

Issue 111 April 2016

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Shelter helps over a million people a year struggling with bad housing or homelessness – and we campaign to prevent it in the first place.

We're here so no-one has to fight bad housing or homelessness on their own.

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Until there's a home for everyone

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Housing matters

Housing matters is produced by Shelter for the NHAS and aims to provide a source of up-to-date housing and homelessness news, focus on important case law, cover key legal issues, and produce information for public use.

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Housing matters welcomes contributions from NHAS members. If you would like to provide an article or update for *Housing matters* please email JackieL@shelter.org.uk

National Homelessness Advice Service

The National Homelessness Advice Service (NHAS) is a partnership between Shelter and Citizens Advice funded by the Department for Communities and Local Government.

The service aims to prevent homelessness and remedy other housing problems through increasing public access to high-quality housing advice in England, including online information on the NHAS website at www.nhas.org.uk

The NHAS provides the following to local authorities, local Citizens Advice (LCAs) and around 200 other advice agencies in England:

- a national telephone housing advice consultancy service for local authorities, local Citizens Advice and around 200 other advice agencies in England.
Call **0300 330 0517** 9am–6pm, Monday to Friday, or send in an enquiry using the online enquiry form available on the members' areas of www.nhas.org.uk
- housing debt casework - specialist support for cases relating to mortgage arrears and other problems with housing affordability, including welfare benefits issues.
Call **0300 330 0517** or use the online enquiries form (see above for details)
- free basic housing advice training courses to develop housing advice skills, covering the main housing advice presenting issues and how to advise households effectively on homelessness prevention options
- written briefings, articles in *Housing matters* and *Adviser*, information on housing issues and other written materials
- support in the implementation of new homeless prevention initiatives.

Contact details

For more information about NHAS training, please email JoanneK@shelter.org.uk or call **0344 515 1676**.

For general enquiries about the NHAS service, please email nhas@shelter.org.uk or call **0344 515 2268**.

Alternatively, please use the 'contact us' page at www.nhas.org.uk



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What's new?

Benefit cap

Section 8 of the Welfare Reform and Work Act 2016 provides that the benefit cap is to be reduced from £26,000 per household a year (or £18,200 for single people) to:

- £23,000 (£15,410 for single people), when living in Greater London
- £20,000 (£13,400 for single people), when living elsewhere.

The government announced on 9 February 2016 that the reduced cap will take effect in autumn 2016, but the actual commencement date is not yet available. See tinyurl.com/HansardBC

Housing benefit changes

The Housing Benefit (Abolition of the Family Premium and date of claim) (Amendment) Regulations 2015 SI 2015/1857 makes two important changes:

- 1) with effect from 1 April 2016, it provides that a claim for housing benefit from a claimant of working age can be backdated for a maximum period of one month from the date of the request. No change is made for claimants of pension age
- 2) with effect from 1 May 2016, it abolishes the family premium. The family premium will not be included in the applicable amount for any new entitlements to housing benefit, or for any existing claimants who have a child or become responsible for a child (under 16) or young person (under 20) for the first time after 30 April 2016. Existing claimants who already qualify for the family premium will be entitled to have the premium included in their applicable amount. However, when they cease to qualify for the family premium, it cannot be included again at a later date.

Further information on both changes can be found in HB Circular A3/2016, available at tinyurl.com/circulars2016

Right to rent guides

The Joint Council for the Welfare of Immigrants (JCWI) has published a guide on the 'right to rent' checks for private sector tenants and advisers. JCWI is asking anyone affected to contribute evidence of their experiences of the right to rent scheme checks. The guide contains the list of all acceptable documents, and a helpful flowchart, and can be found at tinyurl.com/R2R-JCWI

Support for mortgage interest

With effect from 1 April 2016, the Social Security (Housing Costs Amendments) Regulations 2015 SI 2015/1647 provide that the waiting period before support for mortgage interest (SMI) is paid on new claims from claimants in receipt of income support, income-based JSA, or income-related ESA will be 39 weeks. For claims made before 1 April 2016 the period was 13 weeks.

The Regulations also increase the waiting period, from three to nine months, for claims for mortgage interest payments under universal credit made on or after 1 April 2016.

Reductions in social and affordable rents

With effect from 1 April 2016, section 23 of the Welfare Reform and Work Act 2016 requires local authorities and private registered providers of social housing to reduce rents by 1 per cent per annum in each of the next four years. For social rents, the reduction applies only to the rent element and not to any service charges; for affordable rents the reduction applies to the total rent, inclusive of service charges. Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 SI 2016/390 sets out the exceptions to, and exemptions from, the rent reduction requirement. Guidance on how the rent reduction regime will apply is available at tinyurl.com/socialrent1

Court fees

Increases to civil court fees came into effect on 21 March 2016. This includes an increase to the fee for issuing proceedings in possession claims from £280 to £355, unless the claim is made online through the PCOL system when the fee increases from £250 to £325. For full details of the new fees go to tinyurl.com/fees2016

High Court enforcement

The High Court will not give permission for a writ of possession (necessary for eviction of tenants following a possession order when using the High Court) unless the tenant has been given notice of the proceedings. In *HOMAT 110* – February 2016, we highlighted that some High Court Enforcement Officers (HCEOs) had been using the wrong procedure in the eviction process and tenants had been evicted without receiving the required notice. The Senior Master of the High Court issued a practice note to ensure that this malpractice stops. The note can be found at tinyurl.com/HCEOpractice

A right to rent?

The Right to Rent scheme has been operating as a pilot in the West Midlands since 1 December 2014.

On 1 February 2016 it was extended to the whole of England.

In this article, Clare Wall examines the scheme and its implications for occupiers in England.

Clare Wall is a senior housing adviser working for the National Homelessness Advice Service.

Under the Right to Rent scheme, private landlords (or their agents) must check the immigration status of prospective tenants, lodgers and any adult members of their households who will occupy accommodation as their main home, to establish if they have a right to rent.¹

Landlords will need to carry out follow-up checks in some situations.

When checks are needed

The Right to Rent scheme applies to new private residential tenancy agreements granted on or after:

- 1 February 2016 in England²
- 1 December 2014 in the pilot area.³

Right to rent checks are not needed when a private renting agreement began before these dates, or when such an agreement is being renewed and the landlord and the occupiers remain the same.⁴

For the purposes of the scheme, residential tenancy agreements include licences and sub-tenancies.⁵ A residential tenancy agreement (whether written or oral) is an agreement that gives a right of occupation for residential use, provides for payment of rent and is not an excluded agreement (see below for details of excluded agreements).

Landlords must carry out right to rent checks on all people over the age of 18 who will live in the property as their only or main home whether or not they are named on the agreement, and regardless of whether it is a written or verbal arrangement. Where a landlord has any doubt, they should assume that a person occupies a property as their main home and carry out a check.

No checks are needed on children under the age of 18, or house guests (ie visitors whose home is elsewhere or who don't pay rent. Contributions towards food and fuel that are not linked to the agreement to live in the premises don't count as rent).

Codes of practice

There are three statutory codes of practice in relation to the scheme:

- 1) one that applies to residential agreements that started before 1 February 2016 in the pilot area⁶

- 2) one that applies to residential agreements that started on or after 1 February 2016 and to agreements that started before but require follow up checks after that date.⁷ This is referred to as the 'Code of Practice' in this article
- 3) one that advises landlords on how to avoid unlawful discrimination when carrying out right to rent checks.⁸

Subletting and lodgers

Anyone granting a sub-tenancy or taking in a lodger will be treated as a landlord for the purposes of the Right to Rent scheme. However, their own landlord will have to carry out the checks if:

- the tenant asks for permission to sub-let to a specific person and the landlord agrees. This is because the agreement to the sub-let is seen as a variation of the original agreement, and any variation of an agreement leads to a new residential tenancy.⁹ Someone in this position is strongly advised to get a written statement from the landlord that the landlord will carry out the checks.
- the landlord agrees in writing to do the right to rent check.¹⁰

Excluded agreements

Agreements that grant a right to occupy the following are excluded from the scheme:¹¹

- most refuges and hostels
- holiday lets
- housing provided by/through social services under sections 17 or 20 of the Children Act 1989, or under section 18 of the Care Act 2014
- housing provided through a local authority allocation scheme, or under homelessness duties (including private sector leased housing but not accommodation provided under a rent deposit scheme)
- student accommodation (see below) and accommodation provided in connection with vocational training
- accommodation provided to asylum seekers under sections 4, 95 or 98 of the Immigration and Asylum Act 1999.
- care homes, hospitals and hospices

- mobile homes and tied accommodation
- fixed terms of seven or more years with no break clause, and long leases.

Student accommodation

Excluded student accommodation includes:¹²

- a hall of residence (whether the landlord is an educational institution or private)
- accommodation provided for students directly by an educational institution (or certain other charitable bodies)
- any agreement where a student has been nominated to occupy the accommodation (including a privately rented property) by an educational institution or certain charitable bodies.

Where a nomination is made, the institution should provide evidence of this to the landlord. It is not clear whether a nomination could cover the entire duration of a course of education, and therefore exempt the student from the need for follow-up checks.

Who has a right to rent?

The table shows who has a right to rent:¹³

Unlimited right to rent	British citizen/ Commonwealth citizen with right of abode; EEA/ Swiss national; person with indefinite leave/ permanent right to reside
Time-limited right to rent	Person with limited leave to remain in UK, eg students, people on work permit, refugees; non-EEA national exercising derivative right to reside (eg 'Zambrano' carer or carer of child in full-time education); person with Home Office grant of discretionary time-limited permission to rent

Evidence of a right to rent

Prospective occupiers must provide evidence of their right to rent in accordance with a list of acceptable documents. A comprehensive list, with detailed explanations of each form of evidence, can be found in the *'Right to Rent Document Checks: a User Guide'* (the 'User Guide') available on Gov.UK.¹⁴ The User Guide also explains what to do if proof of status has been lost or stolen, or does not exist. The Appendix to this article lists all the documents that can prove a right to rent.

Advisers should be aware that there are companies offering a 'Right to Rent' certificate for a fee.¹⁵ Such a certificate is not an acceptable document and caution should be taken with these companies.

There are a number of adults living lawfully in the UK who may never have needed to prove their right of residence. They include non-European Economic Area (EEA) nationals with a derivative right of residence, non-EEA national family members of an EEA national or a person with 'Zambrano' rights. Such people can obtain a residence card from the Home Office. Advisers should consider routinely asking people with these rights of residence if they have a residence card and should advise them to obtain one (even if their query does not relate to renting).

Carrying out the checks

A landlord must obtain original versions of the acceptable documents, check them in the presence of the renter (or via a live video link), and keep copies safely on file for one year after the person moves out.

The Home Office provides an online Landlord Checking Service that can be used to check if a person with an outstanding application or appeal with the Home Office, or whose documents are with the Home Office, has a right to rent.

A landlord can call the Landlord Helpline at the Home Office on 0300 069 9797 for help carrying out a right to rent check.

Follow-up checks

If a person has a time-limited right to rent and the rental agreement continues without any changes, the landlord must carry out a follow-up right to rent check no earlier than the latest of the following:¹⁶

- a year after the last checks were made
- when the person's leave to remain in the UK expires
- when the validity of the person's leave to remain or right of reside in the UK expires.

So, this means that a person who has a time limited right to rent for six months will not be subject to a follow-up check for a minimum of 12 months.

A landlord must report the expiry of an occupier's right to rent to the Home Office.

If a person knows that their immigration status is due to change within the period of

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11.8.7.10 Immigration checks by landlords

Footnotes

¹ s.22 Immigration Act 2014.

² Immigration Act 2014 (Commencement No. 6) Order 2016 SI 2016/11.

³ Art.6 Immigration Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2014 SI 2014/2771. The pilot area was Dudley, Birmingham, Sandwell, Walsall and Wolverhampton.

⁴ s.35 Immigration Act 2014.

⁵ s.20 Immigration Act 2014.

⁶ Code of practice on illegal immigrants for tenancies which started before 1 February 2016. See tinyurl.com/preFeb16Code

⁷ Code of practice on illegal immigrants and private rented accommodation, Home Office 12 February 2016 ('Code of Practice' in these footnotes). See tinyurl.com/R2RCode

⁸ Code of practice for Landlords - avoiding unlawful discrimination when conducting 'right to rent' checks in the private rented residential sector, Home Office, October 2014. See tinyurl.com/R2RCode

⁹ art.3 The Immigration (Residential Accommodation) (Prescribed Cases) Order 2014 SI 2014/2873; see also para 4.1 Code of Practice.

¹⁰ s.23 (5) Immigration Act 2014.

¹¹ sch.3 Immigration Act 2014; see also para 3 Code of Practice

¹² sch.3, paras 11 and 12 Immigration Act 2014.

¹³ s.21 Immigration Act 2014, para 2 Code of Practice.

¹⁴ sch.1, Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) Order 2014/2874 as amended by the Immigration (Residential Accommodation)(Prescribed Requirements and Codes of Practice) Order 2016/9. See also tinyurl.com/R2Rdocs

¹⁵ for an example see tinyurl.com/R2R-cert

¹⁶ s.27(4) Immigration Act 2014.

a year, or that the last right to rent check was more than a year ago, they should obtain evidence of their status swiftly. This could include applying for further leave or for evidence of any new status.

No follow-up checks need to be carried out once a person has proven an unlimited right to rent, as long as the agreement is not changed by the landlord to allow new occupiers to be added to it.¹⁷

Where a landlord knows that an occupier will turn 18 years old during the term of the agreement, the landlord does not need to carry out a check on them at the start of the agreement. Their right to rent will be investigated at a follow-up check, should one become necessary.

Expired documentation

An expired British, European Economic Area (EEA) or Swiss passport with a recognisable photograph is enough to show that a person has an unlimited right to rent. A current or expired passport from another country is also acceptable if it proves the person's right to be in the UK indefinitely (eg due to visa stamps on it).¹⁸

Expired documents are not acceptable evidence of a time-limited right to rent.

Family members

A person will be seen as a landlord if a family member is making a regular financial contribution towards the rent. Paying bills or buying food for the household could count as rent if linked to the renting arrangement. Therefore, the family member would technically need a right to rent check. However, the Code of Practice advises that where 'due to a pre-existing relationship with the occupier' the landlord knows enough about a person's immigration status, s/he can avoid to carry out right to rent checks.¹⁹

For example, a parent could argue that they know the immigration status of their child and so no check is needed. Where a person has any doubt about a family member's immigration status they should carry out a check as failure to do so could lead to a fine.²⁰

Penalties

Failure to conduct the checks or report to the Home Office the expiry of an occupier's limited right to rent at the time of conducting a follow-up check, and the provision of accommodation to a person with no right

to rent, may lead to a fine of £1000 per tenant and £80 per lodger, rising respectively to £3000 and £500 for repeated non-compliance.²¹ Enforcement will be carried out by the Home Office.²²

Discrimination

It is unlawful to discriminate against a person on the basis of colour, nationality, ethnic or national origins when renting out a home. The government has stated that landlords will not be acting in a discriminatory way as long as they carry out checks on all prospective adult occupiers.²³ Advisers should be aware that a person who feels they have faced discrimination can claim compensation.²⁴ Legal aid may be available for this if the person is on a low income.

Anyone with experience of the Right to Rent scheme, including housing advisers and local authorities, can contact the Joint Council for the Welfare of Immigrants (JCWI), who is monitoring the scheme.²⁵

No right to rent - eviction

A landlord cannot evict a tenant simply because their limited leave or visa expires during the life of the tenancy. When a landlord's follow-up check shows that an occupier no longer has a right to rent, the landlord must report this to the Home Office to avoid a penalty, but is not required to evict that occupier.²⁶

Advisers should look out for clauses in tenancy agreements stating that the tenant must have a right to rent - such a clause may be unenforceable if it purports to remove the right of an occupier to remain in occupation having initially passed a right to rent check.

Options where no right to rent

For people already renting a property prior to the commencement of the scheme, the advice may be to try to ensure that the agreement continues (or is renewed) and no changes (such as adding a new person to the agreement) are made to it unnecessarily as this could give rise to a right to rent check.

Where a person with no right to rent is homeless, they may be able to find accommodation that is excluded from the scheme such as a hostel or refuge, or accommodation that is free of charge such as staying with friends. In some circumstances social services might provide help with accommodation under the Care Act 2014, or under section 17 of the Children Act 1989.

Footnotes

¹⁷ para 5 Code of Practice.

¹⁸ arts. 6 and 7 Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) Order 2016/9; para 5.2 Code of Practice, List A Group 1.

¹⁹ para 3.6 Code of Practice.

²⁰ para 7 Code of Practice.

²¹ s.23(2) Immigration Act 2014.

²² tinyurl.com/R2R-enforce

²³ p.4 Code of practice for landlords - avoiding unlawful discrimination when conducting 'right to rent' checks in the private residential sector, Home Office, October 2014.

²⁴ See Citizens Advice website tinyurl.com/R2R-CAB and Equality Advisory Support Services (EASS) website tinyurl.com/EASS-advice or contact the EASS Advice line on 0808 800 0082.

²⁵ tinyurl.com/R2R-JCWI

²⁶ Currently, if a landlord wants to evict an occupier whose limited right to rent has expired, they will need to follow the appropriate process for lawful eviction. The Immigration Bill 2015/16 proposes changes that would allow a landlord to end a tenancy due to an occupier not having a right to rent but this is not law yet. For a commentary on the Immigration Bill and the changes it could bring see tinyurl.com/HOCR2R

An illustrated list of documents proving a right to rent, plus the list of 'acceptable professionals' can be found on Gov.uk at tinyurl.com/R2Rdocs

Unlimited right to rent

Any **one** of the following will prove an unlimited right to rent:

- (current or expired) UK/EEA/Swiss passport or national identity card
- (current or expired) registration certificate/document certifying the permanent right to reside of EEA/Swiss nationals
- (current or expired) 'permanent' residence, 'indefinite leave to remain', 'indefinite leave to enter' or 'no time limit' card certifying the permanent right to reside of a non-EEA national who is a family member of an EEA national
- (current or expired) biometric 'residence permit' card certifying that the holder has 'indefinite' leave in the UK, or has 'no time limit' on their stay in the UK
- (current or expired) passport or other 'travel document' endorsed by the Home Office to show that the holder is either 'exempt from immigration control', has 'indefinite' leave in the UK, has the 'right of abode' in the UK, or has 'no time limit' on their stay in the UK
- current immigration status document with a valid endorsement by the Home Office to show that the holder is either 'exempt from immigration control', has 'indefinite' leave in the UK, has the 'right of abode' in the UK, or has 'no time limit' on their stay in the UK
- certificate of registration or naturalisation as a British citizen.

Any **two** of the following will also prove an unlimited right to rent:

- UK full birth or adoption certificate
- current full or provisional photo card UK driving licence
- evidence of current/past service in the UK armed forces
- paperwork relating to the prospective occupier's welfare benefits
- criminal record check

- letter from UK further/higher education institution, prison service, government department or local authority and/or national offender management service
- letter of testimony from an employer containing the employee's reference/national insurance number
- letter from a private rented housing access scheme (voluntary sector or public authority)
- letter from the police confirming (with a crime reference number) the theft of a passport or biometric immigration document
- letter from a UK passport holder who is an 'acceptable professional' (eg doctor, teacher or solicitor) confirming that the writer has known the holder for more than three months.

Letters, criminal records checks and benefits paperwork must all have been written or issued within three months of the check and must contain relevant details of the prospective occupier.

Time-limited right to rent

Any **one** of the following will prove a time-limited right to rent if the document shows the holder has permission to live in the UK for a time-limited period:

- current passport / other travel document
- current biometric residence permit card
- current 'residence card' (including an accession residence card or a derivative residence card) issued by the Home Office to a non-EEA national who is either a 'family member' of an EEA or Swiss national or has a 'derivative' right of residence
- current non-EEA national residence card.

Home Office checking service

Where a prospective occupier cannot provide acceptable evidence but says their documents are with the Home Office, a landlord can use the landlord's online checking service to receive verification that the person can rent. The Home Office aims to respond to such queries within two days.¹

Under the Right to rent scheme, landlords must obtain, check and retain copies of documents that prove an occupier's right to rent.

This appendix lists the documents that a landlord can accept as evidence of a right to rent

Footnotes

¹ See tinyurl.com/askHOcheck

Support for mortgage interest – a longer wait

The waiting period for Support for Mortgage Interest (SMI) increases from 1 April 2016.

In this article Muhammed Williams, a housing debt caseworker with the NHAS, looks at this sometimes poorly understood benefit, and considers how the change will affect claimants.

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9.4.4.41 Income support or income-based jobseeker's allowance and housing costs

9.2.0.0 Universal credit

Footnotes

¹ Sch. 5 part 4 Universal Credit Regulations 2013 SI 2013/376.

² Those in full service digital areas. See Gov.uk for details.

³ Welfare Reform Act 2012 (Commencement No. 9 etc.) Order 2013 SI 2013/983 Sch 5, para (5); ADM Memo, Chapter M3, M3112.

⁴ SI 2015/1647

⁵ Part 4 Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 SI 2008/3195.

⁶ Note that the mortgage rescue Scheme ended in March 2014.

Support for Mortgage Interest (SMI) helps owner occupiers to pay their mortgage interest, and the interest on loans secured on their home that have been taken out for repairs or improvements to the home in which they normally live. To qualify, a home owner must be in receipt of:

- income support
- income-based jobseekers allowance (JSA-IB)
- income-related employment and support allowance (ESA-IR), or
- pension credit.

The housing costs element for owner occupiers similarly helps universal credit (UC) claimants with mortgage interest and the interest on loans secured on their home.¹ At the time of writing, only a limited number of UC claimants can get help with mortgage costs² because 'gateway conditions'³ exclude the majority.

Universal credit claimants are outside the scope of this article.

Conditions for support

Claimants of working age who are entitled to qualifying benefits can claim SMI on loans up to £200,000. People of pension credit age are subject to a capital limit of £100,000.

The interest rate used to calculate SMI is a standard rate, regardless of the actual interest rate payable on the claimant's loan. It has decreased steadily from 6.08 per cent in 2005 to its current rate of 3.12 per cent. SMI payments are made directly to the claimant's lender.

For JSA(IB) claimants only, payments of SMI stop after two years.

Claiming support

SMI claimants must ask either Job Centre Plus or the Pension Service for Form MI 12, and send the completed form to their lender. The lender in turn should forward it to the Department for Work and Pensions (DWP) with the required information about the claimant's loans.

It is up to the claimant to ensure their lender returns the form to the DWP. It is not uncommon for the form to get lost in the process, so advisers should be aware that repeat applications may have to be made.

Waiting time

From 1 April 2016, the Social Security (Housing Costs Amendments) Regulations 2015⁴ increase the waiting period for SMI from 13 to 39 weeks. Claimants who are in a waiting period on 31 March 2016 receive transitional protection. There is no waiting period for pension credit claimants.⁵

For homeowners who depend on this vital safety net during illness, or following unemployment, relationship breakdown or death of a partner, the longer waiting period may increase the likelihood of possession action from lenders and leave them with no other options to keep their homes.⁶

Prior to January 2009, when it was reduced to 13 weeks, the waiting period for SMI was 39 weeks. Experienced housing debt advisers will recall how claimants used to react in disbelief, shock or despair when they were advised that they would have to wait for 39 weeks before their lenders would start receiving payments, but also how that reaction did not change much even when the period changed to 13 weeks.

Need for awareness of SMI

It is not only the waiting period that is a problem with support for homeowners in mortgage arrears. Historically, the lack of awareness of SMI meant it was often overlooked by benefits assessors at the DWP, and by councils and lenders, as well as advice agencies. It is not uncommon to hear homeowners say that they approached the council to apply for 'housing benefit' or other assistance and that they were advised they were not entitled to any housing support.

Advisers not only have the difficult task of explaining that help is available, but also that from 1 April 2016 someone who needs help will have to wait 39 weeks for it.

Debt advice in London Borough of Barnet

Feature

Since 1 January 2016 Shelter has been delivering specialist debt advice in the London Borough of Barnet as part of the Capitalise project. Capitalise is a London-wide partnership of 15 independent advice organisations, Citizens Advice Bureaux and Law Centres providing debt advice across London. Capitalise is funded by the Money Advice Service, and the partnership is led by Toynbee Hall.¹

Aims of the service

Shelter's debt advice service:

- provides advice and casework assistance to prevent or resolve problems with debt
- enables people in debt, or at risk of debt, to manage their money and avoid debt more effectively in the future
- connects clients to other appropriate services to best meet their needs.

The service is provided by a senior debt adviser and a debt advice assistant.

Who can use the service?

The service is mainly for people who are working, training or living in Barnet, but people from neighbouring London boroughs can also use the service if they come for face-to-face advice (see access details below).

People might contact the service because they:

- are struggling to pay bills
- have outgoings exceeding income
- have received letters threatening them with debt collection or court action
- need to negotiate a payment plan with creditors
- want to challenge a debt
- have gas, electricity or water arrears.

Clients do not need to show a housing problem linked to the debt.

What can service users expect?

All clients will have an initial assessment of their needs completed either at a drop-in or over the telephone. Depending on the outcome of the assessment, the client will receive immediate one-off advice, or book

an appointment with a specialist debt adviser. Alternatively, if appropriate, the client might be referred to a national debt advice service (eg StepChange or National Debtline) and given self-help materials.

Case study

Mr P asked Shelter for help after his claims for income-based jobseekers allowance (JSA-IB) and housing benefit (HB), made after he was made redundant, were refused.

Mr P and his wife lived with their two school-age children in local authority housing. Their income comprised only child tax credit and child benefit. They had accumulated rent arrears of £1,000 and had received a notice of seeking possession from the council. They were relying on family for financial support.

Mrs P owns a studio apartment which her elderly father occupies. The debt adviser found that Mr P's applications for JSA-IB and HB had been refused for exceeding the capital limit of £16,000 for means tested benefits as a result of his wife's property.

We advised Mr P that the value of a partner or relative's home can be disregarded for the purpose of HB and JSA-IB if it is occupied by someone of pension credit age.² We asked the landlord to put possession action on hold while the outcome of the JSA and HB claims were processed. We referred the family to a local food bank scheme in the meantime.

The outcome of our intervention was backdated awards of HB and JSA, sufficient to pay off all the rent arrears, and to enable Mr and Mrs P to remain in their home. As a result of their increased income, they were able to manage their bills and other payments and were no longer reliant on family to provide financial support.

Access to the service

Clients wanting debt advice in Barnet can:

- attend a face to face drop-in surgery at Barnet Citizens Advice Bureau³
- phone: 0344 515 1258
- email: barnetdebtadvice@shelter.org.uk

Shelter's Debt Advice Service in Barnet is part of a wider partnership providing free debt advice across London.

Shelter London Advice Services Team Leader Amy Nyemecz and Senior Debt Adviser Karenina Page tell us about the service.

Footnotes

¹ tinyurl.com/TBhall

² sch.6 para 4(a) Housing Benefits Regulations 2006 SI 2006/213; sch.8 paras 4 and 5 Jobseeker's Allowance Regulations 1996 SI 1996/207.

³ 40-42 Church End, London, NW4 4JT, available every Monday and Friday morning 9:30am – 12:30pm.

Right to rent

This leaflet looks at the requirement for private landlords and their agents to check the immigration status of new occupiers of their premises, and to only rent to people who have a 'right to rent'.

From 1 February 2016, your landlord (or a letting agent) must carry out checks on your identity and immigration status to make sure you have a 'right to rent' before they can let you move in to private rented housing. A landlord can be fined for not making checks.

No right to rent checks have to be carried out on you if your renting agreement began before 1 February 2016 (or 1 December 2014 if you live in Birmingham, Dudley, Sandwell, Walsall or Wolverhampton). However, if your landlord ever changes your agreement to let new people move in with you, a check will be made from that point.

People who live with you

Your landlord will check that any adult who wants to live with you also has a right to rent. The following don't have to be checked:

- children under the age of 18
- a guest whose home is somewhere else or who doesn't pay you rent. Contributions towards food or bills don't usually count as rent.

Lodgers and subtenants

If you take in a lodger, or rent out your home or part of your home, you are responsible for checking your lodger's or sub-tenant's immigration status, unless your own landlord has confirmed in writing that they will do the checks.

Unlimited right to rent

You have a right to rent with no restrictions if you are a:

- British citizen
- citizen of an European Economic Area country or Switzerland
- citizen of another country, with no time limit on your permission to live in the UK.

Time-limited right to rent

If you have the right to live in the UK for a limited period (eg if you are here on a work or study visa) then you have a 'time-limited' right to rent until your permission to live here ends. The right to rent check must be made no later than 28 days before you move in.

Your landlord must make a follow-up check at a later date to make sure you still have the right to rent.

The follow-up check must happen no sooner than 12 months after you move in, as long as the rental agreement you have with your landlord doesn't change.

Proving your right to rent

Your landlord will ask to see your passport or another official document that proves your identity and immigration status. Some documents are not sufficient evidence by themselves and must be provided with a second form of evidence.

The full list of acceptable documents can be found in the government's *Right to rent documents check: a user's guide*. You can find it on the [Gov.uk website](http://Gov.uk).

Check this guide carefully. Avoid using companies that offer to provide you a 'right to rent certificate' – this is not acceptable evidence.

If your right to rent ends

If your landlord's checks show your right to rent has ended, they must report this to the Home Office.

If your landlord wants you to leave, they must give you proper notice and follow the correct legal process for eviction. Unless you live with your landlord, they must get a possession order from the court and must use court-approved bailiffs to evict you.

Storing your documents

Your landlord must take copies of your original documents and keep them safely for 12 months after your rental agreement ends.

Discrimination against occupiers

Landlords should not discriminate against you on the basis of things like your race or religion. Get advice if you think a landlord is discriminating against you. If you are on a low income you might qualify for help with legal costs to fight discrimination.

Further advice

You can get further advice from Shelter's free* housing advice helpline (0808 800 4444), a local Shelter advice service or local Citizens Advice, or by visiting shelter.org.uk/advice or adviceguide.org.uk

*Calls are free from UK landlines and main mobile networks.



Note
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