

CHAC case studies 2015-16

The following case studies provide some examples of our work in 2015-2016.

Case Study 1

Ms D is a single parent with 4 dependent children aged under 16 years. She is a secure Canterbury City Council tenant. The Council had previously got an (outright) 28 days possession (eviction) order as her rent arrears were £1300+. At first Ms D was paying off her rent arrears at £20 every week and so the Council did not write to the court to get the court bailiffs to evict. Her housing benefit was paying all of her rent until it stopped when her rent arrears were £623.02p. Consequently, East Kent Housing wrote to the court and got a date for the court bailiffs to come and evict her and her four children because her rent arrears were now increasing.

Ms D works and so does not have the benefit cap. She came in to see us about this problem six days before her eviction, when her rent arrears were £1463.33p.

We helped her to apply to court to get a hearing to ask a Judge to stop her eviction on condition that she paid £15 off her rent arrears every week. As she was working this application cost her £50. The court set this hearing for 2 pm on the day before her eviction. We calculated that she would get weekly housing benefit of £61.25p. We advised her that she needed to start paying £60 rent every week to pay £15 off her rent arrears every week and she started paying £60 rent every week from when we saw her. We also helped her to do an application for backdated housing benefit.

(Her housing benefit had stopped three months before as her previous cash in hand job ended when her employer went bankrupt but EK Services (the Council's Housing Benefit Department) wanted payslips and a P45 from that job; her income between her previous and current jobs; her payslips from her current job and continuous good cause (good reasons) for her backdate application).

We asked the EK Services to fast track our backdate application which they did and they agreed to pay backdated housing benefit of £874.97p. This would be paid into her rent account the day after she was due to be evicted and would reduce her rent arrears to £584.62p.

We told East Kent Housing that this was would be happening and provided proof that this backdated housing benefit was coming and asked their Income Recovery Officers to agree not to oppose Ms D's application to stop her eviction on condition that she continued to pay £15 every week off her rent arrears and as her housing benefit was back into payment; her rent arrears had been reduced and she was also reducing her arrears by rent payments. Despite stressing the fact that the stopping of Ms D's housing benefit was not her fault and the fact that she had four dependent children, East Kent Housing refused to agree.

We were also informed that the Council would attend the court hearing at 2 pm on the day before her eviction and request that the Judge did not stop Ms D's eviction. The Council sent a Barrister to court who did his best to get the Judge to evict her. We attended court with Ms D and got the Judge to stop her eviction on condition that she paid her rent in full and £15 off her rent arrears every week (and no order for the cost of the bailiffs' warrant of £110). This prevented Ms D and her four children from becoming homeless.

Case Study 2

Ms E is a single parent with one dependent child aged 5 years. She is an assured tenant of AmicusHorizon – a local Housing Association. She had previously been to court when her rent arrears were £2400. AmicusHorizon had asked for an outright possession order. The Judge refused this and adjourned (postponed) her court hearing for four weeks to allow her to get her housing benefit back into payment and also ordered her to pay £10 rent every week.

She telephoned us on a Friday and told us that she had not sorted out her housing benefit and that she was back in court at 2 pm on the following Wednesday. We saw her as soon as we could which was at 11 am on the Monday. We found out that her housing benefit had stopped and we identified what she needed to do to get her housing benefit back into payment from that time.

Ms E had applied for housing benefit immediately after her first court hearing. We calculated that her current housing benefit would pay all of her weekly rent. She had also asked for her housing benefit to be backdated. EK Services had told her that they needed her last two payslips; evidence of her maintenance and a letter showing continuous good cause for her backdate.

We got Ms E to return the next day to provide all of the above and to sign the continuous good cause letter we had done for her explaining why she had not sorted out her housing benefit so far. Another issue was that she was asked to provide evidence of the maintenance she got from her ex-partner by getting him to write a letter confirming that it was child maintenance, how much it was and how frequent.

Although her ex-partner was paying child maintenance for her daughter she did not know his address or his telephone number. All she had was an e-mail address and he would frequently not communicate with her for months. As she could not get a letter from him we found a way around this.

We e-mailed EK Services with all the information they required that Tuesday and asked them for an urgent decision as she was in court the next day.

We went to court the next day with Ms E. We asked AmicusHorizon to agree to adjourn the court hearing for a further short period of 7 days as we were optimistic about getting her housing benefit backdated to when it stopped which would virtually clear all of her rent arrears. We added that Ms E was also paying £10 every week as ordered by the court. I explained how it had been impossible for her to get all of the information requested by Housing Benefit and it

was only when she came to see us that we could provide sufficient evidence to satisfy them. AmicusHorizon refused this request and continued to press the Judge to evict her again asking for an outright possession order in 28 days as she had not sorted out her housing benefit and as her rent arrears were now over £2900.

Fortunately, the Judge decided that he would not evict her and that he would adjourn the case, once again, to allow time for the Council to make a decision on backdating her housing benefit.

A few days after this court hearing EK Services agreed to backdate her housing benefit and a payment of £2734.42p of housing benefit for the period up until 21 June 2015 was sent to AmicusHorizon. This reduced Ms B's rent arrears to just under £100. When we went back to court for the adjourned hearing the Judge refused to make a possession order and Ms E and her family did not become homeless.

Case Study 3

Mr F is a single parent of two 6 year old twin boys. He is married to the sole secure tenant of the Council house they live in. After 25 years of marriage his wife left the property but he did not realize that she had left for good until several weeks later. Due to large rent arrears the Council had got an outright possession order against his wife before she left. The rent arrears continued to increase and the Council applied in writing to the Canterbury County Court to get the court bailiffs to come and evict her and all other occupiers from the property.

Mr F came to see us two weeks before his eviction when the rent arrears were £4242.54p. We helped him to immediately make a claim for housing benefit and to apply to court to get a hearing to request that the Judge stop the eviction of him and his two sons from the property.

We also advised him to pay £10 rent every week to the Council to show a willingness to clear the rent arrears. As he was on Income Based JSA he would get all the rent paid by housing benefit (except for his bedroom tax).

Initial discussions with East Kent Housing did not go well with the Council refusing to accept that he had any rights to live there as he was not the tenant and that he had no liability for the weekly rent of £110.12p and that he was not entitled to any housing benefit and that the rent arrears were over £4000.

When we first saw Mr F, he was only getting Jobseekers Allowance of £73.10p and child benefit of £34.40p every week. We advised him to claim child tax credit as he was entitled to this.

Mr F had been in the RAF for twelve years and so we advised him that the Royal British Legion (RBL) may offer him some financial assistance with his housing problems. We continued to help him with his application to the RBL.

He was living in a four bedroom Council house and so was subject to the bedroom tax at 25% (£27.53p every week) as he had two excess bedrooms. We helped him to apply for extra housing benefit of £27.53p every week through a Discretionary Housing Payment (DHP) application to pay for this bedroom tax.

We argued that he had the right to occupy the property as the tenant due to matrimonial law (section 30 Family Law Act 1996) and that this also meant that he had an entitlement to housing benefit. However, EK Services required East Kent Housing to confirm that he had a rent liability under this law before they could pay him housing benefit and East Kent Housing were adamant that he did not have a rent liability.

Mr F paid £10 rent before his court hearing when the rent arrears were £4342.66p. Housing Benefit was not in payment and RBL had not yet agreed to pay him any money. We went to court with him and the Council's barrister argued strongly that the Judge must not stop his eviction on 28 May as he had no rent liability; no rights to live in the property and, therefore, no entitlement to housing benefit and so he could not afford to live there.

Unfortunately, the Council's view was also that not only should he be evicted but that when evicted he would be intentionally homeless due to the rent arrears and so the Council would only house him and his two sons for a very short period of time (probably in out of area Bed & Breakfast accommodation) to allow him some time to try to find private rented accommodation.

Even more unfortunately, the Judge was not convinced that Mr F had the right to make an application to court to stop the eviction; or that he had any rights to occupy the property, or be liable for the rent or be entitled to housing benefit or be able to afford the rent if he got housing benefit due to the bedroom tax.

Despite strongly arguing s30 of the Family Law Act and our belief that he would get housing benefit and a DHP, it was only because of his two 6 year old sons that the Judge stopped the eviction. However, he only granted a short adjournment of two weeks (reserved to him) making it clear that this was a small window for Mr F to clear the rent arrears.

We strongly believed that we were right. However, due to the Judge's position, we referred Mr A to a legal aid solicitor to argue the s.30 Family Law Act position at the next court hearing. In addition Mr F needed Family Law help in order to transfer the tenancy from his wife to him as part of divorce proceedings and this was also something that this legal aid lawyer could do.

Before his next court hearing we got the RBL to agree to pay £3258.60p to the Council to reduce his rent arrears. We also got him housing benefit of £82.59p and a DHP of £27.53p every week backdated to 20 April 2015. This meant that the rent of £110.12p was paid in full from 20 April and this was on-going. We later got his DHP extended from 13 weeks for a further nine months from 20 July 2015 to 3 April 2016 and a further £90 DHP which was equal to the amount of rent that Mr A had now paid to the Council.

As his rent arrears were down to £548.52p at the time of the court hearing the Council agreed with us to adjourn the hearing for a further 6 weeks. The Judge agreed to this and a new date in August was set for the hearing. By that time the rent arrears were down to £323.46p and Mr F had been paying £10 rent every week without fail. Consequently, at this last court hearing the Council agreed to our application to court to stop the court bailiffs from evicting him on condition that he kept paying £10 every week off his rent arrears and so he and his two sons did not become homeless.

Immediately after first seeing Mr F we also helped him to apply to the Council's Housing Need Register (waiting list) and got him on this. As he was under occupying a Council property by two bedrooms he was placed in Band B which is a highly placed position. This would allow him to successfully bid and get an alternative two bedroomed property through time as a realistic option to staying in a four bedroom house for which he will have to pay the bedroom tax of £27.53p every week from 4 April 2016.

Case Study 4

One Thursday afternoon East Kent Housing rang us to say that they had got the court bailiffs to come and evict a very vulnerable tenant for £700 rent arrears on the following Wednesday morning at 10 am. I was told that **Ms G** was a very vulnerable person who was a single parent with five dependent children and had a habit of wandering round in her pyjamas. Could we help? Yes we said if she came in to see us.

We tried to contact her and her mother with no joy but on the next day (Friday) a support worker for Ms G contacted us to see if we could help her. She couldn't bring Ms G in that day but would do so on Monday morning – two days before her eviction.

We saw Ms G and her support worker on Monday morning. She was 24 and had five young children. She first got pregnant at 15. She couldn't read or write and had never been taught any budgeting skills and had never managed to feed and cloth her children and pay all of her bills. She had the benefit cap of £19.80p every week so her weekly rent shortfall was £19.80p. This was the reason for her rent arrears.

We got Ms G a DHP (Discretionary Housing Payment) to pay her weekly rent shortfall of £19.80p and an appointment with CAB for money / debt advice and for help to claim Disability Living Allowance for her eldest son who had serious problems. Her support worker assured me that she would keep on working with Ms A. We applied to court to get a court hearing to stop her eviction and got this at 3 pm on Tuesday afternoon to ask the Judge to stop her eviction on condition that she paid her full rent and £5 off her rent arrears every week.

We went back to East Kent Housing and explained all of the above and asked them to agree not to oppose our application to stop her eviction. They refused saying that they would not agree unless she paid off all of her rent arrears!!

We went to court on the Tuesday afternoon and the Council sent a legal representative to court who did her very best to get the Judge to allow the eviction to continue and so make Ms G and her five children homeless. Fortunately, at the hearing, we persuaded the Judge to agree to our application to stop her eviction that was due to happen at 10 am the next morning.

Case Study 5

Ms H was a single parent with two dependent children aged 3 and 5 years old. She was an assured shorthold tenant with a private landlord through a local Estate Agency. Her rent was £800 pcm and due on the first day of every month and she was working.

Ms H came to see us on 8 December 2015. She was not getting any housing benefit as this had stopped six months previously. She now had rent arrears of £2890 and her landlord had applied to court to evict her due to her rent arrears. The court hearing was on Wednesday 30 December. Her landlord was applying for possession on grounds 8, 10 and 11 of Schedule 2 of the Housing Act 1988 which were the rent arrears grounds.

Ground 8 is a mandatory ground which means that if proven at court the Judge must evict the tenant and cannot make a suspended possession order. Ground 8 is satisfied if there are two months or more of rent arrears at the date of service of the Notice and also at the date of the court hearing.

To stop her eviction we needed to get her rent arrears below £1600, and ideally cleared, by the time of her court hearing on 30 December.

We quickly helped Ms H to get her housing benefit into payment at £88 every week from Monday 30 November 2015. This housing benefit would be paid directly to her landlord every 4 weeks in arrears.

As her rent was £800 pcm her monthly rent shortfall was £448 which we advised her to pay on the 25th of every month when she got paid. We also advised her that she should start paying an additional £30 rent every week starting Thursday 9 December in order to get to a position of paying her £800 rent in advance (as required by her tenancy agreement) rather than in arrears.

We helped Ms H to do an anytime revision of EK Services' decision to cancel her housing benefit and council tax support and requesting that her benefits be reinstated from when they stopped. Ms H needed to get a great deal of information for the Council in order for us to get her benefits paid from 29 June 2015. This included full details of her child care costs for every week from that date. We gave her a detailed list of what she needed to do.

Ms H finally got all of this information to us on 22 December. I emailed this to EK Services and got a Benefits Officer to assess her claim immediately. The decision was that her housing benefit and council tax support would be paid from Monday 29 June 2015 resulting in a payment of £3160.34p of housing benefit being due to her landlord for the period 29 June to 6 December 2015 and this would be sent to her landlord's Agents that evening and they would receive this by 30 December 2015. I was assured that the Agents would get this money before her court hearing. A further £427.48p of housing benefit would also be paid to the landlord's Agents on Monday 4 January 2016 for the period 7 December 2015 to 3 January 2016.

I told the Agents this and sent copies of her official Housing Benefit Decision letters but the Agents said that the landlord would proceed with the eviction unless they had the housing benefit of £3160.34p in their bank account before the court hearing at 11 am on Wednesday 30 December.

Unfortunately, the housing benefit payment of £3160.34p was NOT received by the landlord's Agents by the time of the court hearing on 30th December 2015. I tried to persuade the landlord, who was at court, to adjourn the hearing as the housing benefit of £3160.34p would definitely come soon but he wouldn't do this. Consequently, the Judge had no choice but to find that ground 8 was proven and to make a 14 days possession order. After this the landlord could apply for the court bailiffs to evict Ms H. In addition the judge ordered Ms H to pay the landlord's court costs of £280. Even worse, when a court order is made on ground 8, a mandatory ground, then it is not possible to successfully apply to court to stop the bailiffs from evicting the tenant.

However, we did finally persuade her landlord not to apply for the Canterbury County Court bailiffs to evict her if he got the £3160.34p of backdated housing benefit **and** the £427.48p of housing benefit due for the period 7 December 2015 to 3 January 2016 before the 14 days passed **and** she kept on paying £30 rent every week.

Her Housing Benefit of £3160.34p and the other £427.48p were eventually paid to the Agents on 7 January - I found out later that the payment of £3160.34p had not been paid on 22 December due to a ..."system failure" !

As Ms H paid her monthly rent shortfall of £372.52p at the end of every month from December 2015 and kept on paying £30 rent every week her rent arrears were cleared in full. Consequently, her landlord decided that she could stay and decided not to apply for the court bailiffs to evict her.

Case Study 6

Mr & Mrs I were assured shorthold tenants of private rented accommodation and had three dependent children. Their landlord had served a Housing Act 1988 (HA1988) section 8 notice because of rent arrears which were alleged to be £4732. However their landlord had not protected their deposit of £725 nor served any notice containing the prescribed information within the period prescribed at law. The landlord commenced proceedings for possession. The amount of the rent arrears was disputed and after a thorough investigation of Mr & Mrs I's bank accounts (as rent was very often paid in cash with no receipts given) rent arrears of over £2000 were admitted. We filed a defence at court which included a counterclaim for non-protection of the deposit and a failure to supply the prescribed information. The landlord disputed the amount of the rent arrears admitted. Discussions with the landlord's legal representative took place just before the court hearing and a settlement was reached whereby the landlord withdrew the claim for possession in return for Mr & Mrs I withdrawing their counterclaim and the deposit being treated as returned to them and no order for costs was made.

The landlord subsequently served a HA1988 section 21 notice. We assisted Mr & Mrs I in connection with a homeless application to Canterbury City Council on the basis that the reason for the landlord seeking to take the property back was the landlord's desire to sell the same. This homelessness application was successful and Mr & Mrs I were provided with suitable accommodation by the Council.

Case Study 7

Mr & Mrs J were occupiers of Army accommodation who had been served with a notice terminating their licence to occupy the property following Mr J's discharge from the army for medical reasons. The Army brought possession proceedings and at the initial court hearing we disputed the validity of the notice and raised further defences based on Equality and Article 8. The case was adjourned with directions being given for a detailed defence to be prepared and further evidence to be supplied with a view to there being a full hearing of the matter in the future. After we submitted this detailed defence the Army agreed to withdraw the claim for possession with no order for costs being made.

The Army subsequently served a new notice terminating their licence to occupy but before the same expired Mr & Mrs J were offered a property by the Council following their homeless application. This was a property which was suitable for them having regard to Mr J's disabilities and they accepted the accommodation offered.

Case study 8

Mrs K was a single mother with three dependent children, one of whom was disabled. She was living in private rented accommodation in Canterbury and had an assured shorthold tenancy. The landlord had served her with a HA1988 section 21 notice. She wanted to find accommodation which was close to her eldest daughter's school and we liaised with her in connection with bidding on properties on the housing needs register. Before the section 21 notice was due to expire she successfully bid on such a property but the tenant of the property declined a property offered to her under a management move with the result that this property could not be offered to Mrs K. We liaised with the Council and secured their agreement that when the tenant of the property accepted a property offered under a management move Mrs K would be offered that tenant's property. We also liaised with the agents for the landlord and secured their agreement that they would not seek an order for possession through the courts in anticipation that the Council property would, ultimately, be offered to Mrs K and she would then vacate her private rented accommodation. After a wait of approximately 3 months Mrs K was finally offered the Council property and able to move in.

Case Study 9

Miss L was a single lady with mental health issues who was due to be discharged from St. Martins Hospital. She had made a homeless application to the Council who informally advised that they did not consider that she was vulnerable (with the result that they did not consider that they were under any duty to house her under the homeless legislation). We liaised with the professionals at St Martin's Hospital who then provided more detailed assessments in respect of Miss L's mental health issues and persuaded the Council that she was, in fact, vulnerable. The Council then accepted a duty to house her under the homelessness legislation.

Case study 10

Mr M and Mrs N were assured shorthold tenants of private rented accommodation and had one dependent child. Mr M had left due to their relationship breakdown. Their landlord knew this but had only served a HA1988 section 21 notice on Mrs N and not on both of them. The landlord commenced proceedings for possession as she wanted the property back to redevelop it.

We filed a defence at court requesting that the Judge dismiss this application to evict Mrs N because the landlord had not served a section 21 Notice on Mr M and she had not taken possession proceedings against Mr M. We also helped Mrs N to make a homelessness application to Canterbury City Council.

We attended the court hearing with Mrs N where the Judge dismissed the landlord's application to evict her.

The landlord subsequently served a HA1988 section 21 notice on both Mr M and Mrs N and then started possession proceedings against both of them. This time the landlord did everything that the law required and she got a possession order.

However, Mrs N was provided with accommodation through her successful homelessness application to Canterbury City Council before she was evicted from her private rented property. The Council accommodation provided was very suitable due to the delay in her eviction.

Case study 11

Ms O was a single parent with one dependent child aged 10 years. She was an assured tenant of Southern Housing Group – a local Housing Association.

Her housing benefit had stopped 7 months before which had led to her having very high rent arrears. Due to these rent arrears of £2643.20p Southern Housing Group had applied to court to evict Miss O. She came in to see us two weeks before her court hearing.

Miss O's housing benefit had stopped nearly six months before and EK Services had informed her that she had been overpaid four weeks housing benefit of £396.48p. She had not been able to sort out her housing benefit problems due to her history of depression, anxiety and panic attacks and self harming. Her housing benefit was still not in payment when she came to see us.

We helped Miss O to make a new claim for housing benefit. We also helped her to apply to EK services for a reconsideration of their decision to cancel her housing benefit and her council tax support. We calculated that her housing benefit would pay all of her weekly rent when it went back into payment. Our application for a reconsideration was successful and her housing benefit and council tax support was put back into payment from when it stopped. EK Services paid £2643.20p of housing benefit to Southern Housing Group which cleared all of her rent arrears. They also cleared her overpayment of £396.48p. This was done five days before her hearing.

As her rent arrears were now cleared we negotiated with Southern Housing Group and they agreed that, at the court hearing, her case would be adjourned with liberty to restore and that they would not ask for their court costs of £250. When we went to court the Judge did not make a possession order and adjourned her case with no order for costs. Consequently, Ms O and her son did not become homeless.

Case study 12

Mr P came in. He had been sofa surfing / staying with friends in the Canterbury area for the past year since losing his accommodation. We advised him on all of his housing options. Mr P was unemployed and he had no money for rent in advance or for a deposit. He wanted to stay in Canterbury city. We referred him to Canterbury Local Link who accepted him without the need for rent in advance or deposit money.