

AND

(ii) the applicant was not under a contractual or other obligation in respect of their existing accommodation which they were unable to bring to an end before being required to take up the offer (s.193C(9) and (10)).

OR

(6) Refuses a final offer

(a) The applicant refuses:

(i) a final accommodation offer (see Note I on [page 35](#))

OR

(ii) a final Part 6 offer (see Note II on [page 35](#))

AND

(b) Before the applicant refused the offer he:

(i) was informed of the possible consequences of acceptance or refusal

AND

(ii) was informed of his right to request a review of the suitability of the accommodation (s.193C(6))

AND

(c) Before approving the final offer the authority were satisfied that:

(i) the accommodation was suitable for the applicant (s.193C(9))





AND

- (ii) the applicant was not under a contractual or other obligation in respect of their existing accommodation which they were unable to bring to an end before being required to take up the offer (s.193C(9) and (10)).

Notes:

- I **A “final accommodation offer” is:**
 - i an offer by a private landlord
 - ii to the applicant
 - iii of an assured shorthold tenancy
 - iv with a fixed term of at least six months
 - v where the accommodation is, or may become, available for the applicant’s accommodation
 - vi made with the approval of the authority
 - vii under arrangements the authority has made for ending the s.193C(4) duty (s.193C(7)).
- II **A “final Part 6 offer” is:**
 - i an offer of accommodation under Part 6 of the Housing Act 1996 (i.e. resulting from an allocation under the council’s social housing allocation scheme) that
 - ii is made in writing, and
 - iii states it is a final offer for the purposes of section 193C (s.193C(8)).





8. THE MAIN HOUSING DUTY - TO SECURE ONGOING ACCOMMODATION FOR PRIORITY NEED APPLICANTS AFTER THE INITIAL S.189B HOMELESSNESS DUTY HAS ENDED (s.193(2))

When is the duty owed?

- (1) (a) The authority is satisfied that the applicant:
- (i) is eligible for assistance
- AND
- (ii) is homeless (s.193(1)(a)(i))
- AND
- (iii) has a priority need (s.193(1)(b))
- AND
- (iv) did not become homeless intentionally (s.193(1)(a)(ii))
- AND
- (b) The authority's duty to the applicant under s.189B(2) has ended (see [page 25](#) to 28) (s.193(1)(c))
- AND
- (c) Section 193 has not been disapplied (by s.193A(3)) because the applicant refused:
- (i) a final accommodation offer, OR
 - (ii) a final Part 6 offer (s.193(1A)(a), s.193A) (see Note (I) below and [page 26](#))
- AND
- (d) The authority has not given notice to the applicant under s.193B(2) on the grounds that the applicant deliberately and unreasonably refused to take a step that:
- (i) he agreed to take under s.189A(4)(a) (see [page 13](#)), OR
 - (ii) was recorded by the authority under s.189A(6)(b) (see [page 14](#), Note (2) below and [page 26](#) to 27) (s.193(1A)(b))
- AND
- (e) The authority has not sought to refer the applicant's case under section 198 by notifying another local housing authority of its opinion that the referral conditions are met (see [Chapter 12](#) for the circumstances in which the authority can make such a referral) (s.193(2)).
- OR
- (2) (a) The authority has received a referral from:
- (i) another local housing authority in England under section 198(A1)





of the Housing Act 1996 (see [Chapter 12](#))

OR

- (ii) a local authority in Wales under [section 80](#) of the Housing (Wales) Act 2014

AND

- (b) The authority has accepted that the referral conditions (see [Chapter 10](#)) are met

AND

- (c) The other (referring) authority has notified the applicant of the decision that the referral conditions are met (s.200(2) and (4) [England]; HWA 2014 [s.82](#)(2),(4) and s.201A(2) [Wales]).

Notes:

I ***Avoidance of the main housing duty because the applicant has refused a final accommodation offer or Part 7 offer***

The main s.193(2) housing duty is not owed IF:

- (a) During the period when the initial s.189B(2) homelessness duty was owed the applicant refused:
 - (i) a final accommodation offer, OR
 - (ii) a final Part 6 offer

AND

- (b) before refusing the offer the applicant was informed of:
 - (i) the consequences of refusing the offer, AND
 - (ii) his right to request a review of the suitability of the accommodation (s.193A(1) to (3)).

See [page 29](#) for the definition of “final accommodation offer” and “final Part 6 offer”.

II ***Avoidance of the main housing duty because the applicant has deliberately and unreasonably refused to co-operate***

The main s.193 housing duty is not owed IF:

- the authority gives notice to the applicant under s.193B(2) when the initial s.189B(2) homelessness duty is owed (s.193(1A)(b)).

See [page 26](#) to 27 for:

- the circumstances in which a s.193B(2) notice can be given.

See [Chapter 7](#) for:

- the alternative s.193C(4) duty that is owed to applicants who have been given a s.193B(2) notice (providing they are unintentionally homeless, eligible for assistance and have a priority need).



Performing the duty (what must the council do?)

The authority must secure that suitable accommodation is available for occupation by:

- (1) the applicant (s.193(2)), *AND*
- (2) any other person who normally resides with the applicant as a member of his family (s.193(2)), s.176(a)), *AND*
- (3) any other person who might reasonably be expected to reside with the applicant (s. 193(2)), s.176(b)).

When does the duty end?

(1) Refuses an offer of suitable accommodation

- (a) The applicant refuses an offer of accommodation (s.193(5)(a)), *AND*
- (b) The offer of accommodation is *not*:
 - (i) an offer under Part 6 of the Housing Act 1996 (i.e. resulting from an allocation under the council's social housing allocation scheme), *OR*
 - (ii) a private rented sector offer (s.193(5)(b)), *AND*
- (c) The authority is satisfied that the accommodation is suitable for the applicant (s.193(5)(a)), *AND*
- (d) Before the applicant refused the offer the authority informed the applicant of:
 - (i) the possible consequences of refusal or acceptance, *AND*
 - (ii) the right to request a review of the suitability of the accommodation (s.193(5)(a)), *AND*
- (e) The authority notifies the applicant that they no longer consider themselves as being subject to the section 193 duty (s.193(5)(c)).

OR

(2) Applicant ceases to be eligible

The applicant ceases to be eligible for assistance (s.193(6)(a)).

OR

(3) Intentionally homeless from main duty accommodation

- (a) The applicant has become homeless intentionally from accommodation, *AND*
- (b) The accommodation was made available for the applicant's occupation under the main s.193 housing duty (s.193(6)(b)).

OR

(4) Accepts a Part 6 waiting list offer

- (a) The applicant accepts an offer of accommodation, *AND*

- (b) The accommodation was offered under Part 6 of the Housing Act 1996 (i.e. resulting from an allocation under the council's social housing allocation scheme) (s.193(6)(c)).

OR

(5) **Accepts a non-shorthold assured tenancy**

- (a) The applicant accepts an offer of an assured tenancy, *AND*
- (b) The tenancy is not an assured shorthold, *AND*
- (c) The offer was made by a private landlord (s.193(6)(cc)).

(6) **Voluntarily ceases to occupy main duty accommodation**

- (a) The applicant ceases to occupy accommodation, *AND*
- (b) The cessation of occupation is voluntary, *AND*
- (d) The accommodation was made available for the applicant's occupation under the main s.193 housing duty, *AND*
- (e) The applicant ceases to occupy the accommodation as his only or principal home (s.193(6)(d)).

OR

(7) **Refuses a final Part 6 waiting list offer**

- (a) The applicant refuses an offer of accommodation, *AND*
- (b) The offer was made in writing, *AND*
- (c) The written offer stated that it is a final offer for the purposes of s.193(7), *AND*
- (d) The accommodation was offered under Part 6 of the Housing Act 1996 (i.e. resulting from an allocation under the council's social housing allocation scheme), *AND*
- (e) Before the applicant refused the offer he was informed of:
 - (i) the possible consequences of refusal or acceptance, *AND*
 - (ii) his right to request a review of the suitability of the accommodation (s.193(7),(7A)), *AND*
- (f) Before making the offer the authority were satisfied that:
 - (i) the accommodation is suitable for the applicant (s.193(7F)), *AND*
 - (ii) the applicant was *not* unable to bring contractual or other obligations in respect of any existing accommodation to an end before being required to take up the offer (s.193(7F),(8)).

OR

(8) **Accepts a private rented sector offer**

- (a) The applicant accepts an offer of an assured shorthold tenancy (s.193(7AA)(a),(7AC)(a)), *AND*

- (b) The offer was made by a private landlord (s.193(7AC)(a)), *AND*
- (c) The tenancy is a fixed term tenancy (s.193(7AC)(c)), *AND*
- (d) The fixed term is for a period of at least 12 months (s.193(7AC)(c)), *AND*
- (e) The accommodation is, or may become, available for the applicant's occupation (s.193(7AC)(a)), *AND*
- (f) The offer was approved by the authority under arrangements made with the landlord, with a view to ending the main s.193 housing duty (s.193(7AC)(b)), *AND*
- (g) Before accepting the offer the applicant was informed in writing:
 - (i) of the possible consequences of refusal or acceptance of the offer (s.193(7AB)(a)), *AND*
 - (ii) that he has the right to request a review of the suitability of the accommodation (s.193(7AB)(b)), *AND*
 - (iii) the effect of a further application to a local housing authority within two years of acceptance of the offer under section 195A *IF* the applicant's case is not a "restricted case" (see Note (II) below) (s.193(7AB)(c)), *AND*
- (h) Before approving the offer the authority were satisfied that:
 - (i) the accommodation is suitable for the applicant (s.193(7F)), *AND*
 - (ii) the applicant was not unable to bring contractual or other obligations in respect of any existing accommodation to an end before being required to take up the offer (s.193(7F),(8)).

OR Refuses a private rented sector offer

- (a) The applicant refuses an offer of an assured shorthold tenancy (s.193(7AA)(a),(7AC)(a)), *AND*
- (b) The offer was made by a private landlord (s.193(7AC)(a)), *AND*
- (c) The tenancy is a fixed term tenancy (s.193(7AC)(c)), *AND*
- (d) The fixed term is for a period of at least 12 months (s.193(7AC)(c)), *AND*
- (e) The accommodation is, or may become, available for the applicant's occupation (s.193(7AC)(a)), *AND*
- (f) The offer was approved by the authority under arrangements made with the landlord, with a view to ending the main s.193 housing duty (s.193(7AC)(b)), *AND*
- (g) Before accepting the offer the applicant was informed in writing:
 - (i) of the possible consequences of refusal or acceptance of the offer (s.193(7AB)(a)), *AND*
 - (ii) that he has the right to request a review of the suitability of the accommodation (s.193(7AB)(b)), *AND*

- (iii) the effect of a further application to a local housing authority within two years of acceptance of the offer under section 195A *IF* the applicant's case is not a "restricted case" (See Note II below) (s.193(7AB)(c)).
- (h) Before approving the offer the authority were satisfied that:
 - (i) the accommodation is suitable for the applicant (s.193(7F)), *AND*
 - (ii) the applicant was not unable to bring contractual or other obligations in respect of any existing accommodation to an end before being required to take up the offer (s.193(7F),(8)).

Notes:

I **Additional duty in restricted cases**

The authority must, so far as reasonably practicable, bring the main housing duty to an end by securing a private rented sector offer *IF* the applicant's case is a "restricted case" (see below) (s.193(7AD)).

II **Meaning of "restricted case"**

A restricted case (in the context of the main housing duty) is a case where the authority would not be satisfied that the applicant is eligible for assistance, unintentionally homeless and in priority need were the authority not having regard to a "restricted person" (see below) (s.193(3B)).

III **Meaning of "restricted person"**

A restricted person is a person:

- who is ineligible for assistance under Part 7 of the Housing Act 1996, *AND*
- who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, *AND*
- who either:
 - does not have leave to enter or remain in the UK, *OR*
 - whose leave to enter or remain in the UK is subject to a condition to maintain and accommodate himself, and any dependents, without recourse to public funds (s.184(7)).

IV **Right to re-apply as homeless**

If the main housing duty ceases under section 193 the applicant has the right to make a fresh application for accommodation or for assistance in obtaining accommodation on grounds of homelessness (s.193(9)).

9. DUTY TO PRIORITY NEED APPLICANTS WHO BECAME HOMELESS INTENTIONALLY (s.190(2))

When is the duty owed?

- (1) The authority owed the applicant a duty under section 189B(2) (see [page 25](#))
AND
- (2) The duty under s.189B(2) has come to an end (s.190(1)(c))
AND
- (3) The authority is satisfied that the applicant:
 - (a) is eligible for assistance, *AND*
 - (b) is homeless, *AND*
 - (c) has a priority need, *AND*
 - (d) became homeless intentionally (s.190(1)(a),(b)).

Performing the duty (what must the council do?)

The authority must:

- (1) secure that accommodation is available for the applicant's occupation* for such period as they consider will give him a reasonable opportunity of securing accommodation for his occupation (s.190(2)(a))
AND
- (2) secure that the applicant is provided with advice and assistance in any attempt he may make to secure that accommodation becomes available for his occupation (s.190(2)(b)).

Notes:

- *I Accommodation must be secured for:
 - (a) the applicant, *AND*
 - (b) any other person who normally resides with the applicant as a member of his family (s.176(a))
 - (c) any other person who might reasonably be expected to reside with the applicant (s.176(b)).
- II In deciding what advice and assistance is to be provided to the applicant under section 190(2)(b) (see (2) above) the authority must have regard to their assessment of the applicant's case under section 189A (see [page 13](#) for the matters which must be assessed) (s.190(4)).
- III The advice and assistance provided under s.190(2)(b) (see (2) above) must include information about:
 - (a) the likely availability in the authority's district of the types of



- accommodation that are appropriate to the applicant's housing needs
- (b) including the location and sources of such types of accommodation (s.190(5)).



10. THE REFERRAL CONDITIONS (s.198(2)-(4A))

When are the referral conditions relevant?

- When the applicant would otherwise be owed the initial s.189B homelessness duty (s.198(A1)) ➔ see [Chapter 11](#)
- When the applicant would otherwise be owed the main s.193 housing duty (s.198(1)) ➔ see [Chapter 12](#)

See also:

- The duties owed by the 'receiving' authority to applicants who are successfully referred under s.198(1A) ➔ see [Chapter 13](#)
- The duties owed by the 'receiving' authority to applicants who are successfully referred under s.198(1) ➔ see [Chapter 14](#)

Note:

This guide does not cover referrals involving Scottish local authorities or the Isles of Scilly.

What are the referral conditions?

(1) **Local connection**

- (a) Neither the applicant nor any person who might reasonably be expected to reside with him has a local connection (see [page 47](#)) with the district of the local authority to which his application was made (s.198(2)(a))

AND

- (b) the applicant, or a person who might reasonably be expected to reside with him, has a local connection with the district of the other local authority (to which the authority proposes to refer the case) (s.198(2)(b))

AND

- (c) neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence (see Note IV) in the other's authority's district (s.198(2)(c))

AND

- (d) (i) neither the applicant nor any person who might reasonably be expected to reside with him has suffered violence (other than domestic violence) (see Note III) in the district of the other authority (s.198(2A)(a))

AND

- (ii) (IF the applicant or any person who might reasonably be expect

to reside with him has suffered such violence)
 it is not probable that the return of the victim to the other
 authority's area will lead to further violence of a similar kind
 against him (s.198(2A)(b)).

OR

(2) **Acceptance of out of area private rented sector tenancy (see Note V)**

(a) The applicant previously applied for homelessness assistance to a local housing authority in England (s.198(2ZA)(a), SI 2012 No 2599, [art. 2](#))

AND

(b) That previous application was made on or after 9 November 2012 (SI 2012 No 2599, [art. 3\(a\), para. 1](#))

AND

(c) A duty to secure accommodation (from the other authority) was not in existence before 9 November 2012 (SI 2012 No 2599, [art. 3\(b\), para. 1](#))

AND

(d) The applicant accepted an offer of accommodation under section 193(7AA) (i.e. a private rented sector offer to end the main housing duty; see [page 39](#) to 40) from the other authority (s.198(2ZA)(a))

AND

(e) The accommodation accepted is situated in the district of the local housing authority to which the applicant has subsequently applied

AND

(f) The latter application was made within two years of the date on which the applicant accepted the private rented sector offer (s.198(2ZA)(a))

AND

(g) neither the applicant nor any person who might reasonably be expected to reside with the applicant will run the risk of domestic violence (see Note IV) in the district of the other authority (s.198(2ZA)(b)).

AND

(d) (i) neither the applicant nor any person who might reasonably be expected to reside with him has suffered violence (see Note III) (other than domestic violence) in the district of the other authority (s.198(2A)(a))

AND

(ii) (IF the applicant or any person who might reasonably be expected to reside with them has suffered such violence)
 it is not probable that the return of the victim to the other
 authority's area will lead to further violence of a similar kind

against him (s.198(2)(b)).

OR

(3) **Out of area placement (see Note VI)**

- (a) The applicant previously applied for homelessness assistance to a local housing authority in England or Wales (s.198(4)(a))

AND

- (b) The previous application was made within the prescribed period of the present application being made (five years plus any period between the date of the previous application and the date on which the applicant was first placed in accommodation in the authority's area) ((s.198(4)(b); Allocation of Housing and Homelessness (Miscellaneous Provisions) (England) Regulations 2006 No 2527, [reg. 3](#)).

AND

- (c) The authority to which the applicant previously applied placed the applicant in accommodation in the district of the authority to which he has now applied (s.198(4)(a))

AND

- (d) The accommodation was secured in pursuance of their functions under Part 7 of the Housing Act 1996 (or, if the other authority is in Wales, under Part 2 of the Housing (Wales) Act 2014) (s.198(4),(4A)).

Notes

- I If the authority seeking to refer the case is in Wales the referral conditions are as set out in [section 80](#) of the Housing (Wales) Act 2014.
- II See next section for how persons obtain a local connection.
- III "Violence" means:
- (a) violence from another person, OR
- (b) threats of violence from another person which are likely to be carried out (s.198(3)).
- IV "Domestic violence" means violence that is from a person who is associated with the victim. "Associated" is defined by [section 178](#) of the Housing Act 1996.
- V In respect of the referral conditions at (2) it appears that the question of whether the applicant has a local connection with the district of the authority (see [page 47](#)) is irrelevant for the purpose of establishing whether the conditions are met, albeit that the issue may be relevant to the question of whether the authority should exercise its discretion to seek a referral.
- VI In respect of the referral conditions at (3) it appears that the following issues are irrelevant for the purpose of whether the conditions are met:

- whether the applicant has a local connection with the district of the authority (see below); and
- whether the applicant or a household member will run the risk of violence in the area of the other authority

albeit that these issues may be relevant to the question of whether the authority should exercise its discretion to seek a referral.

How do applicants obtain a local connection?

A person has a local connection with the district of a local housing authority if:

Normal residence

(1) (a) He has a connection with the district because:

(i) he is normally resident in the district

OR

(ii) he was normally resident in the district

AND

(b) the residence was of his own choice (s.199(1)(a); residence in a district is not of a person's own choice if it is because of detention under the authority of an Act of Parliament, e.g. prison or detention under the Mental Health Act 1983 (s.199(3)).

OR

Employment

(2) He has a connection with the district because he is employed there (s.199(1)(b)).

OR

Family associations

(3) He has a connection with the district because of family associations (s.199(1)(c)).

OR

Special circumstances

(4) He has a connection with the district because of special circumstances (s.199(1)(d)).

OR

Asylum accommodation

(5) (a) He was (at any time) provided with accommodation in the district under section 95 of the Immigration and Asylum Act 1999 (s.199(6))

AND

(b) he was not subsequently provided with accommodation in the district of another local housing authority under section 95 of the Immigration



and Asylum Act 1999 (s.199(7)(a))

AND

- (c) the accommodation was not in an accommodation centre under section 22 of the Nationality, Immigration and Asylum Act 2002 (s.199(7)(b)).

OR

Former relevant child

- (6) (a) He is owed a duty under section 23C of the Children Act 1989 as a “former relevant child” by a local authority in England

AND

- (b) the local authority is a local housing authority (s.198(8)(a)).

OR

- (7) (a) He is owed a duty under section 23C of the Children Act 1989 as a “former relevant child” by an social services authority in England

AND

- (b) the local housing authority falls within the area of the social services authority (s.198(8)(b))

OR

- (8) (a) The person was provided with accommodation under section 22A of the Children Act 1989 (i.e. provided because the child was in care)

AND

- (b) as a result the person was normally resident in the district of the local housing authority for at least two years

AND

- (c) the local authority is in England

AND

- (d) some or all of the two year period occurred before the person had reached 16 years of age (s.199(10))

AND

- (e) the person has not reached 21 years of age (s.199(11)).

Guidance in the Local Authority Agreement

The Local Authority Agreement contains recommendations concerning:

The length of normal residence that is usually necessary to establish a local connection:

- Six months in the district during the previous 12 months, OR
- Three years in the district during the previous five years (para 4.1(i))

When relatives normally give rise to a local connection because of family associations:





Parents, adult children or brothers or sisters of the applicant or a household member that have been resident in the district for at least five years at the date of decision, and the applicant indicates a wish to be near them (Code Annex 18, para 4.1(iii)).

At the time of writing the LA Agreement is reproduced at Annex 18 of the [Homelessness Code of Guidance for Local Authorities](#) (2006). A new edition of the Code will be issued before the Homelessness Reduction Act 2017 comes into force.





11. POWER TO REFER APPLICANTS TO ANOTHER AUTHORITY WHERE THE INITIAL S.189B HOMELESS DUTY WOULD OTHERWISE BE OWED (s.198(A1))

When can the power to seek a referral be exercised?

- (1) (a) The authority would otherwise (but for the power to refer being exercised) be subject to the initial homelessness duty under section 189B (see [Chapter 6](#))
AND
- (b) The authority considers that the conditions for the referral of the applicant's case to another local housing authority in England are met (s.198(A1)).

What are the referral conditions?

➔ see [Chapter 10](#).

Exercising the power to initiate a referral

The authority may:

- notify the other authority of its opinion that the referral conditions are met in respect of the applicant's case (s.198(A1)).

Duties if a s.198(A1) referral request is sent (what must the council do?)

The authority must:

- (1) notify the applicant in writing of its decision that it intends to notify (or has notified) the other local authority of its opinion that the local connection referral conditions are met (s.184(4))

AND

- (2) inform the applicant of the reasons for its decision that the referral conditions are met (s.184(4))

AND

- (3) inform the applicant of his right to request a review of the decision (s.184(5))

AND

- (4) inform the applicant of the time within which a review request must be made (s.184(5)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3))

AND



**IF the authority has reason to believe that the applicant may have a priority need:**

- (5) The authority must secure that suitable accommodation is available for occupation by:
- (a) the applicant (s.199A(2)); *AND*
 - (b) any other person who resides with the applicant as a member of his family (s.176(a)); *AND*
 - (c) any other person who might reasonably be expected to reside with the applicant (s.176(b))
- until the applicant is notified of the decision of whether the referral conditions are met in his case (s.199A(2)).

AND

When it has been decided whether the referral conditions are met:

- (6) (a) The authority must give the applicant notice in writing which:
- (i) confirms the decision, *AND*
 - (ii) includes the reasons for the decision, *AND*
 - (iii) informs the applicant of his right to request a review of the decision, *AND*
 - (iv) informs the applicant of the time within which a review must be requested (s.199A(3)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3))

AND

IF it is decided that the referral conditions are met:

- (7) The authority must give to the other authority copies of any notifications that it has given to the applicant under:
- (a) section 189A(3) (notification of the assessment of the applicant's case – see [page 13](#)), *AND*
 - (b) section 189A(10) (notification of changes to the assessment – see [page 23](#)) (s.199A(5)(d))
- (8) Any duty to secure accommodation under s.199A(2) (see (5) above) ceases upon the applicant being notified of the decision (s.199A(2)) but *IF* the applicant requests a review of the authority's decision it *may* secure that accommodation is available for the applicant's occupation pending determination of the review (s.199A(6))
- (see [Chapter 13](#) for the duties owed by the other authority, i.e. the notified authority, to which the applicant's case has been transferred).

OR



***IF it is decided that the referral conditions are not met:***

- (9) The authority becomes subject to the initial s.189B duty* and so must:
- take reasonable steps to help the applicant to secure that suitable accommodation becomes available for his occupation for at least six months (s.189B(2))
- having regard to:
- their assessment of the applicant's case under section 189A (see Chapters 3 and 5).

➔ see [Chapter 6](#).

AND

- (10) *IF* the authority has reason to believe that the applicant may have a priority need, they must secure that accommodation is available for occupation by:
- (a) the applicant (s.199A(4)(c)), **AND**
 - (b) any other person who resides with the applicant as a member of his family (s.176(a), s.199A(4)(c)), **AND**
 - (c) any other person who might reasonably be expected to reside with the applicant (s.176(b), s.199A(4)(c))
- until the later of:
- (d) the end of the section 189B duty (see [page 25](#) to 28), and
 - (e) a decision by the authority about what duty (if any) they owe the applicant under Part 7 of the Housing Act 1996 after the section 189B duty comes to an end (see [page 30](#) to 31) (s.199A(4)(c)).

Note:

- * If the authority becomes subject to the initial s.189B(2) homelessness duty in these circumstances the 56-day period during which that duty is owed starts on the day on which the authority gives the applicant notice that the referral conditions are not met (see (6) above) (s.199A(4)(b)).





12. POWER TO REFER APPLICANTS TO ANOTHER AUTHORITY WHERE THE MAIN HOUSING DUTY WOULD OTHERWISE BE OWED (s.198(1))

When can the power to seek a referral be exercised?

- (1) The authority owed the applicant the initial s.189B(2) homelessness duty (see [Chapter 6](#))

AND

- (2) The s.189B(2) duty has come to an end (see [page 25](#) to 28) (200(1A))

AND

- (3) The authority would otherwise (but for the power to refer being exercised) be subject to the main housing duty under section 193 (see [Chapter 8](#))

AND

- (4) The authority considers that the conditions for the referral of the applicant's case to another local housing authority are met (s.198(A1))

What are the referral conditions?

➡ see [Chapter 10](#).

Exercising the power to initiate a referral

The authority may:

- notify the other authority of its opinion that the referral conditions are met in respect of the applicant (s.198(1)).

Duties if a s.198(1) referral request is sent (what must the council do?)

The authority must:

- (1) notify the applicant in writing of its decision that it intends to notify (or has notified) the other local authority of its opinion that the local connection referral conditions are met (s.200(1))

AND

- (2) inform the applicant of the reasons for its decision that the referral conditions are met (s.184(3))*

AND

- (3) inform the applicant of his right to request a review of the decision (s.184(5))*

AND

- (4) inform the applicant of the time within which a review request must be made (s.184(5))* i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3))

AND





- (5) secure that suitable accommodation is available for occupation by:
- (a) the applicant (s.200(1)), *AND*
 - (b) any other person who resides with the applicant as a member of their family (s.176(a)); *AND*
 - (c) any other person who might reasonably be expected to reside with the applicant (s.176(b)).

until the applicant is notified of the decision on whether the referral conditions are met in their case (s.200(1)).

AND

When it has been decided whether the referral conditions are met:

- (6) (a) The authority must give the applicant notice in writing which:
- (i) confirms the decision, *AND*
 - (ii) includes the reasons for the decision, *AND*
 - (iii) informs the applicant of his right to request a review of the decision, *AND*
 - (iv) informs the applicant of the time within which a review must be requested (s.200(2)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3))

AND

IF it is decided that the referral conditions are met:

- (7) (a) The authority's duty to secure accommodation under s.200(1) (see (5) above) ceases upon the applicant being notified of the decision (s.200(1))**

(see [Chapter 14](#) for the duties owed by the other authority, i.e. the notified authority, to which the applicant's case has been transferred. If the other authority is in Wales see instead [section 83](#) of the Housing (Wales) Act 2014).

OR

IF it is decided that the referral conditions are not met:

- (8) The authority becomes subject to the main housing duty (see [Chapter 8](#)) and so must secure that suitable accommodation is available for occupation by:
- (a) the applicant (s.200(3), s.193(2)), *AND*
 - (b) any other person who normally resides with the applicant as a member of his family (s.176(a)), *AND*
 - (c) any other person who might reasonably be expected to reside with the applicant (s.176(b)).





Note:

- *I Curiously, section 5(3)(b) of the Homelessness Reduction Act 2017 deletes the explicit provision, previously at s.184(4), requiring authorities to notify applicants of a decision to seek a referral under s.198(1) and provide reasons for the decision. However the author assumes that, notwithstanding this amendment, there remains a duty to notify the applicant, give reasons and inform the applicant of his review rights, as a result of s.184(3) and (5).
- **II If the applicant requests a review of a decision that the referral conditions are met (i.e. following the second notification at (7) above the notifying authority may secure that accommodation is available for the applicant's occupation pending determination of the review (s.200(5)).





13. DUTIES OWED BY THE 'RECEIVING' AUTHORITY TO APPLICANTS SUCCESSFULLY REFERRED UNDER SECTION 198(A1) (s.199A(5))

Aim of this chapter

The previous two chapters are written from the perspective of an authority (the 'notifying' authority) seeking to refer a case to another authority.

This chapter and the next chapter concern the duties owed by the *notified* authority. This chapter summarises the duties owed where the applicant has been successfully referred *under section 198(A1)*, i.e. where the applicant's case was referred where the notifying authority would otherwise have owed the initial s.189B homelessness duty (see [Chapter 11](#)).

[Chapter 14](#) deals with cases where a successful referral is made under section 198(1), i.e. where the applicant is referred by the notifying authority after the initial s.189B duty ends.

When are the duties owed?

- (1) The authority has received a referral from another local housing authority in England under section 198(A1) of the Housing Act 1996 (see [Chapter 11](#))

AND

- (2) The notified authority accepts that the referral conditions* are met

AND

- (3) The notifying authority has notified the applicant of a decision that the referral conditions* are met ("the second notification"; HA 1996, s.199A(3)).

* The referral conditions

➞ see [Chapter 10](#) for the referral conditions.

Performing the duty (what must the receiving council do?)

The notified authority must:

- (1) treat the applicant as having made a homelessness application under section 183(1) (see [page 5](#)) on the date on which the notifying authority gave notice to the applicant under s.199A(3) ("the second notification"; see [page 51](#)), subject to a limited discretion to change certain decisions made by the notifying authority (**see Note II below).

Notes:

Cessation of responsibility for notifying authority

- I From the date on which the notifying authority give notice to the applicant of the decision that the referral conditions are met ("the second notification"; see [page 51](#)) it no longer owes any duty to the applicant (s.199A(5)(b)).





**** Limited discretion to change decisions made by notifying authority**

- II The notified authority may only come to a different decision in respect of whether the applicant:
- (a) is eligible for assistance
 - (b) is homeless, or
 - (c) became homeless intentionally
- to the decision made by the notifying authority (if any) *IF*:
- (aa) (i) the applicant's circumstances have changed
- OR*
- (ii) further information has come to light since the notifying authority made their decision
- AND*
- (bb) the change in circumstances or further information justifies the notified authority coming to a different decision to that made by the notifying authority (s.199A(5)(c)).

Most common outcome

- III In order to refer an applicant's case under section 198(1A) the notifying authority will have had to have been satisfied that the applicant:

- (a) is eligible for assistance, *AND*
- (b) is homeless

since this is (in part) the basis upon which a referral is s.189(1A) referral is made (see [page 50](#)).

Accordingly, unless the receiving authority changes decisions (a) or (b) it will owe the applicant the following duties:

- duty to make inquiries and notify a decision ➡ see [Chapter 1](#)
- duty to carry out an assessment ➡ see [Chapter 3](#)
- duty to attempt to agree the steps to be taken ➡ see [Chapter 3](#)
- duty to notify the assessment ➡ see [Chapter 3](#), and
- initial 'help to secure' homelessness duty ➡ see [Chapter 6](#)

If the receiving authority has reason to believe that the applicant may also have a priority need it will also owe the:

- duty to secure interim accommodation ➡ see [Chapter 2](#)





14. DUTIES OWED BY THE 'RECEIVING' AUTHORITY TO APPLICANTS SUCCESSFULLY REFERRED UNDER SECTION 198(1) (s.200(4))

Aim of this chapter

Whereas Chapters 11 and 12 are written from the perspective of an authority seeking to refer a case (the 'notifying' or 'referring' authority) this chapter and the [previous chapter](#) summarise the duties owed by an authority that has *accepted* an incoming referral (the 'notified' or 'receiving' authority).

This chapter summarises the duties owed where the applicant has been successfully referred under section 198(1), i.e. where the notifying authority would otherwise have owed the applicant the main housing duty.

[Chapter 13](#) deals with cases where a referral under section 198(A1) has been accepted, i.e. where the applicant's case was referred before the notifying authority owed the initial s.189B homelessness duty.

When are the duties owed?

- (1) The authority has received a referral from:
- (a) another local housing authority in England under section 198(A1) of the Housing Act 1996 (see [Chapter 12](#))

OR

- (b) a local authority in Wales under [section 80](#) of the Housing (Wales) Act 2014

AND

- (2) The authority has accepted that the referral conditions* are met

AND

- (3) The other (referring) authority has notified the applicant of a decision that the referral conditions* are met (s.200(2) [England]; HWA 2014 [s.82\(2\),\(4\)](#), s.201A(2) [Wales]).

* The referral conditions

- see [Chapter 10](#) for the referral conditions where the referral is received from an English authority.
- see [section 80](#) of the Housing (Wales) Act 2014 for the referral conditions if the referral is received from a Welsh authority.

Performing the duty (what must the receiving council do?)

The authority is subject to the main housing duty under section 193 (s.200(4)) from the date on which the notifying authority give notice to the applicant under s.200(2) ("the second notification"; see [page 55](#)), and so must secure that suitable accommodation is available for:

- (1) the applicant (s.193(2)), AND





- (2) any other person who normally resides with the applicant as a member of his family (s.176(a)), *AND*
 - (3) any other person who might reasonably be expected to reside with the applicant (s.176(b)).
- ➡ see [Chapter 8](#) for more details about the main housing duty and the circumstances in which the duty ends.





15. DUTY TO NOTIFY ANOTHER LOCAL AUTHORITY WHEN ACCOMMODATION IS SECURED OUTSIDE THE DISTRICT (s.208)

When is the duty owed?

The local authority:

- secures that accommodation is available for the applicant's occupation outside its district when discharging its functions under Part 7 of the Housing Act 1996 (s.208(2)).

Performing the duty (what must the council do?)

The authority must:

- give notice in writing to the local housing authority in whose district the accommodation is situated within 14 days of the day on which the accommodation was made available for the applicant (s.208(2),(4)).

What must the notice contain?

The notice must state:

- (1) the name of the applicant (s.208(3)(a)); *AND*
- (2) the number and a description of other persons who normally reside with the applicant as a member of his family, or who might reasonably be expected to reside with the applicant (s.208(3)(b)); *AND*
- (3) the address of the accommodation that has been secured for the applicant (s.208(3)(c)); *AND*
- (4) the date on which the accommodation was made available to the applicant (s.208(3)(d)); *AND*
- (5) which function under Part 7 of the Housing Act 1996 the authority was discharging in securing that the accommodation is available for the applicant's occupation (s.208(3)(e)).

Note:

The authority must, so far as reasonably practicable, secure that accommodation is available in its own district when discharging its housing functions under Part 7 of the Housing Act 1996 (s.208(1)).





16. DUTY TO PROTECT THE APPLICANT'S PERSONAL PROPERTY (ss.211, 212)

When is the duty owed?

- (1) The authority currently owes or previously owed the applicant a duty under:
 - (a) section 195 (the duty to prevent homelessness – see [Chapter 4](#))
OR
 - (b) section 188 (the interim duty to accommodate – see [Chapter 2](#))
OR
 - (c) section 189B (the initial duty owed to eligible applicants who are homeless – see [Chapter 6](#))
OR
 - (d) section 190 (the duty owed to priority need applicants who became homeless intentionally – see [Chapter 9](#))
OR
 - (e) section 193 (the main housing duty – see [Chapter 8](#))
OR
 - (f) section 200 (the duty to secure accommodation for an applicant whose case is being considered for referral under s.198(1) – see [Chapter 12](#)) (s.211(2))

AND

- (2) The authority has reason to believe that there is a danger of:
 - (a) loss of any personal property of the applicant*
OR
 - (b) damage to any personal property of the applicant* (s.211(1)(a))

AND

- (3) The danger of damage or loss results from an inability by the applicant to:
 - (a) protect it
OR
 - (b) deal with it (s.211(1)(a))

AND

- (4) no other suitable arrangements are being made or have been made (s.211(1)(b)).





Performing the duty (what must the council do?)

The authority must:

- take reasonable steps to prevent the loss of the applicant's* personal property, or prevent or mitigate damage to it (s.211(2)).

*** Note:**

The duty extends to personal property of any person who might reasonably be expected to reside with the applicant (s.211(5)).

Powers

The authority may:

- (1) take any steps it considers reasonable for the purpose of preventing the loss of the property or to prevent or mitigate damage to the property if they have not become subject to the duty (s.211(3));
- (2) enter, at all reasonable times, any premises which:
 - (a) are the applicant's usual place of residence, or
 - (b) were the applicant's last usual place of residencefor the purposes of performing the duty to protect the applicant's personal property or exercising the power to do the same (s.212(1)(a));
- (3) deal with any personal property of the applicant in any way that is reasonably necessary, in particular by storing it or arranging for its storage, for the purpose of performing the duty to protect the applicant's personal property or exercising the power to do the same (s.212(1)(b));
- (4) impose conditions which the authority considers are appropriate in the particular case before taking action under section 211, which may include conditions as to:
 - (a) the making and recovery by the authority of reasonable charges for the action taken (s.211(4)(a)); or
 - (b) disposal by the authority, in such circumstances as may be specified, of property in relation to which it has taken action (s.211(4)(b));
- (5) comply with a request by the applicant to move his property to a location he has nominated, if it appears to the authority that the request is reasonable (see also discharge ground (1) below) (s.212(2));
- (6) continue to store property once the duty to protect property ends because the authority no longer has any reason to believe that there is a danger of loss or damage to the property (see discharge ground (2) below) (s.212(3)).





When does the duty end?

(1) *Property moved to location nominated by applicant*

- (a) The applicant asks the authority to move his property to a particular location that he has nominated (s.212(2))

AND

- (b) It appears to the authority that the applicant's request is reasonable (s.212(2)(a))

AND

- (c) The authority informs the applicant of the consequences of it complying with his request before complying with the request (s.212(2))

AND

- (d) The authority moves the property to the location nominated by the applicant (s.212(2)(a)).

OR

(2) *No longer danger of damage or loss*

- (a) (i) The applicant has not asked the authority to move his property to a particular location

OR

- (ii) The applicant has asked the authority to move his property to a particular location, but the authority has not acted upon the request

AND

- (b) The authority is of the opinion that there is no longer any reason to believe that there is a danger of loss or damage to the person's personal property by reason of his inability to protect it or deal with it (s.212(3)).

Duty to notify the applicant when the duty (or power) ends

Where:

- the authority ceases to be subject to the section 211 duty to protect property

OR

- the authority ceases to have power to protect property, having previously exercised the power,

the authority must notify the applicant:

- (1) of the fact that the duty or power has ended, *AND*
- (2) the reason for the duty or power ending (s.212(4)),

by giving notification to the applicant by:

- delivering it to the applicant, *OR*





- leaving it at the applicant's last known address, OR
- sending it to the applicant at his last known address (s.212(5)).

Notes about ending the duty:

- (1) In the absence of the discharge criteria being met a duty to protect an applicant or household member's property continues even if 'qualifying' duty (i.e. ss.188, 189B, 190, 193, 195 or 200) ends.
- (2) As stated on [page 62](#) (see "Powers" at (4)) the duty is subject to any conditions the authority considers appropriate in the particular case. It appears that this may effectively provide authorities with an additional ground for ending the duty (i.e. non-compliance with the imposed conditions) providing that the conditions have been lawfully imposed.





17. DUTY TO INVITE THE APPLICANT TO CONSENT TO A REFERRAL TO SOCIAL SERVICES (s.213A(2))

When is the duty owed?

- (1) The authority has reason to believe a person under the age of 18 normally resides, or might reasonably be expected to reside, with the applicant (s.213A(1))

AND

- (2) The authority has reason to believe that the applicant may be:
- (a) ineligible for assistance (s.213A(1)(a))

OR

- (b) (i) homeless

AND

- (ii) may have become homeless intentionally (s.213A(1)(b)).

Performing the duty (what must the council do?)

The authority must make arrangements for ensuring that:

- (1) the applicant is invited to consent to the referral of the essential facts of his case to the relevant social services department or authority (s.213A(2)(a) and (3)(a))

AND

- (2) if the applicant gives that consent, the social services department or authority is made aware of:

- (a) the essential facts of his case

AND

- (b) the subsequent decision of the housing authority in respect of the applicant's case (s.213A(2)(b) and (3)(b)).

Note

The s.213A duties do not prevent an authority lawfully exercising a power to disclose information relating to the applicant's case to a social services department or authority without obtaining the applicant's consent (s.213A(4)). For example where there is reason to believe that a child may be at risk of significant harm.





Duty to co-operate with social services

IF a social services authority:

- (a) are aware of a decision by the local housing authority that the applicant:
 - (i) is ineligible for assistance
- OR*
- (ii) became homeless intentionally

AND

- (b) request that the local housing authority provides them with advice and assistance in the exercise of their social services functions under Part 3 of the Children Act 1989 or Part 6 of the Social Services and Well-being Act 2014

then the local housing authority must:

- provide the social services authority with such advice and assistance as is reasonable in the circumstances (s.213A(5) and (6)).





18. REVIEWING HOMELESSNESS DECISIONS (ss.202 & 203)

Decisions giving rise to the right to request a review

(1) ***A decision about eligibility***

A decision concerning the applicant's eligibility for assistance (s.202(1)(a)).

(2) ***A decision about whether a duty is owed***

A decision concerning what duty (if any) is owed to the applicant under:

- (a) section 195 (the duty to prevent homelessness; see [Chapter 4](#)), *OR*
- (b) section 189B (the initial duty owed to eligible applicants who are homeless; see [Chapter 6](#)), *OR*
- (c) section 190 (the duty owed to priority need applicants who became homeless intentionally; see [Chapter 9](#)), *OR*
- (d) section 193 (the main housing duty to secure ongoing accommodation; see [Chapter 8](#)), *OR*
- (e) section 193C(4) (the duty to priority need and unintentionally homeless applicants who have deliberately and unreasonably refused to co-operate; see [Chapter 7](#)) (s.202(1)(b)).

(3) ***A decision about the reasonable steps that the authority are to take to help prevent homelessness***

A decision as to the steps the authority are to take under s.195(2) (duty to take reasonable steps to help an applicant who is threatened with homelessness to secure that accommodation does not cease to be available for his occupation; see [Chapter 4](#)) (s.202(1)(bc)(i)).

(4) ***A decision to end the s.195(2) prevention duty***

A decision to give notice to the applicant to end the s.195(2) duty (the duty to take reasonable steps to help an applicant who is threatened with homelessness to secure that accommodation does not cease to be available for his occupation; see [Chapter 4](#)) by:

- (a) giving notice under s.193B(2) because the applicant has deliberately and unreasonably refused to co-operate (see [page 17](#)) (s.202(1)(bb)), *OR*
- (b) giving notice under s.195(5) (see [page 17](#)) on one of the following grounds (see [page 15](#) to 17):
 - (i) The applicant has:
 - I suitable accommodation available for occupation, *AND*
 - II a reasonable prospect of having suitable accommodation for at least six months from the date of the notice (s.195(8)(a)), s.202(1)(bc)(ii).

OR



- (ii) I The authority has complied with the duty under s.195(2) to take reasonable steps to help the applicant to secure that accommodation does not cease to be available for his occupation, *AND*
- II 56 days has passed since the day on which the authority were first satisfied that the applicant was eligible for assistance and threatened with homelessness (s.195(8)(b), s.202(1)(bc)(ii)), *OR*

OR

- (iii) The applicant has become homeless (s.195(8)(c), s.202(1)(bc)(ii)).

OR

- (iv) I The applicant has refused an offer of suitable accommodation, *AND*
- II on the date of refusal there was a reasonable prospect that suitable accommodation would be available for the applicant's occupation for at least six months (s.195(8)(d); s.202(1)(bc)(ii))

OR

- (v) I The applicant has become homeless intentionally from accommodation, *AND*
- II the accommodation was made available to the applicant as a result of the authority taking reasonable steps to help the applicant to secure that accommodation did not cease to be available for his occupation ("made available to the applicant as a result of the authority's exercise of their functions under [s.195(2)]") (s.195(8)(e), s.202(1)(bc)(ii)).

OR

- (vi) The applicant is no longer eligible for assistance (s.195(8)(f), s.202(1)(bc)(ii)).

OR

- (vii) The applicant has withdrawn his application (s.195(8)(g), s.202(1)(bc)(ii)).

(5) ***A decision about the reasonable steps that the authority are to take to help a homeless applicant to secure accommodation***

A decision as to the steps the authority are to take under section 189B(2) (the duty to take reasonable steps to help an eligible applicant who is homeless to secure suitable accommodation that will be available for at least six months; see [Chapter 6](#)) (s.202(1)(ba)(i)).

(6) ***A decision to end the initial s.189B homelessness duty***

A decision to give notice to the applicant to end the s.189B(2) duty (the duty



to take reasonable steps to help a homeless applicant to secure that suitable accommodation becomes available for his occupation for at least six months; see [Chapter 6](#)) by:

- (a) giving notice under s.193B(2) because the applicant has deliberately and unreasonably refused to co-operate ([page 26 to 27](#)) (s.202(1)(bb)), *OR*
- (b) giving notice under s.189B(5) (see [page 28](#)) on one of the following grounds (see [page 27 to 28](#)):
 - (i) The applicant has:
 - I suitable accommodation available for his occupation, *AND*
 - II a reasonable prospect of having suitable accommodation available for his occupation for at least six months from the date of the notice (s.189B(7)(a), s.202(1)(ba)(ii)).
 - (ii) I The authority has complied with the duty under s.189B(2) (to take reasonable steps to help the applicant to secure that suitable accommodation becomes available for his occupation), *AND*
 - II 56 days have passed since the authority were first satisfied that the applicant was eligible for assistance and homeless (s.189B(7)(b), s.202(1)(ba)(ii)).
 - (iii) I The applicant has refused an offer of suitable accommodation, *AND*
 - II on the date of refusal there was a reasonable prospect that suitable accommodation would be available for the applicant's occupation for at least six months (s.189B(7)(c), s.202(1)(ba)(ii)).
 - (iv) The applicant has become homeless intentionally from accommodation made available as a result of the authority's exercise of its functions under s.189B(2) (the duty to take reasonable steps to help the applicant to secure that suitable accommodation becomes available for his occupation for at least six months) (s.189B(7)(d), s.202(1)(ba)(ii)).
 - (v) The applicant is no longer eligible for assistance (s.189B(7)(e), s.202(1)(ba)(ii)).
 - (vi) The applicant has withdrawn his application (s.189B(7)(f), s.202(1)(ba)(ii)).
- (7) ***A decision to notify another authority under section 198(A1) of the authority's opinion that the local connection referral conditions are met****
 A decision to notify another local housing authority under section 198(A1) of the authority's opinion that the conditions for the referral of an applicant's case are met (where the applicant would otherwise be owed the initial s.189B(2) homelessness duty; see [Chapter 11](#)) (s.184(4),(5)).





(8) ***A decision to notify another authority under section 198(1) of the authority's opinion that the local connection referral conditions are met***

A decision to notify another local housing authority under section 198(1) of its opinion that the conditions for the referral of an applicant's case are met (where the applicant would otherwise be owed the main s.193 housing duty; see [Chapter 12](#)) (s.202(1)(c)).

(9) ***A decision whether the referral conditions are met***

A decision under s.198(5) as to whether or not the conditions for referral of an applicant's case to another (non-Welsh) local authority are met, i.e. the final decision on whether the referral conditions are actually made out, whether that decision is made by agreement between the two authorities or by an independent referee (s.202(1)(d) and (e)).

(10) ***A decision regarding suitability of accommodation***

A decision as to the suitability of accommodation:

- (a) offered to the applicant to perform or end the:
 - (i) s.195 prevention duty (see [Chapter 4](#)) (s.202(1)(f)), *OR*
 - (ii) s.189B initial homelessness duty (see [Chapter 6](#)) (s.202(1)(f)), *OR*
 - (iii) s.190(2)(a) duty to secure accommodation for priority need applicants who became homeless intentionally (see [Chapter 9](#)) (s.202(1)(f)), *OR*
 - (iv) main s.193 housing duty (see [Chapter 8](#)) (s.202(1)(f)).
- (b) offered to the applicant as:
 - (i) a "final accommodation offer" within the meaning of s.193A or s.193C (see pages [28](#) and [35](#) in respect of ending the initial relief duty and s.193C(4) duty respectively) (s.202(1)(h)), *OR*
 - (ii) a final Part 6 offer within the meaning of s.193A or s.193C (see pages [29](#) and [35](#) in respect of ending the initial s.189B(2) homelessness relief duty and s.193C(4) duty respectively) (s.202(1)(f)), *OR*
 - (iv) a "private rented sector offer" within the meaning of section 193 (see [page 39](#) and [40](#)) (s.202(1)(g)).

Notes

- *I. As the result of what would appear to be a drafting error section 202 does not list a decision to notify another authority under s.198(A1) as a decision against which there is a right of review. However, the combined effect of the amended s.184(4) and s.184(5) appears to be that such a right of review exists.
- II An applicant may request a review of the suitability of accommodation he has been offered whether or not he has accepted the offer where the





accommodation is offered:

- (a) as a final accommodation offer to end the initial s.189B(2) homelessness duty (see [page 26](#)) (s.202(1B));
- (b) as a final Part 6 offer to end the initial s.189B(2) homelessness duty (see [page 26](#)) (s.202(1B));
- (c) as a final accommodation offer to end the s.193C(4) accommodation duty owed to priority need and unintentionally homeless applicants who have deliberately and unreasonably refused to co-operate (see [pages 34 and 35](#)) (s.202(1B));
- (d) as a final accommodation offer to end the s.193C(4) accommodation duty owed to priority need and unintentionally homeless applicants who have deliberately and unreasonably refused to co-operate (see [pages 34 and 35](#)) (s.202(1B));
- (e) to perform the main s.193 housing duty (i.e. an offer made under s.193(5)) (see [page 38](#)) (s.202(1A));
- (f) as a final Part 6 offer under s.193(7) (i.e. resulting from an allocation under the council's social housing allocation scheme) for the purpose of ending the main s.193 housing duty (see [page 38 to 39](#)) (s.202(1A)); *OR*
- (g) as a private rented sector offer under s.193(7AA) for the purpose of ending the main s.193 housing duty (see [page 39 to 41](#)) (s.202(1A)).

Circumstances in which the authority must inform the applicant of their right to request a review

The authority must inform the applicant of their right to request a review when it notifies him of:

Decision as to what duty is owed

- (1) A decision upon the completion of s.184 inquiries into what duty is owed to the applicant under Part 7 of the Housing Act 1996 (see [page 5](#)) (s.184(5)).

Decisions to refer on local connection grounds

- (2) A decision that the initial s.189B homelessness duty would be owed but that the authority consider that the local connection referral conditions are met and that the authority have notified, or intend to notify, another authority in England under section 198(1A) (see [page 50](#)) (s.184(5)).
- (3) A decision that the local connection referral conditions under s.198(A1) are met (i.e. where the authority would otherwise owe the initial s.189B(2) homelessness duty and the notified authority has accepted that the referral conditions are met) (see [page 51](#)) (s.199A(3)).
- (4) A decision that the local connection referral conditions under s.198(1) are met (i.e. where the authority would otherwise owe the main s.193 housing duty and the notified authority has accepted that the referral conditions are met)





(see [page 54](#)) (s.200(2)).

A 'restricted case' decision

- (5) A decision that the applicant is, or would be, owed the main s.193 housing duty but the duty would not be owed if the authority was not having regard to a restricted person (see [page 6](#) to 7) (s.184(5)).

Decisions to end the prevention duty

- (6) A decision to end the s.195(2) prevention duty by giving notice under s.195(5) or s.193B(2) (see [page 15](#) to 18) (s.193B(3)(b), s.195(7)(b)).

Offers of accommodation to end the initial 56-day homelessness relief duty

- (7) A final accommodation offer made for the purpose of ending the initial s.189B(2) homelessness duty (see [page 26](#)) (s.193A(1)(b)).
- (8) A final Part 6 offer of accommodation, made for the purpose of ending the initial s.189B(2) homelessness duty (see [page 26](#)) (s.193A(1)(b)).

Decisions to end the initial 56-day homelessness relief duty

- (9) A decision to end the initial s.189B(2) homelessness duty by giving notice under s.189B(5) (see (4) and (5) on [page 27](#) to 28) (s.189B(6)(b)).
- (10) A decision to end the initial s.189B(2) homelessness duty by giving notice under s.193B(2) (see (3) on [page 26](#)) (s.193B(3)(b)).

Offers of accommodation to end the s.193C(4) duty

- (11) A final accommodation offer made for the purpose of ending the s.193C(4) duty (see [page 34](#) to 35) (s.193C(6)).
- (12) A final Part 6 offer of accommodation, made for the purpose of ending the s.193C(4) duty (see [page 34](#) to 35) (s.193C(6)).

Offer of temporary accommodation to perform the main housing duty

- (13) An offer of temporary accommodation under s.193(5), where the authority wishes to rely on any refusal to end the main s.193(2) housing duty (see [page 38](#)) (s.193(5)(a)).

Offers of accommodation to end the main housing duty

- (14) A final Part 6 offer of accommodation, made for the purpose of ending the the main s.193(2) housing duty (see [page 38](#) to 39) (s.193(7)).
- (15) A private rented sector offer, made for the purpose of ending the main s.193(2) housing duty (see [page 39](#) to 41) (s.193(7AB)).





Information that must be notified to the applicant about the right to request a review

- (1) When notifying the types of decisions listed in the previous section at (1) to (6), (9) and (10), the notice must:
 - (a) inform the applicant of his right to request a review of the decision (s.184(5), s.189B(6)(b), s.193B(3)(b), s.195(7)(b), s.199A(3) and s.200(2))

AND

 - (b) inform the applicant of the time within which a review must be requested (s.184(5), s.189B(6)(b), s.193B(3)(b), s.195(7)(b), s.199A(3) and s.200(2)), i.e. before the end of the period of 21 days beginning with the day on which the applicant is notified of the authority's decision, or within such longer period as the authority may allow in writing (s.202(3)).
- (2) When making the offers of accommodation listed at (7), (8) and (11) to (15) in the previous section the notice must:
 - inform the applicant of his right to request a review of the suitability of the accommodation (s.193(5)(a), s.193(7), s.193(7AB), s.193A(1)(b) and s.193C(6)).

Effect of exercising the power to make the notice available for collection:

A notice is treated as having been given to the applicant *IF*:

- (1) The notice is in writing and:
 - (a) required to be given to the applicant under section 184; *OR*
 - (b) given under section 189A; *OR*
 - (c) a copy of a written record produced under s.189A(5) or (6); *OR*
 - (d) given under s.189B; *OR*
 - (e) given under s.193B; *OR*
 - (f) given under s.199A; *OR*
 - (g) given under s.200; *OR*
 - (h) given under s.203

AND
 - (2) the notice is not received by the applicant
- AND*
- (3) the notice was made available at the authority's office for a reasonable period for collection by the applicant, or by someone on the applicant's behalf (s.184(6), s.189A(12), s.193B(8)), s.195(9), s.199A(7), s.200(6), and s.203(8)).





Duties once a review request has been received

Once a review request has been made to the authority:

- (1) the authority must:
- (a) notify the applicant that he, or someone acting on his behalf, may make representations in writing to the authority in connection with the review

AND

- (b) notify the applicant of the procedure to be followed in connection with the review (unless they have already done so) ([Allocation of Housing and Homelessness \(Review Procedures\) Regulations 1999 SI No. 71, reg.2\(2\)\(b\)](#))

unless the case falls within [regulation 7](#), i.e. where the original decision under review was made under the [Homelessness \(Decision on Referrals\) Order 1998, SI No. 1578](#) (in which case see [reg. 6\(3\)](#)).

AND

- (2) IF the reviewer considers that there is a deficiency or irregularity in the original decision, or in the manner in which it was made, but nonetheless is minded to make a decision which is against the applicant's interests on one or more issues, he must notify the applicant:
- (a) that he is so minded ([reg.8\(2\)\(a\)](#))
 - (b) of the reasons he is so minded ([reg.8\(2\)\(a\)](#)), and
 - (c) that the applicant, or someone acting on his behalf, may make representations to the reviewer orally or in writing, or both orally and in writing ([reg.8\(2\)\(b\)](#))

AND

- (3) the reviewer must consider any representations made by the applicant or the applicant's representative ([reg. 8\(1\)](#))

AND

- (4) the authority must review the decision ([s.202\(4\)](#))

AND

- (5) IF
- (a) the original decision under review was made by an officer of the authority, AND

- (b) an officer makes the decision on the review

the reviewing officer must be someone who was not involved in the original decision and who is senior to the officer who made the original decision ([reg.2](#))

AND





- (6) the authority must notify the applicant of the decision on the review (s.203(3)) within:
- (a) **eight weeks** from the day on which the review request was made (unless the decision falls within either (b) or (c) below) ([reg.9\(1\)\(a\)](#))
- OR
- (b) **ten weeks** from the day on which the review request was made, where the original decision fell within section 202(1)(d) (i.e. a decision about whether the conditions for referral to a non-Welsh authority are satisfied) and where the review is carried out jointly by the notifying and notified authorities ([reg.9\(1\)\(b\)](#))
- OR
- (c) **twelve weeks** from the day on which the review request was made, where the review concerns whether the conditions for referral to a non-Welsh authority are satisfied, where the decision under review was made by a referee under the [Homelessness \(Decision on Referrals\) Order 1998, SI No. 1578](#) (Homeless Review Regs, [reg. 7](#), [reg.9\(1\)\(c\)](#)).

AND

When notifying the applicant of the review decision

- (7) The authority must:
- (a) notify the applicant of the reasons for the decision, if the decision:
 - (i) confirms the original decision on any issue against the interests of the applicant (s.203(4)(a))
- OR
- (ii) confirms a previous decision:
 - (aa) to notify another authority under section 198 (referral of cases), OR
 - (bb) that the conditions are met for the referral of his case (s.203(4))
- (b) inform the applicant of his right to appeal to the county court on a point of law (s.203(5))
 - (c) inform the applicant of the period within which an appeal must be made (s.203(5)), i.e. within 21 days of him being notified of the decision or, as the case may be, the date on which the applicant should have been notified of the review decision (s.204(2)).

Notes:

- (1) ***Effect of failing to include information in the review decision notification***
 Notice of the review decision is not treated as having been given unless and until:





- (a) the applicant is informed of his right to appeal to the county court on a point of law, *AND*
- (b) the applicant is informed of the period within which an appeal must be made, *AND*
- (c) the applicant is notified of the reasons for the decision *IF* the review decision:
 - (i) confirms the original decision on any issue against the interests of the applicant, or
 - (ii) confirms a previous decision:
 - (aa) to notify another authority under section 198 (referral of cases), *OR*
 - (bb) that the conditions are met for the referral of his case (s.203(6)).

(2) ***Agreeing an extension to the time limit for notifying a review decision***

The period in which the authority must notify the applicant of the review decision may be extended by written agreement between the authority and applicant ([Reg.9\(2\)](#)).

(3) ***Review Procedure Regulations and the 2018 reforms***

At the time of writing it is unclear whether the [existing regulations](#) will apply to reviews of all the 'new' decisions, i.e. decisions that may be made once the Homelessness Reduction Act 2017 comes into force and against which applicants have a right of review.





**MARK
PRICHARD**
SOCIAL HOUSING CONSULTANT

01492 533975 // 07835 545 409

mark@markprichard.co.uk

markprichard.co.uk