

FYE v Middlesbrough City Council and GPZ v Sunderland City Council, Upper Tribunal judgment issued 20 April 2026

What the case is about

Two people — known only as "FYE" and "GPZ" to protect their privacy, applied for housing benefit to help pay rent on supported accommodation (housing for vulnerable or disabled people that comes with extra care/support). Their local councils (Middlesbrough and Sunderland) refused to pay, saying their tenancies had been deliberately set up to milk the housing benefit system. The claimants appealed and lost at the First-tier Tribunal. They then appealed again to the Upper Tribunal — and lost again. This decision explains why.

These were "lead cases", the result effectively governs 32 other similar cases.

The setup the councils objected to

A businessman called Paul O'Rourke was behind a network of linked entities:

- A **property company** (Enabling Homes Ltd) that bought houses, immediately resold them at huge profit, then leased them out
- A **charity** (My Space Housing Solutions Ltd) that took those leases on punishing terms (no break clauses, full repair obligations) and rented rooms to vulnerable tenants
- A **funding company** that quietly propped the charity up, so it didn't go bust

The charity couldn't actually survive on rent alone, housing benefit doesn't pay for support services, only accommodation. So, O'Rourke's property company funnelled "support income" back to the charity to keep it afloat. The tribunal found O'Rourke was effectively pulling the strings across all of them. He'd previously been the subject of a BBC Panorama programme called *The Housing Benefit Millionaire* and adverse findings by the Charity Commission and Regulator of Social Housing.



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The legal test

A regulation (9(1)(l) of the Housing Benefit Regulations 2006) lets councils refuse housing benefit if they think the tenancy was created "to take advantage of" the scheme. The judge explains "take advantage" means in the dodgy sense, like a villain taking advantage of someone — not the ordinary sense of "benefiting from."

What the original tribunal decided

The First-tier Tribunal listed reasons including: the controlling role of O'Rourke across all the entities, lease terms that artificially inflated property values, the charity being financially dependent on a property developer it shouldn't have been entwined with, rent levels set to suit the head landlord rather than social housing rules, and apparent profits coming out of public money. It concluded the whole arrangement was an abuse of the scheme.

The appeal arguments and why they failed

The claimants raised several grounds:

1. **"The councils should have been forced to give live evidence about how they made their decisions."** Rejected. In social security appeals, the tribunal does a fresh look at the case from scratch, it doesn't review the council's thought process, so the council's officers don't need to testify.
2. **"The tribunal misapplied the burden and standard of proof."** Rejected. The "balance of probabilities" applies to factual findings, but deciding whether something amounts to "taking advantage" is a judgement call, not a fact. Tribunals are presumed to know basic legal principles.
3. **"The tribunal wrongly relied on a parliamentary report."** Rejected. The tribunal explicitly said three times that the report was just background context, not a basis for its decision.
4. **"The tribunal's valuation findings were wrong."** Rejected. Valuation is a question of fact, and the panel (which included a financially qualified member) was entitled to use its experience to assess the figures.
5. **"The tribunal shouldn't have considered the support/care issue."** The judge sidestepped this. Even setting those points aside, the tribunal had explicitly said one factor *alone* was



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enough: the charity's structural dependence on a property developer to survive financially. That finding stood on its own.

Bottom line

The Upper Tribunal found no error of law. The original decision stands: these tenancies were contrived to extract housing benefit, and the claimants aren't entitled to it. The judge was careful to note that the lease-based supported housing model itself is legitimate and valuable — the problem here was specifically how it was being used.



VISIONARY NETWORK
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