

What exactly is “supervision”?

Basic info

Dictionary definition

The Oxford English Dictionary defines “supervision” as:

- “The action or function of supervising.”

The OED then goes on to provide more precise definitions in particular contexts and the one that seems to be most relevant to exempt accommodation is:

- “General management, direction, or control; oversight, superintendence.”

Because the main definition refers to the act of supervising, from the verb “to supervise”, it is worth looking at that definition also. Once again there are different definitions for different contexts, of which the most relevant to exempt accommodation reads as follows:

- “To oversee, have the oversight of, superintend the execution or performance of (a thing), the movements or work of (a person).”

Statutory definitions: other benefits

“Supervision” has no definition for HB purposes, but the word is used in the qualifying conditions for Disability Living Allowance (DLA) and Attendance Allowance (AA):

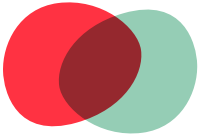
- he is so severely disabled physically or mentally that, by day, he requires from another person ... continual supervision throughout the day in order to avoid substantial danger to himself or others
 - See Sections 64 and 72 of the Social Security Contributions and Benefits Act 1992

Case law on DLA and AA

- R(A) 2/75:
 - Supervision can be performed “to avoid substantial danger which may or may not in fact arise; so supervision may be **precautionary and anticipatory**, yet never result in intervention, or may be ancillary to and part of active assistance given on specific occasions to the claimant.”
- R(A) 1/88:
 - If the person is normally able to summon help when needed from someone in another room or in a nearby building, the availability of help from that person at short notice might not be sufficient to amount to “supervision”
 - Supervision involves being “present on guard”
 - Although for the purpose of exempt accommodation it is likely that the availability of help at short notice will count as support if not supervision

Need for supervision (or care) to be provided

There is very little Housing Benefit caselaw dealing directly with “supervision” (or “care” for that matter). But a short passage from the interim decision issued by Commissioner (now Upper Tribunal Judge) Charles Turnbull in CH/779/2007¹



discusses these terms briefly and distinguishes them from “support”:

- “The question to what extent it is permissible to take into account support which is available to tenants generally, but not taken advantage of by a particular tenant, may be one of some difficulty which requires further consideration. In the case of “care” and “supervision”, it seems to me clear that they must actually be provided by the landlord. It is not enough that they are available should the tenant wish to call for them. In the case of “support”, however, it may be that the making available of certain types of service itself amounts to the provision of “support”.”

From this we may conclude that in order to provide care or supervision the landlord’s staff (or others acting on the landlord’s behalf) must at least be present in the building and arguably in the direct physical presence of the claimant.

Evidence of supervision

Local authorities may ask for evidence to show that care, support or supervision is being provided by the landlord. Personal support files and incident logs might well record instances of care or support being delivered in response to an event, but these records may be insufficient to record a period of supervision during which no incidents occurred. For example, in a house shared by people with learning disabilities it is often necessary to have staff on site throughout the day to watch over the occupiers in order to ensure that they do not endanger themselves around sources of heat or do not damage household equipment through accidental misuse. Such incidents might happen rarely or not at all - that can be seen as a measure of how successful the supervision has been. In order to demonstrate this to a local authority, duty rosters could be retained so that the landlord is able to show who was on the premises at a particular time and what their role was.

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1. The interim decision in CH/779/2007 was issued on 17 August 2007. The Commissioner then directed the parties to submit further evidence and joined the case with three others involving the same landlord. The final decision on the four joined cases was issued on 28 July 2008 - it runs to 268 paragraphs and reproduces a large amount of the evidence considered by the Commissioner. Finally an abridged version of the final decision (omitting a lot of the factual evidence and focussing on the legal discussion) was issued in September 2009 as R(H) 4/09. The extract reproduced above is from the 2007 interim decision.