Housing Rights

https://www.housingrights.org.uk/landlords/social-security-benefits/issues-social-security-benefits

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Issues with social security benefits

This information is for private landlords of properties in Northern Ireland.

If you are a tenant, you can find advice here.

If you are a landlord or letting agent in Northern Ireland seeking advice, you can:

- send a message to Landlord Advice, or
- call 028 90 245 640 (Option 1)

Renting to tenants on benefits can be straightforward. Payments can go directly to a landlord helping to reduce the risk of arrears.

But you should be aware of some issues that can arise and how to handle them.

Overpayment of benefits to landlords

An overpayment means you received a benefit payment when you weren't supposed to.

This can happen if your tenant:

- gives incorrect information when they claim a benefit, or
- their circumstances change, but they don't update their claim

Benefits agencies will usually recover the overpayment from the person they paid. This could be your tenant, your agent or you as the landlord.

There are different rules for overpayments of Housing Benefit and Universal Credit.

Housing Benefit overpayments

The Housing Executive deals with Housing Benefit overpayments.

They can ask you to pay back money if it was paid to you and the tenant was not entitled to it, and:

- the overpayment was your fault, or
- the overpayment was a mistake by NIHE, but you should have realised you were overpaid

Not all Housing Benefit overpayments can be recovered. You may be able to argue that:

- you do not have to pay the money back
- the tenant should pay back the money instead

Universal Credit housing costs overpayments

The Department for Communities handles Universal Credit overpayments. They will recover all overpayments, even if their mistake caused the overpayment.

Money will be recovered from your tenant if it was paid to you, but the overpayment happened because they:

- did not tell Universal Credit about something affecting their claim, or
- gave incorrect information when claiming

Dealing with overpayments

If a benefits agency asks you or your agent to return an overpayment, ask them to give you:

- a written statement outlining how and why the overpayment happened
- an explanation of why you (rather than the tenant) must pay back the money
- details of laws or policies they are relying on in making their decision
- information on how to challenge the decision

If you plan to challenge the overpayment, make sure you inform the agency in writing. This will stop them from taking legal action against you while they make a final decision.

Talk to Landlord Advice if you have questions about benefit overpayments.

Benefit application turned down

To get help with housing costs, tenants must show that they have:

- a low income, and
- a right to live in the UK, and
- a legal responsibility to pay rent

Universal Credit or Housing Benefit can turn down an application if they suspect that the tenancy is a 'contrived tenancy'. This is when the tenancy is not a genuine commercial agreement. For example, where the tenancy was set up to take advantage of the benefits system.

If this happens to your tenant, they should get advice quickly. They might be able to challenge the decision, but they will need specialist help.

'Contrived' tenancies

A tenancy may be seen as 'contrived' when a landlord rents a property to a family member.

If you're renting to a relative, it's more likely that they will get benefits if:

- you've rented property to other tenants in the past
- your tenant paid you rent before applying for benefits
- you've given your tenant the correct tenancy paperwork
- you can show that you'll have to evict your tenant if they don't pay rent

The law says that a person cannot get benefits to help with rent if they:

- are responsible for their landlord's child
- are renting a property from a former partner
- live with their landlord, who is a close relative or a partner of a close relative

More advice

- Universal Credit for landlords
- Housing Benefit for landlords
- Getting help towards rent