

Exclusions in Tyne and Wear

An investigation by
Shelter's NEHAC into
why applicants are
excluded from social
rented housing

From the Shelter policy library

April 2006

www.shelter.org.uk

© 2006 Shelter. All rights reserved. This document is only for your personal, non-commercial use. You may not copy, reproduce, republish, post, distribute, transmit or modify it in any way.

This document contains information and policies that were correct at the time of publication.

Shelter

Contents

Foreword.....	3
Introduction.....	4
What is an exclusion?.....	4
Fobbed Off.....	5
Summary.....	7
Social exclusion.....	7
Recommendations.....	11
Sample and methodology.....	13
Registering exclusions.....	13
Detailed findings.....	15
When was the client excluded?.....	15
Breakdown of household types.....	15
Age of client.....	16
Local authority area in which client applied for housing.....	16
How was the client advised of their exclusion?.....	17
Was the client advised of the appeal procedure?.....	18
Had the client appealed the decision?.....	18
What was the outcome of the appeal?.....	19
Reasons for exclusion.....	19
Other information.....	22
Appendices.....	24
Appendix 1.....	24
The unacceptable behaviour test and extracts from Allocation of Accommodation: <i>The Code of Guidance for Local Housing Authorities</i>	24
Appendix 2.....	25
Extracts from Housing Corporation Regulatory Circular No. 07/04, issued July 2004.....	25
Appendix 3.....	27
Exclusion register.....	27
Appendix 4.....	31
Organisations that attended the launch event.....	31

To protect the identity of people mentioned in this report, all names have been changed.

Foreword

A foreword written by The Right Reverend Martin Wharton, Bishop of Newcastle

I have long had an interest in, and a care and concern for, the housing needs of vulnerable people. As a theological student I worked as a volunteer for a Family Squatters Association in Lewisham, and also spent a challenging five days living on the streets of central London. As a curate, I lived in the heart of Birmingham while street after street of back-to-back terraced housing was being demolished, and the close-knit community was dispersed and scattered. Later I moved to Croydon, and one night in the middle of winter, on a park bench just across the road from the church, a middle-aged man froze to death. In sharing the painful experiences of others, I have come to the stark conclusions that bad housing wrecks lives, and that the lack of accessibility to decent housing also wrecks lives.

I am delighted to have been asked to write the foreword to this NEHAC report. It is of great concern that some authorities seem to be continuing to use blanket and unfair exclusion policies, resulting in a significant number of vulnerable people being unfairly excluded from social rented housing in Tyne and Wear. This NEHAC research, conducted with the assistance of a variety of agencies, reveals evidence of a considerable amount of questionable practice that appears to defy the 2002 Homelessness Act. Particularly concerning is the use of unacceptable behaviour from the past as a reason for exclusion in the present. The events of people's past lives cannot automatically bar them from being able to live in social housing today, or exclude them from being able to make a new start in life. Without secure homes they could so easily be drawn back to their former lives. The Christian theological themes of repentance and new beginnings, of reformation and rehabilitation are relevant here. People need to be given opportunities to root and ground their amendment of life.

I commend this report to all those involved in social housing, and encourage its use to enable a more positive dialogue between NEHAC and housing providers in the area. My hope is that this report will herald the start of a new era, and the establishment of good practice for the sake of vulnerable people in the north east.

Introduction

In 1997, the Government launched the Social Exclusion Unit in order to investigate why child poverty, drug addiction and rough sleeping had increased dramatically since 1979. The Government has defined social exclusion as: 'What can happen when people or areas suffer from a combination of linked problems such as unemployment, poor skills, low income, poor housing, high crime, bad health and family breakdown.'¹

Through its many and varied schemes, the Government has tried to encourage inclusion and social stability. However, joined-up thinking and seamless services, which should be at the core of an effective inclusion strategy, do not always translate into practice.

Through our work at the North East Housing Aid Centre, we are constantly faced with cases involving vulnerable and disadvantaged people who are subject to local authority and housing providers' decisions that effectively work against building settled and sustainable communities. In a number of cases, it is evident that exclusion rather than inclusion is being promoted, albeit unconsciously. We have found that a growing number of households are being denied access to decent, affordable social housing and sometimes forced to live in poor-quality, insecure, private sector housing. They are therefore effectively marginalised, and at greater risk of future homelessness.

Since the introduction of the Homelessness Act 2002, local authorities have not been allowed to use blanket policies to exclude applicants from housing registers and each case should be judged on its own merit. There is a test that should be applied to every single applicant to determine whether they are eligible to join a housing register. However, our casework has shown that blanket and unfair exclusions are continuing and some people are being grossly disadvantaged because of practices that fall outside of current legislation.

What is an exclusion?

Most social housing providers have a housing register (commonly known as a waiting list) and when people wish to live in the provider's accommodation they must first apply to join the register. A housing provider can exclude someone from joining the housing register, but they must follow a set procedure known as the Unacceptable Behaviour Test. The Code of Guidance on Allocations explains in detail how local housing authorities should apply this test.

In summary, the test states that to make someone ineligible the local authority must be satisfied that the applicant, or a member of her/his household, has been guilty of unacceptable behaviour:

- serious enough to make her/him unsuitable to be a tenant of the authority
- at the time her/his application is being considered.

Furthermore, the only behaviour that may be regarded by the authority as unacceptable is behaviour that, if the person concerned were a tenant of the local authority, would entitle the authority to an ***outright possession order***.

See Appendix 1 for further details of the Unacceptable Behaviour Test and Code of Guidance.

Exclusions from housing owned by registered social landlords (RSLs) are governed by expectations set down by the Housing Corporation. In July 2004 the Housing Corporation issued a circular to all RSLs on exclusions and eligibility of applicants. It supports much of the Code of Guidance and makes clear that RSLs should not operate blanket exclusion policies for rent arrears or previous convictions.

See Appendix 2 for further details and extracts from the Housing Corporation circular 07/04.

Fobbed Off

Following the introduction of the Homelessness Act 2002, advisers at Shelter's North East Housing Aid Centre became increasingly alarmed by the numbers of people who were being excluded from local authority waiting lists in spite of the new legislation. To address this problem the centre ran the Fobbed Off campaign in 2004. This was designed to raise public awareness about blanket exclusion policies and encourage them to get advice if they found themselves excluded. We continued to challenge housing providers on individual cases but became increasingly frustrated with local authorities that refused to accept that there was any errant practice on their part.



Although the campaign had some success in raising awareness, caseworkers were continuing to deal with cases where housing providers were (in our opinion) applying the test incorrectly. The standard response in many cases was: *'In our opinion we would have been granted outright possession in this case.'* Another response was that there were many thousands of applicants on the housing register and the numbers that were excluded were relatively small.

Even so, our experiences indicated that bad practice was widespread across the region and that to tackle the problem we needed to gather evidence to demonstrate this.

We launched the Exclusion Campaign in April 2005 with the aim of gathering evidence and raising awareness of the issue. We restricted the campaign to the Tyne and Wear sub-region because we felt including the whole of the North East region was beyond our resources.

The following report will show that there is indeed widespread bad practice and people are being treated unfairly and not getting the help that they deserve. The report will also identify good practice and principles in dealing with applications to the housing register.

This report is not intended to criticise housing providers but to highlight a problem. It is our wish that the report will lead to positive dialogue between us and housing providers in order to establish good practice and eliminate unfair procedures.

Summary

The research reveals widespread poor practice and shows that a significant number of vulnerable people are being unfairly excluded from social rented housing in Tyne and Wear. Our evidence shows that, where exclusions were challenged (and where the outcome was known), more than half of the exclusions were overturned on appeal (see Chart 6).

The existence of rent arrears was the most common reason for exclusion and many people were excluded for low amounts of rent arrears. Thirty-seven per cent of households were excluded for rent arrears of less than £500 and 67 per cent were excluded for rent arrears of less than £1,000.

Children were particularly affected by these decisions. Some 43 per cent of the excluded households were families with children. Insecure housing and homelessness are known to have a damaging effect on children's well-being and life chances. It is ironic that when these families are homeless, they are often owed a duty of accommodation by the local authority under the homelessness legislation, yet social housing providers refuse to accommodate them. This can lead to a situation where local authorities are forced to accommodate families in temporary accommodation for long periods because they are homeless yet excluded from social housing.

Social exclusion

A Shelter survey of 400 households living in temporary accommodation showed that children and families trapped in temporary accommodation experience extreme levels of social exclusion. More than half the families we surveyed said their health had suffered due to living in temporary accommodation, and children living in temporary accommodation missed on average 55 days of school a year, with disastrous consequences for their educational attainment.²

The exclusions go against the Government's target to reduce the use of temporary accommodation by half by 2010, as well as being costly for the local authority involved. Nationally, Shelter has estimated that the additional cost to the public purse associated with the use of temporary accommodation by local authorities is about £500m, mainly due to additional Housing Benefit expenditure on higher rents and higher rates of benefit take-up.³

Karl and Anne's story

Karl and Anne, a young couple with two small children, approached their local housing office in January 2005 seeking accommodation. They were homeless so were referred to the local authority's Homelessness Unit. An application to the housing register was also taken and a housing officer assisted them to complete the form. Karl and Anne did not really understand the form. The housing provider was an RSL.

During the interview the housing officer advised them that they had rent arrears from a former tenancy and asked when they would repay this. The housing office did not mention the possibility they might be excluded for this, so they assumed they were on the register.

Karl and Anne were provided with temporary accommodation by the local authority.

In November 2005 Karl and Anne's support worker made enquiries about the progress of their application and was told that they had been excluded. In December they had still not received formal written confirmation of their exclusion.

Karl and Anne had set up a standing order of £10 per week to repay the debt. They were unable to appeal their exclusion because they did not receive anything in writing. The circumstances of the rent arrears were never investigated and a blanket decision, albeit informally, seems to have been made. By December 2005, they had spent almost one year in temporary accommodation.

Almost one third (31 per cent) of those excluded in our sample were young people under the age of 25. Young people are often discriminated against by private landlords who refuse to give tenancies to people under the age of 25. This is often because Housing Benefit and welfare benefit rates are lower for the under-25s. As our research shows, they are also at risk of exclusions from social rented housing – often for rent arrears and antisocial behaviour that occurred during their first tenancy and which might have been prevented or managed had they received housing support. We believe that the exclusion of young people from social rented housing perpetuates the social exclusion of young people.

Most single men in the sample were excluded because of a criminal record. Although housing providers are able to exclude people from their housing register for criminal behaviour, this militates against the direction of the HARP protocol, promoted in the Regional Housing Strategy and the Regional Strategy for Reducing Re-offending, both of which stress the importance of accommodation in lowering rates of re-offending and ask social housing providers to house ex-offenders.

The eligibility test assesses whether someone will make a suitable tenant at the time of application and should therefore take into account any 'positive' behaviour (for example if there have been no further offences) since the behaviour used as grounds for the exclusion. In the vast majority (89 per cent) of cases, the behaviour for which the exclusion was justified occurred prior to 2005 and in one in ten of the rent arrears cases dated back to the 1980s. We therefore believe the test is being unfairly applied. Furthermore, in 49 per cent of cases, the grounds for the exclusion was unfair because the issue had been partly or fully resolved at the time of the exclusion – either because an individual had not re-offended or because they had paid off or reduced their rent arrears.

If a housing provider decides a person applying for housing is ineligible, it must give the applicant written notice of the decision.⁴ Our research showed that although most people (61 per cent) received notice of their exclusion in writing, 23 per cent did not recall receiving written notice of their exclusion and 19 per cent were told verbally by housing staff that they were excluded and they should not bother applying (see Chart 5).

The majority of households who appealed their exclusion had the assistance of an independent adviser and all of those who had their decision overturned had independent advice. Independent advice is crucial because the guidance and law concerning exclusions can be complex to interpret and understand.

Matt's story

Matt and his wife were tenants of a housing association, and had occupied their flat with their young daughter for three years. Matt's wife was pregnant and they desperately needed a larger property. They had a clear rent account.

Matt telephoned a local authority area office to get an application form for the housing register. He gave details about previous tenancies with the council and was then told that he owed £500 from a previous tenancy in 1985 and therefore would not be accepted onto the list until the arrears were cleared.

This was news to Matt and he could not understand how the arrears had occurred. He applied anyway but two weeks later he received a letter saying that he had been excluded.

He approached Shelter, who advised that the local authority should have taken his current good record as a tenant into account and had therefore not applied the test correctly. Shelter also believed that immediate possession would have been very unlikely. With Shelter's help he won his appeal. The council accepted it did not have grounds to exclude him.

Jill's story

Jill, a single parent, applied to her local RSL. She completed a form, which included a section about previous convictions. Having been convicted of a drug-related offence some 18 months previously, and completed 180 hours of community service, Jill gave this information willingly. Since her conviction, she had continued to be involved as a volunteer in the community.

About one month later, Jill received a letter from the RSL saying that she had been excluded for 'unacceptable behaviour and no evidence of amended behaviour'. Jill could not understand this because no evidence of amended behaviour had been requested, nor had she been given any chance to explain the circumstances of her conviction. She was, however, informed that she could appeal this decision within 21 days. She did this with the help of a Shelter caseworker, and her appeal was upheld.

Recommendations

Shelter would like the following action to be taken to address the problem of unfair exclusions from housing waiting lists.

- We believe allocations policies should create realistic routes back into social rented housing for those who have been excluded. When applicants are excluded and housing providers write to them giving reasons for their decision, we think they should also set out the action that the applicant must take in order to have the exclusion lifted.
- We recommend that housing providers should agree to allow anyone to join the housing register who is positively engaging with a recognised agency that provides emotional and practical support, when that agency agrees to continue to provide this support if/when the applicant is housed.
- All housing staff required to work with the test should be fully trained so that they understand it and can apply it correctly.
- Housing providers involved in this area should adopt a code of good practice and ensure that all staff adhere to it.

We recommend that a code of good practice should include the following points.

- Applicants should be asked if they need assistance in completing the form.
- Applicants should be referred to a housing officer if necessary or requested.
- Applicants should be referred/signposted to an independent advice agency if appropriate.
- Applicants should be advised about the test, ie a simple leaflet/advice could be given.
- Before a final decision has been made about a person's application, officers should not 'suggest' that s/he might be excluded.
- Applications should be processed within two weeks and an applicant advised within three weeks.
- Advice letters to applicants should always outline the right-to-appeal procedure, as well as details of independent advice agencies in the area.
- Failed applicants should be signposted to, or directly referred to, appropriate advice agencies, eg debt and/or welfare advice.
- Advice letters should always explain and give details about why the applicant was excluded and what s/he needs to do to become accepted.
- There should be a named officer for the applicant to contact to discuss the application.

- Quality audits should be carried out regularly to ensure that individual officers are not operating a 'blanket' exclusion policy and applicants are being given clear reasons for any decision.
- An applicant should not be excluded by the decision of just one officer. Cases where exclusion looks likely should be referred to a more senior officer for assessment and signing off.
- Officers should have a standard procedure to follow in order to investigate reasons that may lead to exclusion (eg a checklist). The reasons for unacceptable behaviour should always be investigated, eg were rent arrears caused by Housing Benefit issues?
- Applicants who may be excluded, should be given the opportunity to provide evidence in their support, or be allowed to provide an explanation before a decision is made.
- Any exclusion should be based on undisputed evidence. Hearsay 'evidence' should be discounted.
- **Exclusions should only be applied based upon actual court practice 'in the round' and not just on one isolated outcome or 'in our opinion'.**

Sample and methodology

We contacted 100 agencies providing advice and support to vulnerable and socially excluded households throughout Tyne and Wear to give them information about our campaign and invite them to participate. Agencies targeted included Citizens Advice, Probation, Churches Acting Together and local authority Homeless Units. To launch the campaign, we held an event at Central Square in Newcastle on 29 April 2005. The aim of the event was to build awareness of exclusions as an issue.

Many agencies working with vulnerable groups would be aware that their clients were excluded from social rented housing. However, because they are not housing specialists they would not necessarily know that the exclusion was unlawful or unfair. So at the event we ran workshops explaining how exclusions should operate so that participants would be able to identify unlawful exclusions. We also provided tools to enable participants to challenge exclusions on behalf of their clients.

Registering exclusions

The event provided an opportunity to demonstrate how agencies could engage with the campaign on the Shelter website (<http://www.shelter.org.uk/exclusions>). Agencies were shown how they could log onto the website and record details of any clients who had been unfairly excluded from housing waiting lists using the online exclusions register. This was a simple form that required the user to input information on the nature of the exclusion and some details about the client (such as date of birth). The latter was used to avoid clients who were in contact with more than one agency or support worker being double counted in the research.

Agencies were asked to report any exclusion they became aware of through work with their clients occurring between August 2004 and November 2005. The online form meant that they could record the exclusion at a time convenient to them. Where agencies had problems accessing the web to record exclusions, they could fill in a paper form and return it by post (see Appendix 3).

For the duration of the campaign, which ran between June and November 2005, we also sent out regular mail shots to keep agencies informed about how the campaign was developing.

The exercise garnered information on 107 cases of unfair exclusions from waiting lists in the Tyne and Wear area. Just over half (53 per cent) of the cases recorded on the exclusions register were reported by Shelter workers. This was expected because Shelter is the primary provider of housing advice in Tyne and Wear and is the only agency that

records exclusions as part of its everyday work. Local authority homelessness teams, Probation and Citizens Advice reported the majority of the other cases.

Don

Don is a single parent with two teenage sons who were living with him in his mother's home. Living conditions were overcrowded and Don's mother asked him to find alternative accommodation.

Don went to the local housing office and made an application. After six weeks, he received a letter informing him that he was excluded because of previous convictions. His convictions included a custodial sentence in 1996, but more recently a conviction for possession of cannabis.

At the time of application, Don was complying with a drug rehabilitation order, which involved intensive contact and support from a drug-users' support agency. The agency advised that he was doing well.

Detailed findings

When was the client excluded?

The majority (77 per cent) of the exclusion cases occurred during 2005, with most of the rest taking place in 2004.

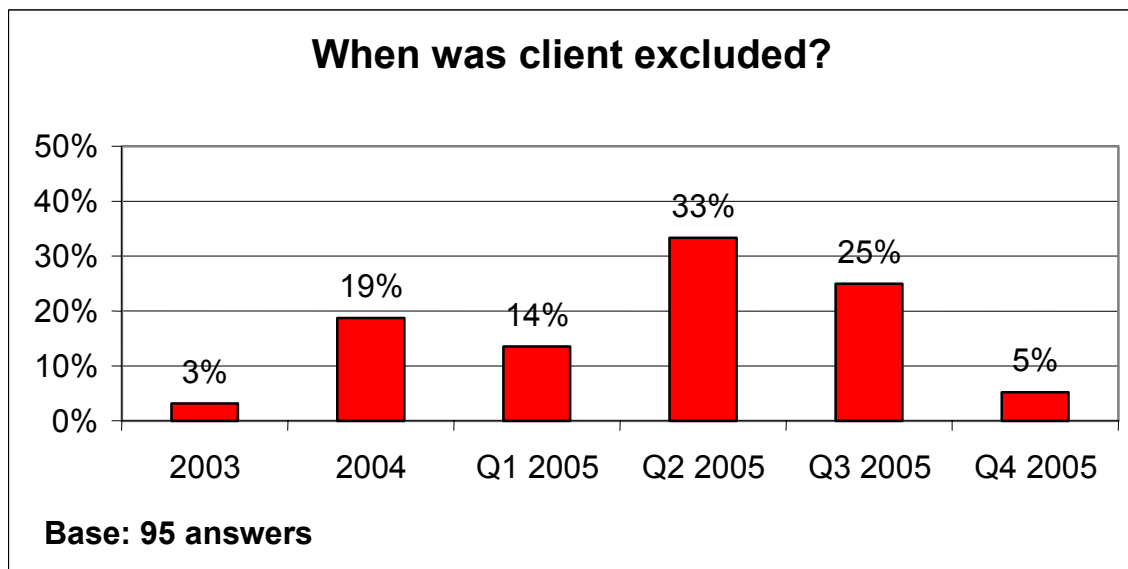


Chart 1: Date when client was excluded

Breakdown of household types

The sample of exclusions was split quite evenly between households with children (43 per cent) and those without (57 per cent). Close to half (49 per cent) were single people. Of the lone parent households, females headed the vast majority.

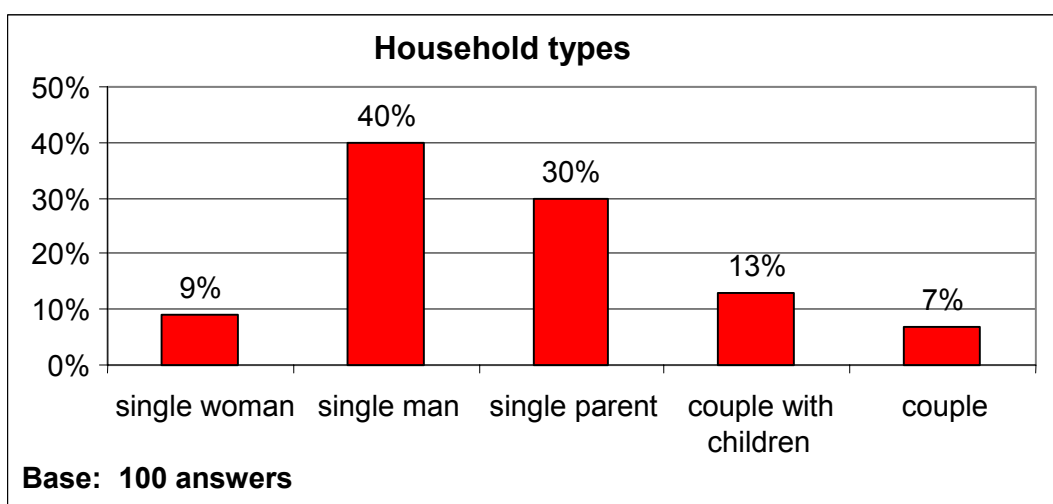


Chart 2: Household type

The fact that 43 per cent of the households excluded had children suggests that there are a high number of children living in housing that may be unsuitable. If these families are excluded from social rented housing, they are often forced into the bottom end of the private rented sector housing, which is often expensive, and of the poorest quality.

Age of client

Most subjects were aged between 26 and 60.

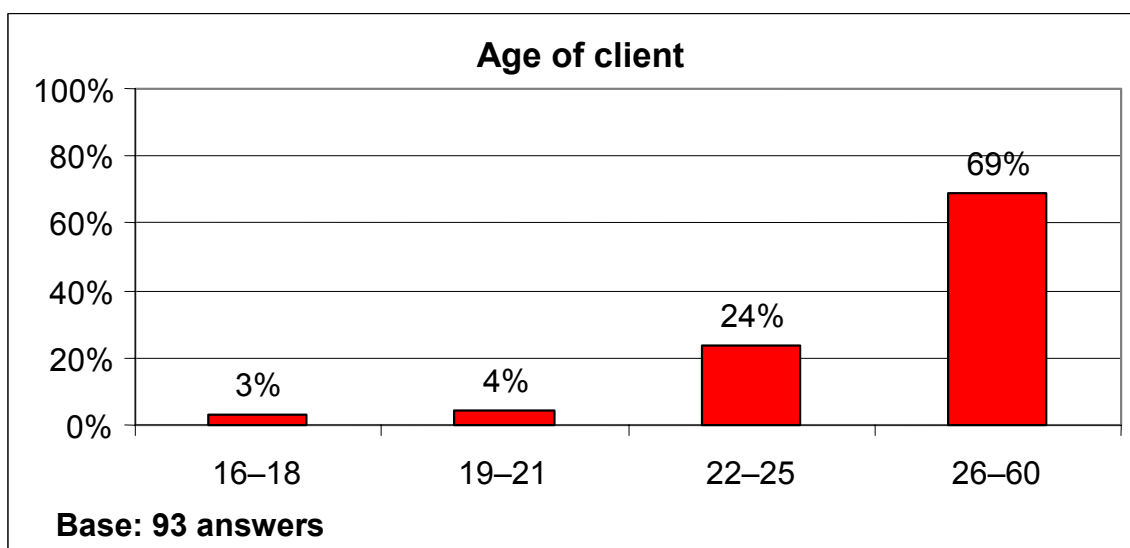


Chart 3: Age of client

Thirty-one per cent of those excluded were young people under the age of 25. Again, these young people may have no alternative but to live in unsuitable accommodation.

Local authority area in which client applied for housing

More than half of the clients applied for housing in Newcastle local authority area. Most of the rest of the clients applied in North Tyneside or Sunderland. This does not mean that people are more likely to be excluded in Newcastle. Shelter was the main reporting agency and its Housing Aid Centre is based in Newcastle where the majority of its cases also come from.

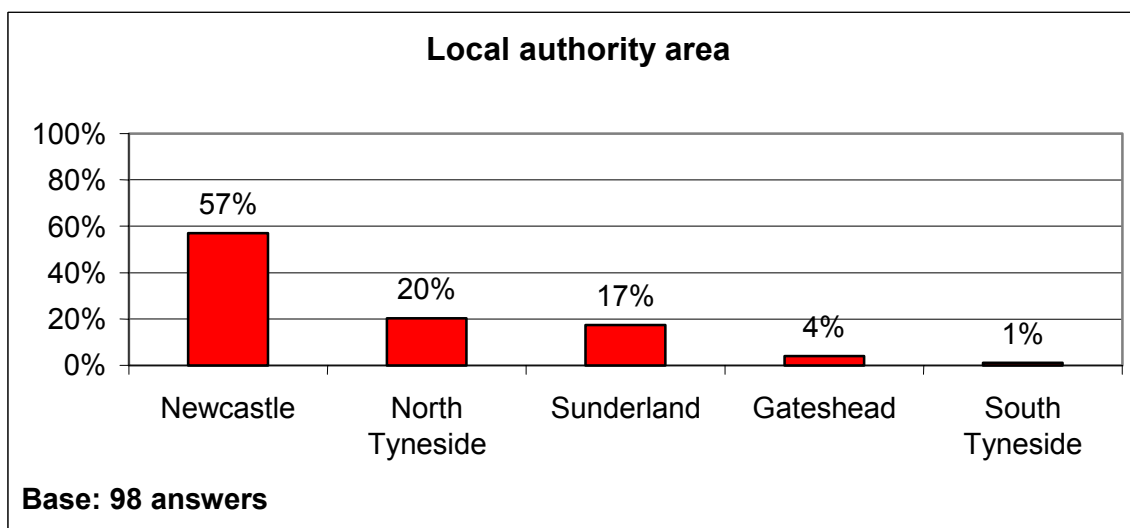


Chart 4: Local authority area in which client applied for housing

How was the client advised of their exclusion?

Most people (61 per cent) received written advice informing them of their exclusion.

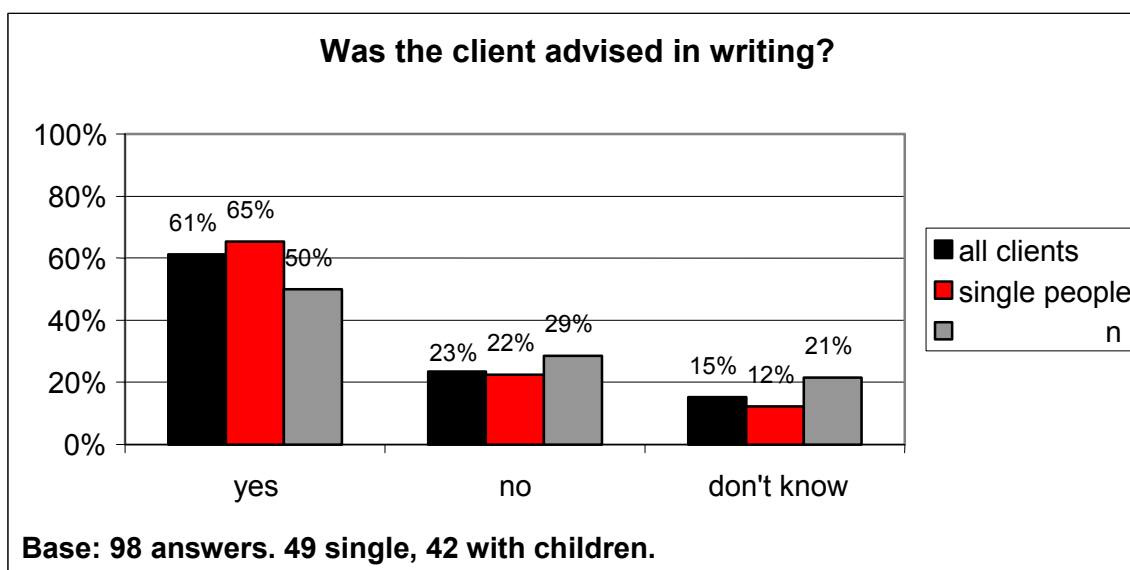


Chart 5: How client was advised of exclusion

One in five (19 per cent) clients was verbally informed by housing staff that they would be excluded from the housing register and they should not bother applying. This is a source of concern because it means that some housing staff are not following proper processes. If a client is informed verbally, they are often not told why they are excluded and may not be given information about the options available to them. According to the Code of Guidance for local housing authorities, all people have a right to appeal an exclusion and they should receive a letter informing them of this right. RSLs, meanwhile, who are

regulated by the Housing Corporation, are expected to provide 'all rejected applicants' with 'information about and access to an appeals process'.⁵

Exclusions communicated verbally are also unlikely to be recorded and therefore can mean official statistics do not accurately reflect the number of households who are being excluded in a particular area.

Client was not allowed to register... when he attended the... office. An officer [told him] that he had rent arrears and was excluded. Informed him verbally... this was the first notification client had of arrears.⁶

Client left last council property with £650 rent arrears. On application to council for re-housing was told not to bother as would be excluded. No form given.

Was the client advised of the appeal procedure?

Under the Code of Guidance, all applicants to a local housing authority have the right to request a review⁷ and as already stated applicants to RSLs should have 'access to an appeals process'.⁸ Just over half (56 per cent) of clients recall being advised of the appeal procedure. The remainder were split evenly between recall of not being told (20 per cent) and not recalling either way (23 per cent). Again, it is a concern that 20 per cent of people do not recall being advised that they have a right to request a review of the decision made to exclude them. The Code of Guidance also stipulates that applicants must be informed in writing about their right to appeal.⁹

Francis' story

Francis is a middle-aged man who has a drug-related conviction and another for being drunk and disorderly some two years ago. He applied to the housing register of his local authority but was excluded because of his previous offences even though, at the time of application, he was complying with a drug treatment and testing order.

Francis did not know that he could appeal this decision.

Had the client appealed the decision?

Some 42 per cent of clients said they had appealed an exclusion, and the same number of clients (42 per cent) said they had not appealed (a further 15 per cent did not know whether they had appealed). Cross-referencing the responses to this question and the

previous question, reveals that two-thirds of those who said they had been advised of the appeals procedure did actually go on to appeal. There were just two clients who had not been advised of the appeal process but did go on to appeal.

The 42 per cent of people who did not appeal the decision will potentially remain excluded from social rented housing in the long term and be forced to seek housing through other means.

What was the outcome of the appeal?

Where the outcome of the appeal was known, decisions were split evenly between being upheld (25 per cent) and overturned (26 per cent). This means that one in every two decisions that is appealed is overturned and suggests that a high proportion of exclusions are unfair or unlawful.

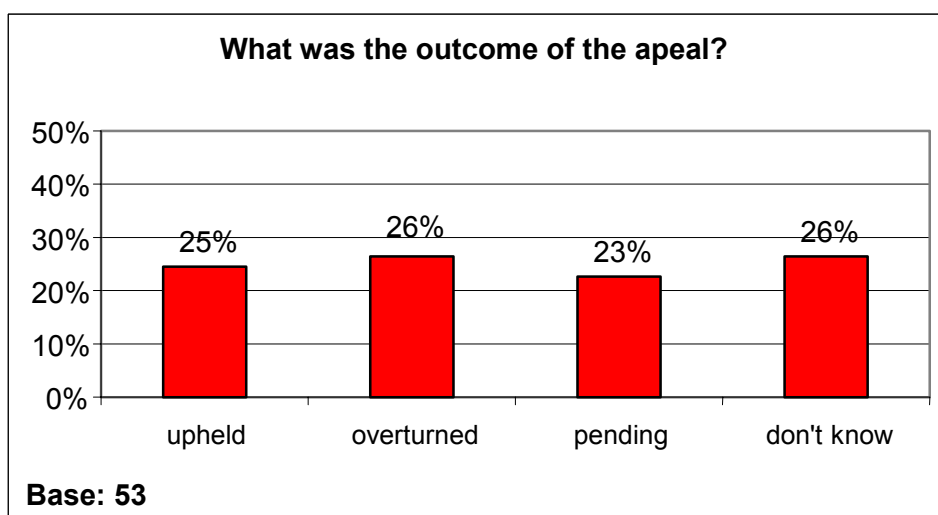


Chart 6: Outcome of the appeal

Most (33 clients) of the 39 clients who had appealed, had the assistance of an independent adviser, and all of the clients who had their decision overturned had independent advice. This demonstrates the importance of independent advice – guidance and law concerning exclusions is not easy to interpret and understand.

Reasons for exclusion

Rent arrears were, by some way, the most common reason for exclusion. Lone parent families (at 81 per cent) were most likely to have been excluded due to rent arrears.

In our experience, rent arrears is common among young people who commit to a tenancy without support and with a poor understanding of their obligations under their tenancy agreement. For example, they may not know that they are able to claim benefits or that they must give notice in advance of leaving a tenancy. Many young people leave

properties without giving proper notice and then rent arrears mount for a property they are no longer occupying.

Arrears arose only when client & partner lost their jobs. Neither client nor her partner was aware that they could claim housing benefit. Client was only 18 at the time & had never had a tenancy before or claimed housing benefit. They initially borrowed money from relatives to pay the rent.

At time of rent arrears client 19 years old in his first tenancy. Client was not able to manage and left the property before possession order.

Single men (50 per cent) were most likely to have been excluded due to a criminal record.

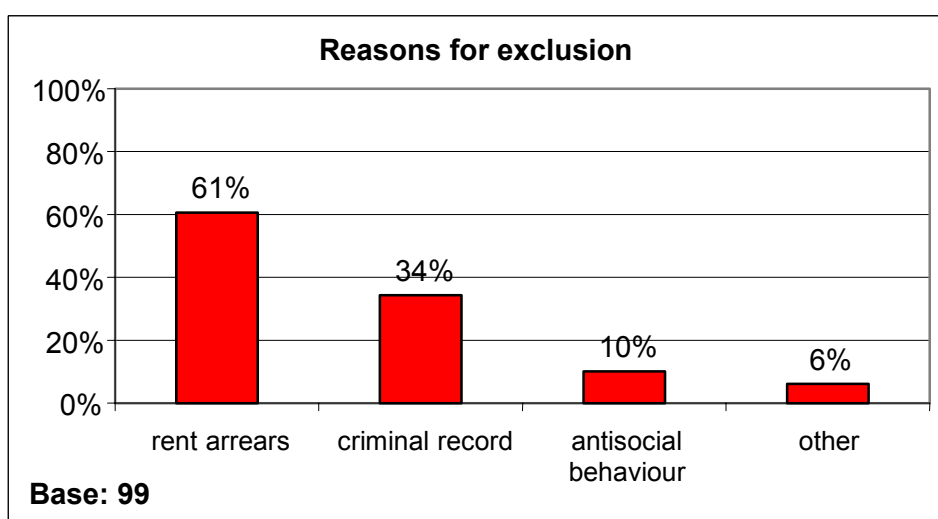


Chart 7: Reason for exclusion

Note: These results add up to more than 100 per cent because some clients gave more than one reason.

In the vast majority (89 per cent) of cases the behaviour for which the exclusion was given occurred prior to 2005. The bulk of these took place between 2000 and 2004, but a significant proportion (30 per cent) occurred before 2000.

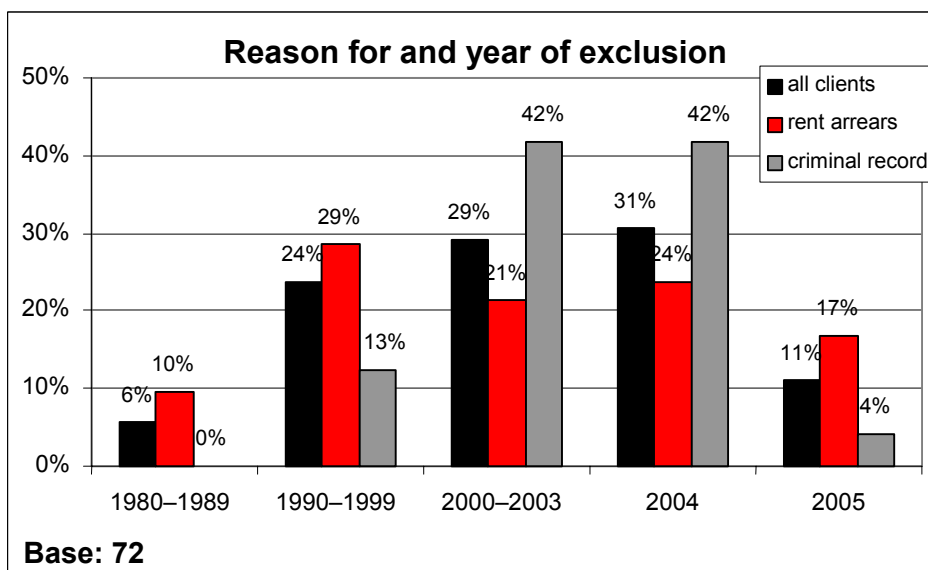


Chart 8: Reason for, and year of, exclusion

One in ten of the rent arrears cases dated back to the 1980s. When housing providers decide whether someone will be excluded, they are required to decide whether that person will make a suitable tenant. It seems unfair that someone is judged on whether they would make a suitable tenant in 2005 by considering their behaviour in the 1980s.

Arrears from 8 years ago. At this time client was suffering from depression (spent 2 weeks in hospital) after his marriage broke up. Client has rented PR [in the private rented sector] for the past 3 years with no problems and no arrears.

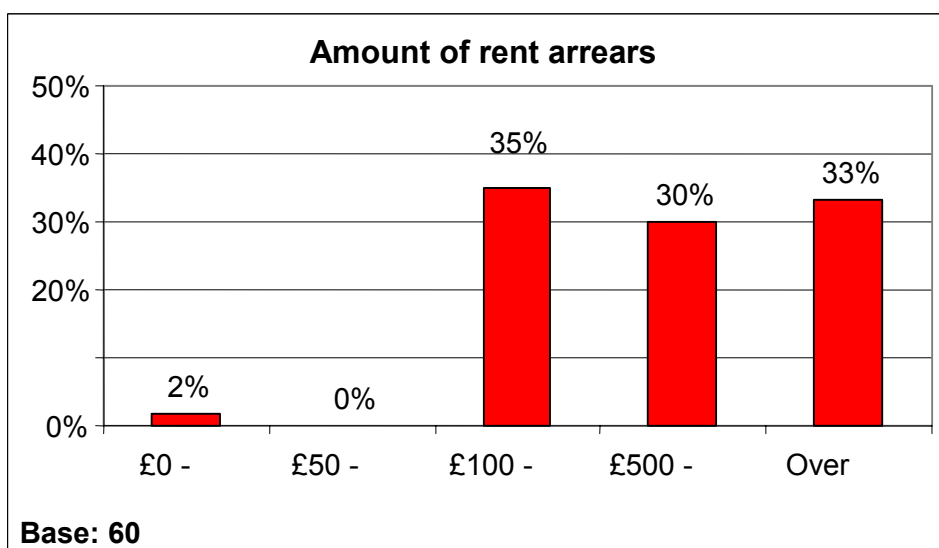


Chart 9: Amount of rent arrears

Sixty-seven per cent of cases were excluded for rent arrears under £1,000 – this is a very low threshold for excluding people, usually on low incomes, from social rented housing. We are aware of at least one housing provider that has introduced a blanket exclusion for all rent arrears of £250 or more.

Paul and Linda's story

Paul and Linda, a couple in their late twenties with young children, applied to the housing office where their previous tenancy had been held. The housing provider in the area was an RSL. They saw a receptionist and were given an application form, which they completed without much difficulty. At the time, they were told that they owed £32 in former tenancy arrears but this was then changed to £100.

Some nine months later, in September 2005, they found out informally that they were excluded but it was not until December 2005 that they received written confirmation.

Although as an RSL, the housing provider was not under any legal duty to apply any test before excluding them, the letter gave no indication as to how they could appeal this decision. They had in fact been under the impression that the debt had been cleared. They were now informed that they owed £72 plus £154 court costs.

Paul and Linda are now making regular payments to pay off this debt. They are now living in a homeless unit provided by the council.

Other information

Agencies filling in the form had the option to add some additional comments. A common theme arising from the comments showed that in 49 per cent of cases the grounds for the exclusion was unfair because the issue had been fully or partly resolved – either by the client changing their behaviour and not re-offending or by the client paying off or reducing rent arrears.

Client has accepted decision, however we have recently reapplied for housing... Have written reference detailing change in behaviour – more stable than they have ever been, eg accessing benefits, stable in drug

treatment. Offences are minor, not committed in the local area and cause no harm to others. Rent arrears accrued at a time when she had little support and was unaware of consequences of failing to terminate tenancy properly. Currently residing with partner in B&B accommodation which is detrimental to her health... and rehabilitation.

Client now is paying off debt to recovery agent Moorcroft by instalments. No rent arrears with any provider since that time.

A significant proportion of the comments (16 per cent) concerned lack of information or poor communication from the housing provider.

Client disputes rent arrears and anti-social behaviour. No information was given on date of alleged anti-social behaviour or circumstances surrounding it.

Have spoken to [provider] about this case, as the client had been given no written notification, full reasons or informed of right to review.

John's story

John, a single person now living in South Tyneside, applied to a local housing office in his hometown in Northumberland. His parents still lived there and he had been brought up there. He had some rent arrears from a former council tenancy. He spoke to a receptionist and she asked if he had any rent arrears outstanding. When he mentioned that he had former tenancy arrears, he was advised that even if he paid off his arrears he would have to wait at least three years for an offer. He was then given a list of bed and breakfasts. He was not given an application form.

Appendices

Appendix 1

The unacceptable behaviour test and extracts from Allocation of Accommodation: the Code of Guidance for Local Housing Authorities

If a council decides that an applicant is not eligible to join their waiting list because of unacceptable behaviour, it must be able to demonstrate that they have come to this decision using the correct procedures.

'Unacceptable behaviour' can include things such as previous rent arrears or antisocial behaviour but the council must be able to show that it has applied the basic test that: the behaviour has not improved in any way and that if the applicant was an existing secure tenant of the council they would be able to get an outright possession order against them because of that behaviour.

An outright possession order will usually only be awarded by the courts where the judge is satisfied that it is reasonable to make such an order. The Code of Guidance states:

Rent arrears would probably lead to a possession order, although in many cases it will be suspended giving the tenant the opportunity to pay the arrears.¹⁰

In many cases of rent arrears, the judge may make an order for possession suspended on the regular payment of sums off the arrears. This means that possession of the property is postponed on condition that certain terms are met, eg regular repayment of the current rent and arrears at a fixed rate.

Not all cases of rent arrears will result in an outright or suspended order being made. The court has the discretion to adjourn cases on terms where the granting of an order would not be appropriate. This would apply, for example, where more time is needed for a Housing Benefit claim to be processed or the amount of arrears is relatively small.

If a housing authority finds an applicant ineligible, it must give them written notification of the decision. *'The notification must give clear grounds for the decision which must be based firmly on the relevant facts of the case,¹¹ ... 'applicants have the right to request a review... of any decision as to eligibility.¹²*

Appendix 2

Extracts from Housing Corporation Regulatory Circular No. 07/04, issued July 2004

Note: The Housing Corporation regulates RSLs and sets standards and expectations around eligibility of applicants and exclusions.

This circular sets out the Housing Corporation expectations of housing associations when assessing the eligibility of applicants for a housing association home, and when working to prevent or respond to breaches of tenancy.

... 1.1

Housing associations have a duty to co-operate (as is reasonable in the circumstances) with local authorities in offering accommodation to people with priority on the authority's register (or waiting list), and in assisting the local authority to discharge its housing functions, particularly to the homeless. These duties are set out in Part VI S.170 and Part VII S.213 of the Housing Act 1996.

... 1.3

Applicants and tenants of different housing association landlords ought to receive reasonably consistent treatment. They ought to know what the consequences of breaches of their previous or current tenancy are, and what action they can take to remedy the breach.

... 2.1.1 Rent arrears should not be an automatic barrier to access. Where applicants are deemed to be ineligible for housing because they owe rent for a previous tenancy, associations should actively encourage applicants to enter into agreements to pay their arrears. If such agreements are kept for a reasonable period, the application should be re-activated.

... 2.2.2

[Evidence of anti social behaviour (ASB)]

'Ineligibility for housing on the ground of the applicant's antisocial behaviour should be based on evidence of the behaviour. Evidence might include the previous eviction of an applicant or a member of their household for ASB, or a previous injunction or antisocial behaviour Order (ASBO) taken out against the applicant or a member of their household. Previous tenancy enforcement

action for ASB should not be taken into account if it occurred two or more years prior to the date of application and the tenant's household has conducted a tenancy satisfactorily in the intervening period (see 2.5.2).

... 2.2.3 Previous convictions

Landlords may not ask an applicant about “spent” convictions. A previous conviction is not an automatic barrier to access, especially for low-risk offenders. Eligibility should only be in question if there is reason to suppose that the ex-offender is likely to pose a risk to their household, neighbours and/or the wider community. Associations should be able to justify the exclusion of ex-offenders, with an accountable policy and procedures for considering cases.

... 2.4.1 Support packages

Where assessments indicate vulnerability for whatever reason, housing associations should work with their local authority and other agencies to arrange appropriate support so that it is available at the beginning of a new tenancy.

... 2.5.1 Blanket bans

Applicants should not be excluded automatically from housing if their circumstances fit a defined category. Every case must be judged on its merits and efforts made to resolve any possible ineligibility.

... 2.5.2 Suspension period

The meaning and purpose of a suspension period, during which an application for housing is held inactive, should be clearly defined and should last no longer than two years. Suspension implies that the applicant is invited to apply to have their application re-activated at a specified time or for specified reasons.

... 2.5.3 Appeals

All rejected applicants should have information about and access to an appeals process. The appeal should be heard by adjudicators who were not involved in the original decision to reject the housing application.

... 2.5.4 Advice

Rejected applicants should be referred to housing advice agencies.

Appendix 3

Exclusion register

Exclusion register

The campaign aims to gather evidence and highlight the problem of people being excluded from housing waiting lists. Since the introduction of the Homelessness Act 2002, local authorities can only exclude applicants from the housing register whom they consider to be unsuitable potential tenants.

The research is confined to housing providers in the Tyne and Wear area. Over the next three months, from 2 May to 31 July, we are seeking to gather evidence of recent cases of exclusion. We would be grateful if you would record any examples of people being excluded from waiting lists that have occurred since 1 August 2004.

Please help us to gather as much evidence as possible by completing the following form as fully as possible.

Case report details	
Date	<input type="text"/>
Agency	<input type="text"/>
Worker name	<input type="text"/>
E-mail	<input type="text"/>
Client NI number	<input type="text"/>
Date of exclusion	<input type="text"/>
Client information	
Household type <input type="checkbox"/> Single woman <input type="checkbox"/> Single man <input type="checkbox"/> Single parent woman <input type="checkbox"/> Single parent man <input type="checkbox"/> Couple & children <input type="checkbox"/> Couple <input type="checkbox"/> Adult household <input type="checkbox"/> Split household <input type="checkbox"/> Extended household <input type="checkbox"/> Other	Age <input type="checkbox"/> 16-18 <input type="checkbox"/> 19-21 <input type="checkbox"/> 22-25 <input type="checkbox"/> 26-60 <input type="checkbox"/> 60+

<p>Ethnic origin</p> <ul style="list-style-type: none"><input type="checkbox"/> White British<input type="checkbox"/> White Irish<input type="checkbox"/> White other<input type="checkbox"/> Black African<input type="checkbox"/> Black Caribbean<input type="checkbox"/> Black other<input type="checkbox"/> Asian Indian<input type="checkbox"/> Asian Pakistani<input type="checkbox"/> Asian Bangladeshi	<ul style="list-style-type: none"><input type="checkbox"/> Asian other<input type="checkbox"/> Chinese<input type="checkbox"/> Mixed: white/black Caribbean<input type="checkbox"/> Mixed: white/black African<input type="checkbox"/> Mixed: white/Asian<input type="checkbox"/> Mixed: other<input type="checkbox"/> Other<input type="checkbox"/> Refused to answer<input type="checkbox"/> Not known<input type="checkbox"/> Not applicable
--	--

Housing provider

Housing provider applied to

- Newcastle Your Choice Homes
- Gateshead Housing Group
- North Tyneside Council
- South Tyneside Council
- Sunderland Housing Group
- Other (please state)

Local authority area

- Newcastle
- Gateshead
- North Tyneside
- South Tyneside
- Sunderland

Please list any other housing providers that the client has been excluded from:

Housing
<p>Was the client told verbally by housing staff not to apply?</p> <p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know </p>
<p>Was client advised in writing?</p> <p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know </p>
<p>Was client advised of appeal procedure?</p> <p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know </p>
<p>Has client appealed decision?</p> <p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know </p>
<p>Did the client have assistance with the appeal from an independent adviser?</p> <p> <input type="checkbox"/> Yes (please state who) <input style="width: 200px; height: 15px;" type="text"/> </p> <p> <input type="checkbox"/> No <input type="checkbox"/> Don't know </p>
<p>Outcome of appeal</p> <p> <input type="checkbox"/> Original decision upheld <input type="checkbox"/> Original decision overturned <input type="checkbox"/> Decision pending <input type="checkbox"/> Don't know </p>
Reason for exclusion
<p>Main reason for exclusion</p> <p> <input type="checkbox"/> Rent arrears <input type="checkbox"/> Antisocial behaviour <input type="checkbox"/> Criminal record <input type="checkbox"/> Other (please state) <input style="width: 150px; height: 15px;" type="text"/> </p>

In which year did the above occur?				
<input type="checkbox"/> 2005	<input type="checkbox"/> 1999	<input type="checkbox"/> 1994	<input type="checkbox"/> 1989	<input type="checkbox"/> 1984
<input type="checkbox"/> 2004	<input type="checkbox"/> 1998	<input type="checkbox"/> 1993	<input type="checkbox"/> 1988	<input type="checkbox"/> 1983
<input type="checkbox"/> 2003	<input type="checkbox"/> 1997	<input type="checkbox"/> 1992	<input type="checkbox"/> 1987	<input type="checkbox"/> 1982
<input type="checkbox"/> 2002	<input type="checkbox"/> 1996	<input type="checkbox"/> 1991	<input type="checkbox"/> 1986	<input type="checkbox"/> 1981
<input type="checkbox"/> 2001	<input type="checkbox"/> 1995	<input type="checkbox"/> 1990	<input type="checkbox"/> 1985	<input type="checkbox"/> 1980
<input type="checkbox"/> 2000				<input type="checkbox"/> before 1980
Please provide details of the reason for exclusion. For example, alleged antisocial behaviour, offence committed etc.				
For rent arrears, please state the amount:				
<input type="checkbox"/> 0 to £50 <input type="checkbox"/> £50 to £100 <input type="checkbox"/> £100 to £500 <input type="checkbox"/> £500 to £1,000 <input type="checkbox"/> over £1,000				
Does the client dispute reasons?				
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know				
Any other comments: For example if the client accepts reasons for exclusion has their been a change in their behaviour ie by paying rent on current tenancy or no longer acting in an anti-social way or demonstrating an ability to maintain a tenancy.				
Other infor				
Any anecdotal evidence/information about the system, reasons for accepting property, not bidding, length of time waiting etc.				

Please return to:
 Shelter North East Housing Aid Centre
 1-2 Blackfriars Court
 Dispensary lane
 Newcastle upon Tyne
 NE1 4XB
 Tel 0191 255 4461
 Fax 0191 230 2829
 tyneside@shelter.org.uk

Appendix 4

Organisations that attended the launch event

Organisation	Address
Addaction Aftercare and Resettlement	41 Grainger St, Union Chambers, Newcastle NE1 5JE
Barnados Base Young Peoples Project	26 Esplande, Whitley Bay NE26 2AJ
Churches Acting Together	82 High St East, Wallsend NE28 7RH
David Gray Solicitors	56 Westgate Road, Newcastle NE1 5EW
Gateshead Citizens Advice Bureau	5 Regent Terrace, Gateshead NE8 1LU
HMYOI Deerbolt	Bowes Road, Barnard Castle, Co Durham DL12 9BG
Legal Services Commission	2-8 Fenkle St, Newcastle NE1 5RU
North Tyneside Council	6b George Square, North Shields NE30 1DF
National Probation Service (Durham)	Aykley Heads Business Centre, Forest House, Durham DH1 5TS
National Probation Service (Newcastle)	Lifton House, Eslington Road, Jesmond, Newcastle NE2 4SP
National Probation Service Northumberland	5 Lansdowne Terrace, Gosforth, Newcastle NE3 1HW
NECA (North East Council on Addiction)	Bridge View House, 15-23 City road, Newcastle NE1 2AF
NECA SILS (Semi-Independent Living Service)	Philipson House, 5 Philipson St, Walker, Newcastle NE6 4EN
Newcastle Citizens Advice Bureau	St Cuthberts Chambers, 35 Nelson Street, Newcastle NE1 5AN
Newcastle Tenants Federation	1st Floor, Pink Lane, Newcastle NE1 5DW
Newcastle Women's AID	P.O. Box 32, Heaton, Newcastle NE6 1HZ
Nightstop	Union Chambers, 41 Grainger St, Newcastle NE1 5JE
Norcare Ltd	Portman House, Portland Road, Shieldfield, Newcastle
North Tyneside Drug Action Team	Town Hall, High Street East, NE28 7RR
North Tyneside Women's AID	PO Box 12 Whitley Bay, NE26 1ET
HMYOI Easington	Northumbria Probation Service, Morpeth, NE65 9XG
Outreach Welfare Rights Project	Old Felstead School, Fordfield Road, Sunderland SR4 0DA

Panah	PO Box 27 Newcastle Upon Tyne NE3 1EU
Richmond Fellowship	30A High St East, Wallsend NE28 8PQ
Ron Eager House, Tyneside Cyrenians	214 Westgate Road, Newcastle NE4 6AN
Shelter's Free Housing Advice Helpline	43-47 Wellington Street, Sheffield S1 4HF
Social Inclusion Policy Unit (South Tyneside)	Westoe Road, South Shields NE33 2RL
Social Policy Unit, Newcastle Citizens Advice Bureau	St Cuthberts Chambers, 35 Nelson St, Newcastle NE1 5AN
South Tyneside Citizens Advice Bureau	2nd Floor Edinburgh Buildings, 2 Station Approach South Shields NE33 1HR
Stoneham HMP Acklington	D Wing, HMP Acklington, Morpeth, Northumberland NE65 9XF
Sunderland Welfare Rights Service	Hetton Centre, Welfare Road, Hetton DH5 9NE
Sunderland YMCA	2-3 Toward Road, Sunderland SR1 2 QF
Teesside Probation Service	154 Borough Road, Middlesbrough TS1 2EP
The Salvation Army	39 City Road, Newcastle NE1 2BR
Turning Point	61 Marine Avenue, Whitley Bay, NE26 1NB
Tyneside Foyer	114 Westgate Road, Newcastle NE1 4AQ
Virginia House, Tyneside Cyrenians	Georges Road, Newcastle NE4 7NQ

¹ Guardian Unlimited, 15 January, 2002.

² Living in Limbo, Shelter, 2004.

³ Living in Limbo, Shelter, 2004.

⁴ Code of Guidance, 4.29.

⁵ Housing Corporation Regulatory Circular, 07/04, 2.5.3.

⁶ All comments in red text come from the exclusions register. See Appendix 3 for a full view of the form given to agencies.

⁷ Code of Guidance 4:30.

⁸ Housing Corporation Regulatory Circular, 07/04, 2.5.3.

⁹ Code of Guidance 6:13, para a, b, c.

¹⁰ Code of Guidance 4.22.i.

¹¹ Code of Guidance 4.29.

¹² Code of Guidance 4.30.