

CHAI (Community Help & Advice Initiative)

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Scottish Charity No.
SC. 027594

ABOUT CHAI

CHAI is a registered Scottish charity providing free and independent advice to people affected by housing, debt and benefit issues in Edinburgh and Midlothian.

Our Vision is:

CHAI works to ensure no one in our communities has to endure hardship.

Our Mission Statement is:

CHAI helps and empowers people through high-quality, impartial advice on welfare benefits, housing, and debt.



Community Help & Advice Initiative

Newsletter

Issue #9

September 2021

Welcome to our **Autumn** edition! This newsletter includes information on benefits and housing news, and money tips to help maximise your income.

Our **Advice Team** provides advice and assistance with benefits, housing and debt issues & employability.

To make an appointment: 0131 442 2100 or chai@chaiedinburgh.org.uk

Please note our **new address:** 28 Westfield Avenue, EH11 2QH



The EU Settlement Scheme—Applying Late



The UK Government has clarified its position with regards to late applications to the EU Settlement Scheme (EUSS). [New government guidance](#) states that they will adopt a “**flexible and pragmatic**” approach to considering whether there are **reasonable grounds** for someone’s failure to make an application, such as health issues, isolation, vulnera-

bility, lack of digital skills, language barriers, and other “**compelling practical or compassionate reasons**” such as Covid-19. How much time has elapsed since the deadline of 30/06/21 will also be considered.

EU citizens who still haven’t applied to EUSS should therefore **submit late applications as soon as possible**. Help is available from the Citizens Advice Bureau on 0800 916 9847 or from the Home Office’s helpline on 0300 123 7379, or apply [online](#).

The Government also announced that late applicants will have their **rights protected** until their application and any appeal is decided.

Extra-statutory payments are also being paid to benefit claimants who failed to apply by 30 June, so they can continue to claim their existing benefits for a short period. This will not last more than a couple of months, **so don’t delay and apply** to the EUSS for you and all your children ASAP.

Funded
by:



We are also funded by:
Bank of Scotland Foundation,
Robertson Trust, CRH Trust & the
National Lottery Community Fund

CHAI set a precedent in Scottish housing law!

The Housing & Property Chamber of the First-tier Tribunal for Scotland has made **the first ever award of a Wrongful Termination Order**, penalising a landlord who had evicted a tenant on bogus grounds, by claiming they were going to move into the property but in fact then re-let it to new tenants. **Our housing law expert, Andrew Wilson**, represented the tenant, and in doing so, helped set a precedent in Scottish housing law!

Background

Mr Jesus Rodriguez-Ortega* had rented a studio flat from Mr Cesar Dominguez-Lopez and had a Private Rented Tenancy (PRT) lease. The relationship had been fractious, and Cesar had told Jesus that he had a way to evict Jesus if he ever annoyed him again.

Within days of asking for repairs to be carried out, Jesus was given a Notice To Leave, with the stated ground being that the landlord wanted to move in to the premises.

In the original eviction action before the First-tier Tribunal, the history of the tenancy and proof of the threat to evict were submitted in evidence.

Acting for Jesus, CHAI also pointed out that it was not credible to believe that Cesar, his partner and their child genuinely wished to move out of the three-bedroom property they owned and lived in, to take up residence in a one room studio flat.

Citing decisions from comparable legislative provisions, CHAI argued that Cesar's claim of wanting to live in the studio could not be accepted as a settled and genuine intention.

However, the tribunal held that the Scottish Parliament had set a very low bar for the landlord to have to meet, and granted the order for eviction.



Wrongful Termination Order

In later assisting Jesus to apply to the First-Tier Tribunal for a Wrongful Termination Order, CHAI again outlined the history of the tenancy and the ground for eviction. It was then shown that the landlord and his family had not moved into the studio flat. Indeed, within less than a month, repairs and redecoration had been carried out and new tenants had been found and moved in.

The tribunal found that the landlord had misled the tribunal in the eviction proceedings and that the applicant, Jesus, was entitled to a wrongful termination by eviction order. It awarded a penalty of £1,350, equivalent to three times the monthly rent under the original tenancy.

Weakness in Current Law

The success in this case highlights the continuing danger for tenants of groundless and even revenge evictions under the new Private Rented Tenancy (PRT) regime, which was supposed to provide improved protection. The bar to be met has been set too low for landlords, we have proved that a landlord can simply lie to tenants and ultimately to the tribunal. In most cases, a tenant will not know what has happened to the home they were made to leave or will not have the resources and expertise necessary to raise proceedings against their former landlord.

Andrew Wilson stated: *"Above all, this case demonstrates the importance of tenants being able to access free expert advice and representation. Yet the availability of such services is under real threat, especially with local authorities under pressure to cut expenditure."*

*Our work is entirely confidential. Yet all Housing & Property Chamber decisions are a matter of public record and only anonymised in exceptional circumstances. We obtained express permission from our client to publicise his case as the first of its kind.

Free Training Opportunities

Below are some great training opportunities which could lead to paid jobs or help you to progress if you are already in work.

HOSPITALITY ACADEMY

A 5- day course with 4 days of accredited training, leading to the following certificates:

- World Host
- Introduction to Food Hygiene
- Responsible Service of Alcohol

And much more, including a guaranteed interview on Day 5 with a recruiting employer in the new St James Quarter! Many people have already been successful in gaining employment from previous courses.

Eligibility: Individuals on qualifying benefits: Jobseeker's Allowance (JSA), Employment and Support Allowance (ESA), Income Support (IS) & Universal Credit (UC)

Start Date: 27 September

Location: FUSE Office, 45 Leith Street, Edinburgh (opposite St James Centre)

How to apply? To be referred, contact our Employability Team on 0131 442 2100, but do it soon. Referrals will close on 20 September.

IT SKILLS (eligibility applies)

Daily classes delivered by Access to Industry in partnership with Edinburgh College. Participants learn a range of practical computer skills that will enhance their employability and be useful in their day-to-day lives. The course allows participants to progress on to studying for the European Computing Driving Licence (ECDL).

Start Date: flexible

Location: Access to Industry, 156 Cowgate

How to apply? Contact our Employability Team on 0131 442 2100 for more details.



STEP INTO CHILDCARE

(eligibility applies)

An Employability Fund Stage 3 programme aimed at anyone interested in exploring employment options within the childcare sector.

This 12-16 week programme will prepare you for work in the childcare sector. You will attend weekly tutorials with an experienced tutor to work on your employability skills and to learn about working

with children and (when Covid-19 restrictions allow) will be given a placement in a childcare setting to gain work experience.

Start date: 22 September 2021

Location: Training for Care, Logie Green Road, Edinburgh/Zoom.

How to apply? Contact our Employability Team on 0131 442 2100 for more details.

INDIVIDUAL TRAINING ACCOUNTS (eligibility applies)

Remember that you can still access up to £200 to do a course that could springboard you into a job, e.g., SIA Security, Elementary Food Hygiene, First Aid, Construction Site Certification Scheme (CSCS) and many more.

How to apply? Contact our Employability Team on 0131 442 2100 for more details.

What's New with... **UC** *Universal Credit*

<p>Managed Migration scheduled for 2023</p>	<p>The Department of Work and Pensions (DWP) announced that it would start encouraging people to make a 'voluntary move' to universal credit (UC) after the autumn and continue through 2022. They have already launched a webpage, 'Could universal credit be for you?', suggesting people consider a voluntary move. Please seek advice before moving to UC!</p> <p>The DWP will then seek to 'reach a scale' on managed migration in 2023 with a view to completion by the end of 2024.</p>
<p>End of the £20 per week uplift</p>	<p>During the pandemic, people who claimed universal credit were getting an additional £20 per week —unlike those in receipt of legacy means-tested benefits such as income support, income-based JSA or income-related ESA. This uplift is now coming to an end unfortunately. In total, people will get £86.67 less each month, starting from 27 September 2021. Seek advice if you need a benefit check or help with income maximisation.</p>

DWP Disability Benefit Offers & Tribunal Appeals

It is **common practice** for the Department of Work and Pensions (DWP) to **make 'offers' to people with a sickness or disability** who have appealed a benefit decision such as Personal Independence Payment (PIP) and are awaiting a tribunal appeal hearing. A DWP decision-maker can phone a claimant and offer to change their award above the level of the original decision, but sometimes offer less than what the claimant was hoping to achieve. If the claimant accepts the new offer, this has the **effect of lapsing (stopping) the appeal**.



Following a judicial review challenge from the Public Law Project, the DWP have updated their guidance to decision-makers on offers to make sure the process is fair to claimants. See here for the updated [Best Practice Memorandum](#).

The **following guidelines** have now been adopted:

- Decision-makers should ensure that the customer understands that they do not need to accept the revision (the new decision).
 - Decision-makers should tell the customer before they explain the new decision that they will have the right of appeal against this new decision.
 - Decision-makers should continue to revise the decision even if the customer makes them aware that they will accept the lapse and then appeal the new decision for a higher amount.
- Decision-makers should ask the customer if they want to discuss the revision with anyone such as a representative and if so, give them time to do this and await further contact.

The Scottish Child Disability Payment (CDP)



Social Security Scotland
Tèarainteachd Shòisealta Alba

This new Scottish benefit will replace Disability Living Allowance (DLA) for children aged 3 months to 18 years old. It will be administered by Social Security Scotland. The new Child Disability Payment (CDP) opened for applications from 26 July 2021 but only in the **pilot areas** of Dundee, Perth & Kinross and the Western Isles.

In **Edinburgh**, new applications for Child Disability Payment will open on **22 November**. Eligible DLA claimants will be **gradually transferred automatically** to this new benefit without having to make a new claim.

Timescales for the transition

Autumn 2021 to Spring 2022: 15- to 17-year-olds in receipt of DLA with a Scottish postcode will be selected to have their benefit transferred.

Spring 2022: Remaining children in receipt of DLA for Children living in Scotland will be selected to have their benefit transferred.

Spring 2023 – The case transfer process will be completed and all individuals should have received their first Child Disability Payment award.

How the transfer will work in practice

Social Security Scotland will receive data and information relevant to the child's most recent DLA award from the Department of Work and Pensions (DWP). A determination will be made on a like-for-like basis, i.e. your award will **NOT** change. Parents will receive an introduction letter which will set out the process and timescales for the transfer of their child's benefit.

Children who have had their award transferred to the new CDP will be able to remain on this benefit until Adult Disability Payment is available (which is for claimants aged 18 and over).

During the transfer

During the transfer period, the DWP will continue to pay the DLA for Children. Parents should continue to follow any instructions from the DWP.

Differences between DLA and CDP

The new benefit will be very similar to DLA. Here are a few differences.

- You can claim CDP **online** (and also on the phone and in paper) from 22 November and you will also be able to book an appointment with a **Client Support Adviser** to assist you with your application at a local community venue, at home, by video call or by telephone.
- For Child Disability Payment, individuals who meet the **special rules for terminal illness** are entitled to the higher rate of both the care and mobility components.
- **Severe Visual Impairment** – Social Security Scotland's test is different to the DWP's.
- **Main Meals** – Individuals 16 and over who can't prepare a meal for themselves when ingredients are provided can receive the low rate of the care component.

Redetermination timescales

A claimant has 6 weeks to ask for a re-determination (a reconsideration of the decision). Social Security Scotland has 8 weeks to make a re-determination (to have another look at the decision). The claimant can appeal to the First-tier Tribunal if Social Security Scotland is unable to carry out a re-determination in the time allowed.

Notifying benefit providers

Parents must advise the other benefit providers (e.g. local authorities, the DWP and HMRC) that their child has moved from DLA to CDP.

Covid-19 News In Brief

Help with Council Tax

The Scottish Government has advised that all households currently **eligible for the council tax reduction** scheme will receive an additional **£130 of support**. This will support around 40,000 Edinburgh households and will be **paid automatically** through the council tax reduction scheme for those who are eligible.

Eviction Periods

The new *Coronavirus (Extension and Expiry) (Scotland)*

Act 2021 provides for an extension of the increased notice period of **6 months for most grounds of eviction to protect private and social sector tenants**, up from the pre-pandemic notice periods (variously 28 days, 84 days, six weeks). This will continue until 31 March 2022, and means that your landlord must give you 6 months' notice before they can start eviction proceedings to try and obtain an eviction order.

The Minimum Income Floor (MIF) for the self-employed

Self-employed **Universal Credit claimants** will start being impacted by the reintroduction of the MIF from mid-September 2021. The MIF involves the DWP assuming that your earnings are at the level of your conditionality earnings threshold (e.g. 35 times the minimum wage) even if you actually earn less. This is done to 'encourage work' but only



applies if you are deemed 'gainfully self-employed' and are not subject to any exemptions. Please note that the MIF can still be **suspended for up to a further 6 months** on a **discretionary** basis if your business remains affected by the outbreak of coronavirus disease. This **easement** must not be applied for more than 2 assessment periods on each occasion and not for more than 6 assessment periods in total. There are no plans to extend this further at present. This is a complex area of law and exemptions may apply.

Other News in Brief

Post Office card accounts

Following the decision notified to discontinue the Post Office card system, the DWP has written to claimants with card accounts to request alternative account details ahead of the end of the Post Office card account contract in November 2022.

The closure of the Post Office has been postponed until 2022 to give customers more time to provide alternative bank details.

Envelope colour change

Some DWP system-generated customer notifications are now sent in white rather than manila (brown) envelopes. This requirement is driven by a change in the way Royal Mail sorts bulk post. The white envelopes will be marked *'important post-please open'*.

Provident Compensation Scheme

The company has set aside £50m to meet claims from borrowers who were sold unaffordable loans between 6 April 2007 and 17 December 2020 from one of Provident's personal credit brands (Provident, Satsuma payday loans, Greenwood). For more information see, scheme.providentpersonalcredit.com/Claims.html



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