



## CH/150/2015 and others

### Case law

Case law date	05/05/2015
Commission/Judge	Judge Turnbull

**Direct provision of “support” – when is assistance to tenants capable of counting as “support” – help with HB claims - disputes – moving elsewhere**

#### The background and the outcome

In this case, Throughcare Housing and Support Ltd (“Throughcare”) was providing supported housing of a temporary nature to some 100 occupants. The HB claimant was a man with a history of an irregular lifestyle, and significant difficulty in coping with the day-to-day demands of independent life. After a tribunal allowed the HB claim under the exempt accommodation provisions the local authority appealed to the Upper Tribunal.

The Upper Tribunal set the tribunal’s decision aside on the grounds that it (i) had not make sufficiently precise findings and (ii) did not explain why it accepted oral evidence despite obvious discrepancies in the documentary evidence. The Upper Tribunal remitted the case and provided detailed directions to the new tribunal.

#### Practice Points

##### *Help with HB claims*

Judge Turnbull reiterated that the starting point is that if the HB issue that arises is within the landlord’s knowledge, an ordinary landlord will usually assist and hence this will not count as support. However, what a general social landlord will “usually do” is a question of fact rather than law and the answer can vary from case to case. (Compare R(H) 4/09, paras 252 to 256 and *Chorley Borough Council v IT(HB)* [2009] UKUT 107 (AAC), paras 85 to 88). In the instant case, the claimant’s HB award had been suspended, owing to a lack of evidence of his jobseeker’s allowance award continuing. Throughcare prompted him on several occasions to produce the necessary evidence. The Judge said this could count as support as it showed that Throughcare were willing to go beyond what a general needs social landlord would normally do (para 35(4)(c)).

##### *Help with disputes between tenants*

Judge Turnbull accepted a submission by Throughcare that, given the histories and characteristics of the tenants accommodated by them, this led to a greater frequency of disputes between tenants, and therefore a greater need to mediate between them than would be the case in general needs social housing. The Judge acknowledged that if the type of tenants accommodated by Throughcare did lead to increased work in resolving disputes, then this was capable of amounting to



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support (para 35(6)).

## *Helping tenants to move on elsewhere*

The claimant had been shown how to “bid” online for more permanent accommodation elsewhere. The Judge said that in the context of accommodation that was intended only to be temporary, pending the finding of more satisfactory and permanent accommodation, this assistance, was capable of counting as support. Judge Turnbull acknowledged that he had previously said that this would not count as support R(H) 4/09, paras 259 to 262), but explained that this had been said in a different context, where the accommodation was intended to provide the tenants with a permanent home (para 35(4)).

## *Whether outcome one tenant determinative for others*

As a general rule, deciding whether a claimant's accommodation was “exempt accommodation” needs to be based on an assessment of individual claimant rather than the accommodation (See CH/1289/2007, at paras. 27 to 32). However, in a case where the landlord has a substantial number of tenants, the Judge accepted that it may be possible to regard the outcome of an appeal in relation to one or more of those tenants as determinative, in cases where those tenants (or licensees) all had broadly the same sorts of need (para 35(2)).