

New powers to beat anti-social behaviour

Registered social landlords in England and Wales have new powers to clamp down on tenants causing harassment, nuisance and anti-social behaviour.

FOR THE FIRST time, their powers have been brought into line with those of local authorities under the new Anti-Social Behaviour Act. RSLs, who are responsible for 30 per cent of social housing, will need a crash course in drawing up clear policies and procedures for dealing with ASB. They now have a legal duty to set out guidelines, which must be available for inspection within six months of the Act becoming law.

If the landlord has good reason to believe a tenant, a visitor or someone living in one of their

The Key Points

- * Anyone who threatens or uses violence can be arrested and injunctions should be easier to take out.
- * The Courts now have power to make an order demoting a tenancy to a probationary status in cases of ASB.
- * Action can now be taken to protect anyone affected by ASB, even owner-occupiers
- * It is now immaterial where the nuisance/ASB occurs

properties is dealing in drugs, for example, they can apply for a demotion order.

This step down from an assured tenancy lasts for up to a year, and if there is no improvement, the landlord can apply for possession, or go back to the assured tenancy if the nuisance ends.

The more draconian measure of docking the housing benefit of anyone convicted of ASB did not make it on to the statute book as both tenant and landlord pressure groups opposed it.



Landlords need to mend fences

NEW rights for tenants mean landlords taking over properties need to pay attention to their predecessors' failings.

The wave of local authority transfers of council properties to the private sector in recent years means that RSLs often inherit properties

needing repair, estimated at a total of £30bn nationally, and tenants with rent arrears.

The usual action would be to try

to recover the arrears through possession proceedings by seeking a suspended possession order.

However, after a Court of Appeal judgement in **Muscat v Smith**, tenants being sued for arrears existing on the date of the transfer

Landlords ignore dilapidated dwellings and ongoing repair issues at their peril, especially if they want to take action against tenants with rent arrears.

can now counter sue the new landlord for not doing the repairs, even if they were the previous landlord's responsibility.



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Housing Bill changes



Gerard O'Toole says, "The changes to succession rights will eliminate the current lottery where strict rights depend on type of tenancy"

Cohabiting couples and same sex partners will win tenancy succession rights under the new Housing Bill.

THE BILL will also advance the government's strategy of clamping down on anti-social behaviour by disqualifying tenants facing an ASB-related possession order from exercising their right to buy.

And if an ASB court action has been taken against any household members, landlords of secure tenants can refuse a mutual exchange application.

Other measures include plans to give grants to private developers to build new houses, which have been criticised by social landlords.

The developers' profit motive was not compatible with social housing's aims, said the National Housing Federation.

A scheme to licence some private landlords to enforce minimum standards of management is also to be

introduced. It has been limited to problem areas with low demand where conditions need to be improved.

Local authorities will also have new powers to licence some HMOs, to make sure properties conform to health and safety standards, as these tenants are six times more likely to die in a fire.

The definition of HMOs has been criticised as too limited, as only properties with three or more storeys and five or more occupants are covered.

Concern has been expressed that tenants may lose their homes if landlords who may need a licence from their LA respond by giving up their properties. The Bill will also limit the Right to Buy scheme in London and the south east to protect local authority lettings.



The Key Points

- * No RTB/Mutual Exchange for tenants causing ASB
- * Grants for private developers!
- * New LA Powers

Concern has been expressed that tenants may lose their homes if landlords who may need an HMO licence from their LA, respond by giving up their properties

Building decent houses

THE TARGET DATE of 2010 for ensuring that all social housing in England meets the decency standard is looking unrealistic in view of Camden councils tenant's rejection of the council's plan to transfer all of its stock to an ALMO (arm's length management organisation). The government had earmarked £283 million for repairs to Camden's stock but only on condition that management of the stock is transferred to an ALMO. This latest ballot result is another blow to the government's plan to allow extra funding for meeting the decency standard

conditional upon transfer of stock to ALMOs, RSLs or PFI. Although the National Housing Federation has recently confirmed that the vast majority of RSLs have plans in place to ensure that all their homes will reach the standard by 2010, councils are disadvantaged by comparison as their options for raising finance are much more restricted.

Housing Corporation research found that one in three housing association homes fell below the standards required in 2002.

Welsh and Scottish targets for meeting the decency standard have been set at 2012.



Leasehold reform too narrow

New law covering long leaseholds has been criticised for not making commonhold compulsory.

THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002, whose first provisions became law in September last year, will eventually introduce commonhold and a new right of collective management and enfranchisement.

Where tenants agree, commonhold will replace the leasehold system, criticised for



the fact the law was complicated and landlord-friendly allowing some to unfairly profit from high service charges.

However, the use of commonhold will not be compulsory for new properties (a decision thought to have been made as a result of strong pressure from the building industry). However changes in the existing law will offer increased protection to those leaseholders who cannot convert.

As well as widening service charges to include any lease fees for improvements, the Act also gives Leasehold Valuation Tribunals ("LVT") greater powers. The LVT will now become the main forum for determination of service charge disputes in addition to deciding whether there has been a breach of the terms of a Lease.



Commercial property opens its doors



Glazer Delmar has launched a commercial property department, offering a comprehensive service including advice about lettings, leaseholds, freeholds, property management and all forms of funding.

Terry King, a licenced conveyancer with 20 years experience, has been appointed to head the new operation.

King, 53, formerly of Memery Crystal and Nabarro Nathanson, has been taken on as part of the firm's plan to enhance its range of services and generate more private work.

"As we are constantly approached to handle commercial property work, it seemed logical for us to expand into this area," said senior partner Michael Glazer.

LVTs can now determine whether leaseholders should have to pay a service charge or not, or if administration charges are reasonable.

Landlords can only take action against leaseholders for unpaid service charges for works costing in excess of prescribed amounts if they have followed a revised consultation procedure under section 20 of the Landlord & Tenant Act 1985, supported by complex Regulations which came into force on 31 October 2003. The main thrust of the Regulations is to extend the existing consultation procedure and to introduce new procedures for consultation about certain contracts for works provided under long term agreements (a contract lasting over 12 months) and partnering arrangements.

Tenancy transfer troubles

A recent Court of Appeal case has illustrated the need for RSLs to ensure clear procedures for ending tenancies in cases of relationship breakdown. Ideally, the departing tenant should be encouraged to sign a Notice to Quit.

IN Ealing Family Housing Association v McKenzie, this was not done and the RSL had to rely on the law relating to surrender, resulting in a costly visit to the Court of Appeal.

When Mrs McKenzie moved out in February 2000 because of domestic violence, she asked to be given a new home.

Her husband stayed on in the flat, but when Mrs McKenzie was offered another place to live, it was on condition that she ended her old tenancy.

In the summer she signed a notice to quit and Ealing began to take action against Mr McKenzie. That notice was invalid and the landlord had to rely on the complicated law relating to surrender. The county court granted a possession order on



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the basis that there had been a surrender.

Mr McKenzie appealed unsuccessfully to the Court of Appeal who confirmed that a valid surrender had taken place on the basis that EHA had transferred Mrs McKenzie's rent account to her new flat and stopped charging her rent for the

old one. Also, Mrs McKenzie giving notice to quit was seen as her intention to leave which supported the argument that a surrender had taken place.

This could have been avoided if a valid Notice to Quit had been signed in the first place.

what's hot

ONE FOR ALL
BRINGING different tenancies under one umbrella is the aim of the Housing Corporation's new charter.

The Charter for Housing Association Applicants and Residents outlines HA residents' minimum legal rights and explains how an association can comply with the corporation's regulatory code.

It replaces the eight residents charters issued between 1998 and 1999. Download copies from www.housingcorp.gov.uk

HOME, UNFIT, HOME
A SURVEY of homes in England has found 900,000 unfit for human habitation and half a million in urgent need of modernisation. The average cost of bringing properties up to scratch is £7,200.

The 2001 English House Condition Survey, which was published last summer, can be downloaded from www.housing.odpm.gov.uk

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