



We're here to help you with your housing and homelessness queries.

## February 2019 eBulletin

### Service updates

#### Housing and health event

There are still spaces on our [free event on the 27<sup>th</sup> February 2019](#), where we welcome speakers from Homeless Link, the MHCLG and the NHS for a morning of learning around children and families with a housing need, from a health and social care perspective. You don't need to work in health or social care to attend, although places will be allocated to this staff group first – email us at [nhas@shelter.org.uk](mailto:nhas@shelter.org.uk) to book your place today.

#### Roadshow

We will soon be announcing when and where we will be for our annual spring roadshow. Be the first to know by following our LinkedIn page, joining the closed Facebook group or simply keep an eye on the website.

#### NHAS is on LinkedIn

We are now live on [LinkedIn](#)! Here we will share updates, useful information, event details and much more. We look forward to seeing you there.

#### [Annual review](#) – what you said

Throughout November and December, we asked you a number of questions to find out how you use NHAS and what else you would like to see.



## Focus on: Tenancy deposits

Recently our consultancy line took a call from an advice agency whose client had received a Deposit Protection Certificate as part of the prescribed information provided by the Landlord. However, the Landlord details included in the certificate did not match with the details held regarding the landlord's identity. So how do you know if the prescribed information is valid, and whether a Section 21 would be subsequently valid? What is a Deposit Protection Certificate? Our consultancy line can help you with these sorts of queries, and Clare, our expert adviser gives you an overview of how to help someone with their tenancy deposit in this short film.



We have a number of training sessions available for you to book on to:

- 3 hour In-house briefing: Tenancy deposit protection issues and section 21 notice changes to Assured Shorthold Tenancies from 2015-2018
- 75 minute webinar: Advice on tenancy deposits
- 75 minute webinar: Student advice on tenancy deposits

Go to the training calendar once you've logged in to [www.nhas.org.uk](http://www.nhas.org.uk) to find out when the webinars are scheduled or email us to arrange a session or a briefing [nhas@shelter.org.uk](mailto:nhas@shelter.org.uk).

## News, updates and statistics

### Digital inclusion project brings healthcare technology to the homeless

Homeless and insecurely housed people in Hastings now have access to medical treatment and support thanks to an [innovative digital health care](#) outreach project.

## Housing Minister confirms funding for councils to crack down on rogue landlords

More than 50 councils across the country will share extra [funding to crack down on rogue landlords](#).

## The Severe Disability Premium and Universal Credit

As of 16th January 2019, the following people who get the Severe Disability Premium (SDP) are only required to move to Universal Credit if they are contacted by DWP:

- People who get the SDP as part of their income-based Jobseeker's Allowance, Income Support, income-based ESA or Housing Benefit.
- People who have received the SDP in the past month and remain entitled to it.

DWP will provide transitional protection to ensure people do not lose out when they move to Universal Credit.

Read more in the [housing benefit adjudication circular A1/2019](#) (revised).

## Sign on the dotted line? A new rental contract: Final report

This [report by the Institute for Public Policy Research](#) sets out a programme of radical but necessary reform to address challenges faced by those in the private rented sector.

## A new Housing Complaints Resolution Service is announced

James Brokenshire announces plans for [new housing complaints service](#) for entire housing market – ensuring both homeowners and tenants know where to go when things go wrong.

## [Social Housing: Case for increased provision](#)

This briefing paper was shared ahead of the debate in the House of Lords on 31<sup>st</sup> January.

## Housing Minister tightens up rules on [electrical safety to better protect renters](#)

Landlords will be legally required to check whether the inspectors they hire to carry out and perform electrical safety checks in a rented home are competent and qualified to do so.

## [Rough sleeping in England](#): autumn 2018 – official statistics

This release provides information for autumn 2018 on the single night snapshot of rough sleeping that is taken annually in England.

## Statutory homelessness in England

This briefing paper provides statistics on [statutory homelessness in England](#) and explains local authorities' duties to assist homeless households. The paper includes an overview of, and comment on, Government policy in this area.

## Tenant Fees Bill – opinion of impact assessment

The [Regulatory Policy Committee](#) have provided an opinion piece on the impact of the Tenant Fees Bill.

## Engaging and empowering tenants in council-owned housing

[Tpas have partnered with the LGA](#) to investigate, capture and report on good practice in tenant engagement delivered by councils across the country.

### What's new on [Shelter Legal](#):

- Public Sector Equality Duty
- Older people: remaining at home
- How to calculate Universal Credit
- Migration and transitional protection
- Making a claim for Universal Credit

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## Housing Matters

In the February 2019 edition of Housing Matters:



- Samuel Beswick, from Harvard Law School, examines the relationship between letting agents, landlords and tenants.
- Richard Harmer, a senior solicitor at Shelter, explains how advisers can help clients who have a hoarding disorder which is threatening their housing situation.
- Factsheet: 'Dealing with disrepair'.
- The 'What's new' page includes updates on the Fitness for Human Habitation Act, advice for EU nationals, and changes affecting universal credit.

You can find previous editions of Housing Matters on [our website](#).

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## Case Law

Here is a list of recent homelessness and allocation cases, and cases from other areas of law, which may have significance for homelessness decisions.

### Court of Appeal

#### Safi v Sandwell BC [2018] EWCA Civ 2876

The local authority had not applied the required test when considering if the applicant's accommodation was reasonable to continue to occupy. Following R (on the application of Ali) v Birmingham CC [2009] UKHL 36, reasonableness must be

looked at over time, so, knowing that the applicant was pregnant with her second child, the authority should have asked itself whether it was reasonable for the family to continue to live in their one-bedroom flat both for the present and the foreseeable future. If the answer was no, it should have asked itself how long it was reasonable to expect the family to remain in the accommodation and whether they would be able to obtain suitable accommodation within that time through the allocations scheme.

### **Alibkhiat v Brent LBC : Adam v City of Westminster [2018] EWCA Civ 2742**

Decisions to place homeless applicants out-of-area must be approached in the right way. Each local authority should have a policy for procuring sufficient units of temporary accommodation to meet anticipated demand during the coming year. It should also have a policy for allocating those units to individual homeless households. Where there was an anticipated shortfall of units in its own area, that policy would explain the factors which would be taken into account in offering households those units, the factors which would be taken into account in offering units close to home, and if there was a shortage of such units, the factors which would make it suitable to accommodate a household further away. Both policies should be kept up-to-date and be publicly available. The Court of Appeal held that if a local authority has adopted and implemented lawful procurement and allocation policies, then its decisions to offer out-of-area accommodation under the terms of such policies would generally be lawful and capable of discharging its duties.

### **Powell v Dacorum BC [2019] EWCA Civ 23**

The public sector equality duty (PSED) had not been engaged prior to the council's decision to start possession proceedings against one of its tenants on grounds of rent arrears and persistent anti-social behaviour. Even if, following the tenant's continued criminal activity at the property, the council then breached its statutory duty under section 149 Equality Act 2010 by deciding to request a bailiff warrant to enforce a suspended possession order without first making full enquiries about the tenant's current circumstances, later in the proceedings it remedied any defect of compliance with the PSED by attempting to contact the tenant, his GP and his support services to find out more information, and by carrying out a full assessment and proportionality exercise.

## **High Court**

### **Forward v Aldwyck Housing Group Ltd [2019] EWHC 24 (QB)**

Under section 149(1) of the Equality Act 2010 a public authority must have regard to its duty to avoid unlawfully discriminating against a person with a protected characteristic. To this end a public authority landlord should carry out a public sector equality duty (PSED) assessment prior to deciding to seek possession. The

tenant appealed against a possession order granted to his landlord on the discretionary grounds of nuisance and breach of tenancy following drug dealing from his flat. It was argued that the tenant was potentially a victim of 'cuckooing' (where a vulnerable person's accommodation is taken over by other people for their own ends). The High Court stated that the PSED 'adds value' to disability discrimination legislation in that it requires a broad impact assessment of proposed action. In this case, the Court held that the landlord's PSED assessment was inadequate, however, in the absence of clear evidence of a causal link between the tenant's disability and the drug dealing activity at his property even if the landlord had carried out an adequate PSED assessment this would not have altered the correctness of the lower court's decision that it was reasonable to grant a possession order as a proportionate means of achieving a legitimate aim.

**R (on the application of AR) v Hammersmith and Fulham LBC [2018] EWHC 3453 (Admin)**

The local authority's failure to provide accommodation under either the Care Act 2014 or the Localism Act 2011 to a destitute EEA national who had no right to reside in the UK was lawful. In the absence of any argued need for care and support, the Care Act was not engaged. Casting doubt on the case of R (on the application of GS) v Camden LBC [2016] EWHC 1762, the Court held that a local authority was prohibited from providing accommodation under section 1 of the Localism Act (which gives an authority a 'general power of competence' to do 'anything' for the benefit of those present in its area) because section 2 of that Act expressly prohibits an authority from doing anything which it is prevented from doing by any other legislation. In this case, section 185 of the Housing Act 1996 prohibited an authority from providing housing to a person who is not eligible for housing assistance.

**R (on the application of AE) v Brent LBC [2018] EWHC 2574 (Admin)**

The local authority's assessment that (when seeking accommodation under section 17 of the Children Act 1989 for an intentionally homeless family) properties which were up to one hour's commute from the children's grandparents and their schools would be suitable was upheld. The Court noted that the authority had revised its original position, which had been to offer accommodation further away from the claimant's support network, after it had obtained new medical evidence in relation to the suitability of accommodation. The Court also held that the fact that no suitable accommodation had yet been provided did not mean that the authority had acted unreasonably; it was simply that properties meeting the claimant's requirements were not readily available.

**R (on the application of MIV and Ors) v Newham LBC [2018] EWHC 3298 (Admin),**

There was no breach of a disabled child's individual rights under article 8 of the European Convention on Human Rights where he and his family (who had no

recourse to public funds) were accommodated for eight months by social services under section 17 of the Children Act 1989 in unsuitable accommodation. The lack of room for the child - who suffered from significant global developmental delay and epilepsy – to play and thus to develop did not engage his article 3 rights (ie freedom from inhuman and degrading treatment) because the living arrangements caused no substantial prejudice to the child's life, and, applying the principles in *Anufrijeva v Southwark LBC* [2003] EWCA Civ 1406, it was highly unlikely that a person's individual rights under article 8 would be breached where their 'predicament' was not sufficiently severe to engage article 3.

### **R (on the application of (1) Johnson (2) Woods (3) Barrett and (4) Stewart) v SSWP [2019] EWHC 23 (Admin)**

In calculating the amount of universal credit payable, the general rule is that earned income taken into account in an assessment period should be the actual amount received during that period. The High Court held that the universal credit calculation will sometimes need to be adjusted where the actual amounts received in an assessment period do not match the earned income paid in respect of that period. In this case, because salaries were payable on or around the end of a month, sometimes the claimants received salaries for two different months in one assessment period. Without an adjustment, only one 'work allowance' would apply on such occasions, significantly reducing the amount of universal credit payable.

### **Upper Tribunal**

#### **South Lanarkshire Council v DG (HB) [2018] UKUT 417 (AAC)**

Under regulation 9(1)(d) of the Housing Benefit Regulations 2006, a claimant is to be treated as not liable for rent where the landlord is a parent of the claimant's child. The Upper Tribunal held that the regulation applied whether the parent was a sole landlord or one of joint landlords.

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## **Training**

We have a number of free training sessions running in March, including:

<b>Date and time</b>	<b>Course title and location</b>	<b>Suitable for staff working in</b>
08 <sup>th</sup> 10:00– 16:00	Housing Advice and Relationship Breakdown - Exeter	<a href="#">Eligible advice agencies</a> and Local Citizens Advice

12/13 <sup>th</sup> 10:00 – 16:00	Housing Foundation (2 days) - Birmingham	Eligible advice agencies and Local Citizens Advice
13 <sup>th</sup> 14:30 – 15:45	Public Authorities Duty to Refer – Online course	Local authorities and <a href="#">public authorities</a>
14 <sup>th</sup> 10:00 – 16:00	Homelessness Advice Next Steps - Leeds	Eligible advice agencies and Local Citizens Advice
18 <sup>th</sup> 14:30 – 16:00	Housing Duties to Young People – Online course	Local authorities and public authorities
28 <sup>th</sup> 10:30 – 12:00	Introduction to Mandatory Licensing of Houses in Multiple Occupation – Online course	Local authorities

This is just a sample of what's on offer. Go to [www.nhas.org.uk/training](http://www.nhas.org.uk/training) for more information about the courses and when you can request training to be delivered in-house. Login and go to the training calendar to book a place online and to see if there is anything else available for you to book onto.

Thank you for reading,

The team at NHAS

## Who we are

**We are here to help local authorities, local citizens advice, public authorities and advice agencies with their housing and homelessness queries. Working together with the aim of preventing homelessness, we give expert advice, training and support to those working at the frontline**

Our telephone consultancy service is open 9am – 6pm Monday to Friday, our trainers deliver training courses across the whole of England and our website holds a wealth of information, including past eBulletins, factsheets and guides to assist you with your housing and homelessness queries. You can find out more here: [www.nhas.org.uk](http://www.nhas.org.uk)