

**From advocate to housing options
Representations in connection with homeless application
Request for financial assistance or social housing because client cannot afford private rental**

[Address of homelessness assessment team]

By first class post & email to [email address]

[Date]

Dear Sirs

**Our client: [Name] of [address]
Housing applications under Housing Act 1996, Part 6 and 7
Request for financial assistance**

We are [currently supporting and advising [Name] / instructed by [Name] to act in this matter], and enclose signed authority for us to act on [his/her] behalf.

This letter is further to our previous correspondence in this matter dated [date], to which we have yet to receive any substantive response].

Facts

Our client applied for housing on [date]. [She/He] requested assistance on grounds of homelessness and submitted a housing register application.

On [date] you accepted that our client was [threatened with homelessness / homeless] and owed the [prevention / relief] duty under section [195 / 189B] of the Housing Act 1996 (“the 1996 Act”).

On [date] you wrote to our client, and confirmed the outcome of your assessment under section 189A of the 1996 Act. A Personal Housing Plan (“PHP”) dated [date] was enclosed.

Our client continues to occupy [his/her] tenanted accommodation at [address]. On [date] the landlord applied to the county court for a possession order. [Our client has no defence to that application].

We enclose documents confirming our client’s income and expenditure, namely:

1. Universal Credit (“UC”) entitlement letter of [date].
2. UC statement dated [date]. This confirms that [s/he] is currently receiving a total of £[...] per month, which is [e.g. the full standard allowance for a single person].
3. Income and expenditure statement, listing our client’s income, totalling £[...] per month, and expenditure of £[...] per month.

Our client’s PHP confirms the steps which the authority has agreed to take, including:

[Insert from PHP, e.g...] “Provide advice on how to look for privately rented accommodation, including how to find properties advertised as available to rent by landlords and letting agencies.”

“[Further steps from PHP, as appropriate].”



As a [single] person our client is entitled to claim Universal Credit housing costs up to the Local Housing Allowance (“LHA”) rate for [one] bedroom properties.

In the authority’s district this is £[...] per week, equivalent to £[...] monthly.

Our client has no other income, or relatives who are able help financially.

Our client has looked for privately rented one-bedroom accommodation. However on every occasion there have not been any one-bedroom properties advertised at a rent which [s/he] can afford.

This is illustrated by the enclosed printouts of searches for properties on:

4. rightmove.co.uk
5. zoopla.co.uk
6. dssmove.co.uk
7. onthemarket.com
8. makeurmove.com
9. SpareRoom.co.uk

Law

You will be aware that accommodation must be affordable in order for it to be suitable.

Any assessment of affordability must be undertaken in accordance with the requirements of article 2 of the Homelessness (Suitability of Accommodation) Order 1996, which states:

“In determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation and in determining whether accommodation is suitable for a person there shall be taken into account whether or not the accommodation is affordable for that person and, in particular, the following matters –

(a) the financial resources available to that person, including, but not limited to –

(i) salary, fees and other remuneration;

(ii) social security benefits;

[...]

(b) the costs in respect of the accommodation, including, but not limited to –

(i) payments of, or by way of, rent;

[...]

(d) that person’s other reasonable living expenses.”

In *Samuels v Birmingham CC* [2019] UKSC 28 at [34] the Supreme Court confirmed that determining a person’s reasonable living expenses requires an objective assessment which cannot *“depend simply on the subjective view of the case officer. Furthermore ... affordability has to be judged on the basis that the accommodation is to be available “indefinitely”.*”

The statutory guidance states, at para 17.46:



“Housing authorities will need to consider whether the applicant can afford the housing costs without being deprived of basic essentials such as food, clothing, heating, transport and other essentials specific to their circumstances. Housing costs should not be regarded as affordable if the applicant would be left with a residual income that is insufficient to meet these essential needs. Housing authorities may be guided by Universal Credit standard allowances when assessing the income that an applicant will require to meet essential needs aside from housing costs, but should ensure that the wishes, needs and circumstances of the applicant and their household are taken into account...”

Submissions

It is clear, in light of *Samuels* and the guidance, that our client simply cannot meet the costs of the accommodation that the authority is suggesting [s/he] obtains from their Universal Credit standard allowance.

This is an allowance which is calculated to provide for subsistence needs only. It is clearly not intended to cover housing costs, as this is the purpose of the housing costs element.

Even if our client were able to obtain an offer of tenancy of the type described above [s/he] simply would not be able to pay [his/her] housing costs and pay for essential items and also retain sufficient sums to meet [his/her] reasonable living expenses indefinitely.

Similarly, even if discretionary housing payments (“DHPs”) are approved, in our experience it is the authority’s established practice to make payments only for a limited period, typically [six] months. Whilst a DHP would be very welcome and will assist in the short term, for this reason such payments are unlikely to ensure affordability (“indefinitely” as per *Samuels*).

In such circumstances we respectfully suggest that the ‘relief’ duty would continue to be owed if our client secured a private tenancy, since the authority could not conclude that there was a reasonable prospect of the accommodation being suitable for at least six months (as required under section 189B(7)(a)(ii) of the 1996 Act).

We observe that the least onerous step available to the authority for the purpose of taking reasonable steps for the purpose of helping our client secure suitable accommodation would be to afford [him/her] priority on the housing register under [e.g. Band A] on grounds of [Insert relevant category from allocation scheme e.g. exceptional circumstances / discretionary urgent need] and allocate social housing with an affordable rent.

While our client has no objections *per se* to the aforementioned steps listed in the PHP, we submit that without more they cannot [OR if the applicant is in prevention will not, upon him/her becoming homeless,] amount to reasonable steps for the statutory purpose of helping [him/her] to secure that suitable accommodation becomes available for [his/her] occupation.

Put simply, without more there is no prospect that our client is likely to obtain affordable accommodation. This will be the case even if our client successfully takes the steps set out for [him/her] in the PHP.



Conclusion

For a privately rented property to be affordable the rent will have to be £[...] per month or less. Our client is simply unable to afford a rent that exceeds the LHA rate.

Our client is simply unable to obtain privately rented accommodation without additional financial assistance.

If the authority does not make an allocation of social housing, it must ensure additional monies are available so as to perform its duty under the 1996 Act.

Requests

Please:

[Only include those items in the following list that are appropriate. Amend as necessary, according to the particular facts]

1. Review your decision as to the steps the Council is to take for the purpose of performing the section [189B(2) / 195(2)] duty.
2. Confirm your decision on review on or before [date 3 weeks hence], in accordance with article 9(1)(a) of the Homelessness (Review Procedure etc) Regulations 2018.
3. Confirm whether our client is to be supported by housing options to apply for a DHP, including how that support will be provided, and for what purpose(s) (e.g. rent / deposit / ongoing rent shortfall / moving costs etc.).
4. If so, confirm whether housing options will be making representations to the housing benefits team in support of the application, including reasons why payments will enable our client to obtain accommodation.
5. Confirm whether housing options is to make additional payments from its own budget for the purpose of:
 - a. Rent in advance.
 - b. Tenancy deposit.
 - c. Expected shortfall between likely contractual rent and [housing benefit / UC housing element] entitlement.
6. If so, confirm the amounts the authority proposes to make; if not, confirm the reasons why.
7. Forward a copy of the authority's policies and procedures that govern payment of discretionary homelessness prevention payments from its homelessness budget.
8. Confirm the priority awarded to our client's housing register application.

Please do not hesitate to contact me if you have any queries in relation to this letter or need further information. My telephone number is [tel no]. My email address is [email address].

I look forward to hearing from you shortly.

Yours faithfully



[Name]
[Job title]
[OR, name of firm]

Encs.

