



What does care, support or supervision provided by someone "acting on the landlord's behalf" mean?

Basic info

There are two requirements for care, support or supervision (CSS) to be provided by someone "acting on the landlord's behalf":

- The CSS provider must be answerable to the landlord rather than a third party
- The CSS itself must be provided on the landlord's behalf: it is not sufficient for the CSS provider to be acting on the landlord's behalf in some other way while providing CSS on behalf of a third party

CSS is often commissioned by local authorities from specialist CSS providers. In such a case, the CSS is being provided on behalf of the authority so unless the CSS provider is also the landlord the CSS is provided neither by nor on behalf of the landlord and the claimant does not occupy exempt accommodation.

Case law

In R(H) 2/07 and again in R (oao "S") v Social Security Commissioner (2009) EWHC Admin 2221 it was argued that the CSS provider was acting on the landlord's behalf in a wider sense in that a person with a severe learning disability cannot sustain a tenancy without receiving CSS. Because the landlord relies on CSS being provided by someone in order to maintain the viability of the tenancy, it was argued, the CSS is provided on the landlord's behalf.

This argument was rejected: acting on the landlord's behalf means a person acting under the direct instruction of the landlord - someone whom the landlord has brought in to carry out duties that would otherwise fall to the landlord.

In CH/1246 & 1247/2007, the CSS provider was commissioned by the local authority to provide CSS and commissioned by the landlord to provide property management services. It was argued that, because the CSS provider was directly commissioned by the landlord (albeit for a different purpose), the CSS was provided by someone acting on the landlord's behalf. But the Commissioner rejected this argument and said that the CSS itself must be delivered on the landlord's behalf.