

Judicial Review Claim Form

In the High Court of Justice
Administrative Court

Notes for guidance are available which explain how to complete the judicial review claim form. Please read them carefully before you complete the form.

<i>For Court use only</i>	
Administrative Court Reference No.	CO/9633/2011
Date filed	21/10/11



SECTION 1 Details of the claimant(s) and defendant(s)

Claimant(s) name and address(es)

name
Declan Heavey

address
3rd Floor Flat
83 Priory Gardens
London
N6 5QU

Telephone no. 0779 284 3167 **Fax no.**

E-mail address
dheavey@gmail.com

Claimant's or claimant's solicitors' address to which documents should be sent.

name

address

Telephone no. **Fax no.**

E-mail address

Claimant's Counsel's details

name

address

Telephone no. **Fax no.**

E-mail address

1st Defendant

name
London Borough of Haringey

Defendant's or (where known) Defendant's solicitors' address to which documents should be sent.

name
Haringey Council Legal Services

address
7th Floor, Alexandra House
10 Station Road
Wood Green
London N22 7TR

Telephone no. 020 8489 2591 **Fax no.** 020 8489 3963

E-mail address

2nd Defendant

name

Defendant's or (where known) Defendant's solicitors' address to which documents should be sent.

name

address

Telephone no. **Fax no.**

E-mail address

SECTION 2 Details of other interested parties

Include name and address and, if appropriate, details of DX, telephone or fax numbers and e-mail

name
Councillor Claire Kober, Leader of Haringey Council

address
5th Floor, River Park House
225 High Road
Wood Green
London
N22 8HQ

Telephone no. 020 8489 2964 **Fax no.** 020 8881 5218

E-mail address

name

address

Telephone no. **Fax no.**

E-mail address

SECTION 3 Details of the decision to be judicially reviewed

Decision:
The Defendant's decision to make housing benefit payments to the Claimant in such a way as to leave him with a substantial shortfall in rent to pay, and despite his rent being below the Local Housing Allowance rate.

Date of decision:
11 July 2011

Name and address of the court, tribunal, person or body who made the decision to be reviewed.

name
Haringey Benefits & Local Taxation Service

address
PO Box 10505
Wood Green
London
N22 7WJ

SECTION 4 Permission to proceed with a claim for judicial review

I am seeking permission to proceed with my claim for Judicial Review.

Is this application being made under the terms of Section 18 Practice Direction 54 (Challenging removal)? Yes No

Are you making any other applications? If Yes, complete Section 7. Yes No

Is the claimant in receipt of a Community Legal Service Fund (CLSF) certificate? Yes No

Are you claiming exceptional urgency, or do you need this application determined within a certain time scale? If Yes, complete Form N463 and file this with your application. Yes No

Have you complied with the pre-action protocol? If No, give reasons for non-compliance in the box below. Yes No

Have you issued this claim in the region with which you have the closest connection? (Give any additional reasons for wanting it to be dealt with in this region in the box below). If No, give reasons in the box below. Yes No

Does the claim include any issues arising from the Human Rights Act 1998?

If Yes, state the articles which you contend have been breached in the box below. Yes No

Violation of Article 8 (right to respect for private and family life) of the European Convention of Human Rights.

SECTION 5 Detailed statement of grounds

set out below attached

1. The Claimant's rent is below the local housing allowance that applies to his household. Nonetheless, the Defendant, by decision notice dated 11 July 2011, has left him with £76.92 shortfall in rent to pay – for two months running (the Claimant's bank statements reveal), and for the next three months before the amount starts to depreciate in 2012.
2. By decision notice issued on 21 September 2011, Tribunal Judge Keith Wilding confirmed the Claimant's appeal as outside the tribunal's jurisdiction "since there is no appeal to an independent tribunal in respect of the amount of benefit to which a person is entitled or in respect of how the amount is paid".
3. By letter of response pursuant to the Pre-Action Protocol for Judicial Review, the Defendant has contended that the Claimant does not have any shortfall between the amount of his housing benefit payments and his rental liability, the Claimant's last two bank statements notwithstanding.
4. The Claimant applies for permission to lodge a Judicial Review on the grounds of fairness. The Claimant argues that he is the victim of a flagrant breach of natural justice.

SECTION 6 Details of remedy (including any interim remedy) being sought

A mandatory order requiring the Defendant to both:

- (a) make housing benefit payments without leaving the Claimant with a shortfall in rent to pay; and
- (b) reimburse the Claimant for shortfalls in rent paid since the benefit started on 25 July 2011.

SECTION 7 Other applications

I wish to make an application for:-

N/A

SECTION 8 Statement of facts relied on

1. On 25 May 2011 the Claimant challenged the Defendant's decision to reduce his housing benefit award to £245.77 per week. Please see page 15.
2. On 1 June 2011 the Defendant sent the Claimant's appeal to the Tribunals Service for a Tribunal Judge to decide whether it was within the tribunal's jurisdiction. Please see pages 1-16.
3. On 11 July 2011 the Defendant issued a Decision Notice stating that the Claimant's housing benefit entitlement had been further reduced from £245.77 per week to £230.77 per week with effect from 25 July 2011. Please see page 19.
4. On 20 September 2011 the Claimant's appeal was confirmed as outside the tribunal's jurisdiction. Tribunal Judge Keith Wilding: "The appeal is not within the tribunal's jurisdiction since there is no appeal to an independent tribunal in respect of the amount of benefit to which a person is entitled or in respect of how the amount is paid. The appeal is not admitted and no further procedure will take place in respect of it." Please see page 23.
5. On 23 September 2011 the Claimant sent a letter before claim to the Defendant pursuant to the Pre-Action Protocol for Judicial Review. Please see page 24.
6. On 4 October 2011 the Defendant responded to an email from the Claimant dated 14 September 2011. Linda Robinson, Haringey Benefits & Local Taxation Service, states:

"I would like to point out that you do not in fact have any shortfall between the amount of your housing benefit payments and your rental liability. You are paid £230.77 housing benefit per week, which is equivalent to £1000 per month as shown below:
Rent liability: £1000 per month
£100 multiplied by 12 months: £12,000 per year
£12,000 divided by 52 weeks: £230.77 per week
Housing benefit is a weekly benefit and is calculated and paid on a weekly basis."

Please see pages 25-26.
7. On 5 October 2011 the Defendant issued a response pursuant to the Pre-Action for Judicial Review. Antonios Michael, Haringey Council Legal Services, states: "I cannot clarify the reasons for the decision any better than those already provided by the relevant department most recently in the email sent by Linda Robinson to yourself on 4 October 2011 (a copy of which is enclosed). The prospective claim for Judicial Review is therefore not conceded at all since our position is that there is no arguable case." Please see pages 27-28.
8. The Claimant avers that he has had a shortfall of £76.92 in rent to pay for the last two months. He is referring to the difference between his housing benefit payments of £230.77 per week, paid fortnightly at the rate of £461.54 (£923.08 per four week period) and his monthly rent liability of £1000. This difference between housing benefit payments and monthly rental liability has been well-established by the Claimant, and is evidently understood by the Defendant. Please see page 28.
9. The Claimant is solely reliant on the Jobseeker's Allowance of £211.90 that he and his wife receive every two weeks. They have been barely able to afford the £76.92 shortfall in rent to pay for the past two months, and cannot be certain that they will be able to afford the same shortfall in rent to pay for the next three months. Even when the substantial shortfall between the amount of his housing benefit payment and his monthly rental liability starts to depreciate in 2012, the Claimant cannot be certain that he will be able to pay his rent.
10. The Claimant argues that the Defendant's flagrant breach of the rules of natural justice is making it virtually impossible for the Claimant to sustain an 'at-risk' tenancy and avoid eviction and possible homelessness.

Statement of Truth

I believe (The claimant believes) that the facts stated in this claim form are true.

Full name Declan Jude Heavey

Name of claimant's solicitor's firm _____

Signed  Position or office held _____

Claimant ('s solicitor)

(if signing on behalf of firm or company)

SECTION 9 Supporting documents

If you do not have a document that you intend to use to support your claim, identify it, give the date when you expect it to be available and give reasons why it is not currently available in the box below.

Please tick the papers you are filing with this claim form and any you will be filing later.

- | | | |
|--|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> Statement of grounds | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Statement of the facts relied on | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Application to extend the time limit for filing the claim form | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Application for directions | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Any written evidence in support of the claim or application to extend time | | |
| <input checked="" type="checkbox"/> Where the claim for judicial review relates to a decision of a court or tribunal, an approved copy of the reasons for reaching that decision | | |
| <input checked="" type="checkbox"/> Copies of any documents on which the claimant proposes to rely | | |
| <input type="checkbox"/> A copy of the legal aid or CSLF certificate <i>(if legally represented)</i> | | |
| <input checked="" type="checkbox"/> Copies of any relevant statutory material | | |
| <input type="checkbox"/> A list of essential documents for advance reading by the court <i>(with page references to the passages relied upon)</i> | | |

If Section 18 Practice Direction 54 applies, please tick the relevant box(es) below to indicate which papers you are filing with this claim form:

- | | | |
|--|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> a copy of the removal directions and the decision to which the application relates | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> a copy of the documents served with the removal directions including any documents which contains the Immigration and Nationality Directorate's factual summary of the case | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> a detailed statement of the grounds | <input type="checkbox"/> included | <input type="checkbox"/> attached |

Reasons why you have not supplied a document and date when you expect it to be available:-

N/A

Signed _____ Claimant ('s Solicitor) _____