

25 April 2023

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Housing Management Law School



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News Round-Up

Refusal to stay or suspend a possession order

- *Begh v Tower Hamlets LBC*
- Applicant tenant applied for a stay of possession order
- 2010 – applied for housing (for himself, wife and child)
- 2013 – wife moved to Newcastle with children
- 2014 – tenant signed tenancy in his own name, listing his wife & children as occupants
- Housing Associations served notice seeking possession due to deception
- Application refused

 **Application for an interim possession order**

In the	
Claim no.	
Fee Account no.	

Claimant's full name and address

Address for service (if different from above) Ref / Tel No.

Defendant's name (if known including title e.g. Mr, Mrs or Miss) and address

Seal

The claimant is claiming possession of

on the grounds that the claimant has an immediate right to possession and that the person(s) in occupation of the premises is (are) in occupation without consent.

Application issued on

The court will consider whether an interim possession order should be made on

at am/pm

at

Service

Insert time. For this notice to be valid it must be served before am/pm on the day of day and date 20 . It must be **affixed** to the main door or another conspicuous part of the premises and, if practicable, inserted through the letterbox in a sealed transparent envelope addressed to 'the occupiers'. In addition it may be attached to stakes in the ground in conspicuous parts of the adjoining land if this is appropriate.

Removal of housing association from register

- National Community Homes (CIC) – formerly Larch Housing Association Ltd
- Decision to remove the association was not irrational, disproportionate, premature or improper
- Ongoing concerns about management and financial position
- Solvency plans did not meet requirement
- Compulsory deregistration proceedings began in October 2021
- Appeal of the decision was dismissed



Levelling Up and Regeneration Bill

- Responds to requests for further devolution in England
- Changes to s106 agreements and new infrastructure levy have impacts on delivery of on-site affordable housing
- Clear intention to either maintain current amount or increase
- “Right to require” aims to remove negotiation in determining the levels of on-site affordable housing
- Yet to complete committee stage in HoL

Bill passage



Illegal Eviction

Wu v Chelmsford City Council

- Ms Wu was landlord of the property since 2013.
- In 2018, she entered the property – changed the locks & disconnected water supply.
- Left the occupiers without new keys and water.
- Found guilty of unlawful eviction for changing the locks and unlawful harassment for disconnecting the water supply.
- Appeal dismissed.



The Supported Housing (Regulatory Oversight) Bill

- Regulation of supported exempt accommodation & enforcement powers
- Introduction of licensing schemes – exempt accommodation subject to council approval
- Root out rogue landlords
- Need to gather and share information
- Concerns over capacity challenges for council
- Completed passage in the Commons, moved to HoL

Bill passage

Bill started in the House of Commons	Bill in the House of Lords	Final stages
<ul style="list-style-type: none">✓ 1st reading✓ 2nd reading✓ Committee stage✓ Report stage✓ 3rd reading	<ul style="list-style-type: none">✓ 1st reading✗ 2nd reading○ Committee stage○ Report stage○ 3rd reading	<ul style="list-style-type: none">○ Consideration of amendments○ Royal Assent

NHF and CIH action plan

- National Housing Federation (NHF) and Chartered Institute of Housing (CIH)
- Independent panel – issues of poor quality social housing
- Better Social Housing Review (BSHR) – 7 recommendations
 - Recommendations include:
 - Every housing association to refocus on its core purpose
 - Housing associations to partner with tenants, contractors etc to develop and apply new standards for repairs
 - Working with tenants to ensure they have a voice at all levels of decision-making
- Key provisions of plan:
 - Race equality as priority
 - Meet needs of ethnic minority tenants
 - Promote NHF 2020 code of governance
 - Organise events and share resources to review maintenance
 - and repairs process

**NATIONAL
HOUSING
FEDERATION**

The Renters Reform Bill

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- Proposed legislation
- Main proposals:
 - Scrap ‘no fault’ evictions – new mandatory grounds of possession
 - Register of landlords
 - Private rented Ombudsman
 - Illegal for landlords and agents to refuse rent properties to those receiving benefits
 - Give local authorities more power to enforce and protect renters’ rights
 - Abolishment of rent review clauses
- Michael Gove pledge this Bill would be introduced in “a couple of months”



Hot Topic

Social Housing (Regulation) Bill

Background

- Legal basis for measures in 2020 Social Housing White Paper
- “Transformational change” for residents
- Empower residents
- Provide redress
- Improve regulation & quality of social housing
- Applies to England & Wales



“drive significant change in landlord behaviour to focus on the needs of their tenants and ensure landlords are held to account for their performance”

Amendments to Housing & Regeneration Act 2008

- The framework for social housing regulation
- Amended by Bill

2 objectives:

1. **Economic** – ensure providers financially sound
2. **Consumer** – quality accommodation, choice & protection for tenants



New Consumer Regulation Regime

1. Safety

- Designated Health & Safety lead for each registered provider
 - To monitor compliance
 - Assess risks
 - Report failures
- Electrical safety checks
 - Secretary of State power to impose electrical safety duties on registered provider

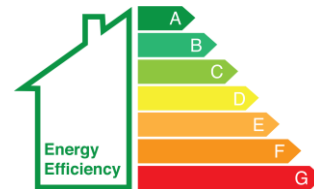


2. Transparency

3. Energy efficiency

Removal of serious detriment test

- No longer required to prove risk of serious detriment before intervention
- Legislative barrier removed



Economic Regulator Regime

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- Refining the existing regime
- Ensure providers are well governed & financially viable
- Protect tenants from insolvency
- Support development
- Clear understanding of corporate structures



Powers strengthened

- Inspection
- Collect and publish performance information
- De-registration
- Unlimited fines
- Emergency repairs – 48 hours notice



The Housing Ombudsman

- Solidify & stabilise
- Empower HO to issue code of practice on complaint handling
- Monitor compliance
- Enhanced cooperation
- Prepare & maintain memorandum
- Consultation

Housing
Ombudsman Service



Tenant Satisfaction Measures

- From 1 April 2023, all social housing providers to collect data for definitive list of TSMs
- 22 measures (10 measured by tenants)
- Tenant's to hold landlords to account
- Request information on, and from, landlords
- Each measure tells tenants about their landlord
- Package of measures shows key areas
- Scrutiny & comparison



Freedom of Information Act
2000

Tenant Satisfaction measures

- 5 themes
- Examples:
 - Overall satisfaction
 - Satisfaction with repairs
 - Satisfaction that home is maintained
 - Maintaining building survey
- The above examples are measured by tenants perception surveys



Example Tenant Perception Survey

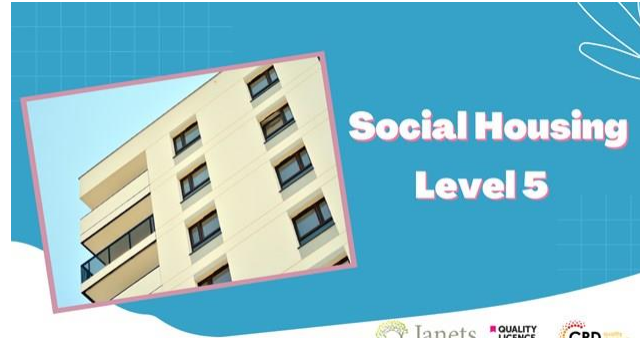
Satisfaction with repairs:

- 1. Has your landlord carried out a repair to your home in the last 12 months?*
 - 2. If yes, how satisfied or dissatisfied are you with the overall repairs service from your landlord over the last 12 months?*
 - 3. Taking everything into account, how satisfied or dissatisfied are you with the service provided by your landlord?*
- Measure based on % of tenants who say they are satisfied



Housing Manager Qualifications

- Mandatory qualifications
- Ensure high-quality service
- Professionalise sector
- 25,000 managers
- Level 4 or 5 Certificate or Diploma in Housing / Foundation degree from Chartered Institute of Housing
- Possibility of debarring
- Align with other sectors



Chartered
Institute of
Housing

Awaab's Law

- Tabled amendments to introduce this law
- Case of Awaab Ishak:
 - Died due to prolonged exposure to damp and mould in his home
 - Managed by Rochdale Boroughwide Housing
 - Significant mould present in all rooms
 - 80% of residents in his estate still suffering from damp and mould problems in their homes
- Requirement to investigate, and remedy, damp & mould within specified timeframe
- Consultation on timeframe later in 2023
- If repair not possible, rehousing
- Form part of tenancy agreement – another means of holding landlords to account



Reaction to the Bill

- Broadly welcomed
- CIH welcomed focus on safety, transparency & accountability
- Shelter, Grenfell United welcome the Bill but call for it to go further



“We welcome publication of this bill which provides the foundation we have been calling for, giving tenants’ a greater voice and improving access to redress.”

- CIH



What does this mean for Housing Associations?

- Being more proactive
- Taking active steps to monitor condition of homes
- Ensuring complaint processes are accessible and effective
- Training of staff to ensure they are equipped to engage with residents
- Transparency & accountability

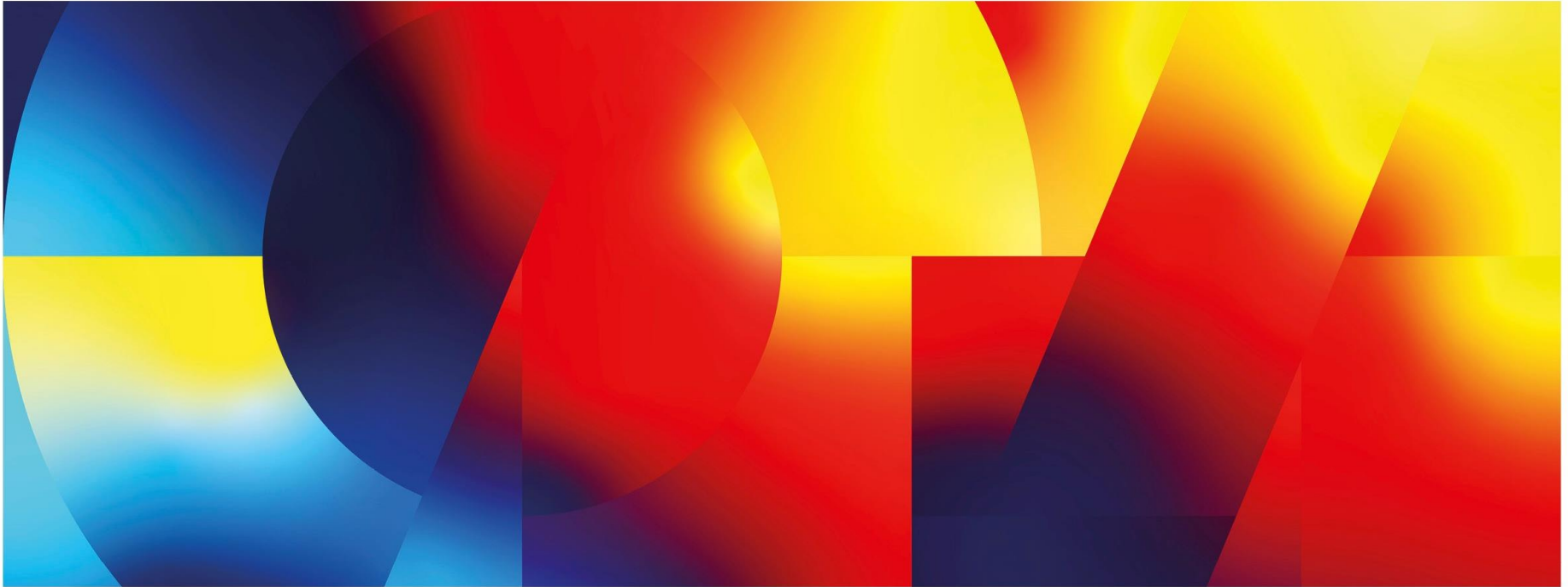


Conclusion

- Strengthening of regulator regime
- Subject to consultation
- Further changes may follow
- Millions could benefit from improved standards and protections



Committal Proceedings



Committal Proceedings

1. What is committal?
2. What is an injunction?
3. How is a contempt application made?
4. CPR 81 and Power of Arrest
5. Evidence
6. Punishment
7. Benefits
8. Examples

What is committal?

- Breach of Court Order
- Penal notice
- Injunction Orders

What is an injunction?

- An Order to do or not do something
- ASB injunctions can be mandatory and prohibitory
- Anti-Social Behaviour Crime and Policing Act 2014 – standalone legislation
- Part 8 of the Civil Procedure Rules
- Contempt for disobedience and interference

How is a contempt application made?

- Formal application pursuant to CPR 81
- Following a defendant's arrest under a S.1 injunction

Part 81 of the Civil Procedure Rules

- Formal application pursuant to CPR 81
- Following a defendant's arrest under a S.1 injunction
- Contempt application under CPR 81
 - Form N600, £275
 - 81.3(1): CPR 23 applies; made in existing proceedings
 - 81.3(2): Circuit Judge – “Your Honour”
 - 81.3(5): permission not required

Part 81 of the Civil Procedure Rules

- Requirements of CPR 81.4
 - (1): supported by affidavit
 - (2): must deal with the following:
 - (a) nature of the alleged contempt
 - (b) date and terms of order breached
 - (c) personal service
 - (d) dispensation
 - (e) penal notice

Part 81 of the Civil Procedure Rules

- Requirements of CPR 81.4
 - (1): supported by affidavit
 - (2): must deal with the following:
 - (f) date and terms of undertaking
 - (g) belief as to understanding
 - (h) summary of facts
 - (i) legal representation
 - (j) reasonable time and legal aid

Part 81 of the Civil Procedure Rules

- Requirements of CPR 81.4
 - (1): supported by affidavit
 - (2): must deal with the following:
 - (k) interpreter
 - (l) reasonable time to prepare
 - (m) evidence in defence
 - (n) right to remain silent
 - (o) proceed in absence; finding beyond all reasonable doubt

Part 81 of the Civil Procedure Rules

- Requirements of CPR 81.4
 - (1): supported by affidavit
 - (2): must deal with the following:
 - (p) imprisonment, fine, confiscation
 - (q) admission or apology
 - (r) findings in writing
 - (s) public findings

Part 81 of the Civil Procedure Rules

- [\[Form N600\]](#)

Part 81 of the Civil Procedure Rules

- CPR 81.4(2)(e): Penal Notice
 - Must be endorsed on the injunction order
 - Warn the defendant that disobedience to the order made by punishable by imprisonment, a fine, confiscation of assets or other punishment under the law
- CPR 81.5: Service
 - At least 3 clear days
 - (1) personal service
 - (2) service upon a solicitor

Part 81 of the Civil Procedure Rules

- CPR 81.7: directions
 - Case management directions to final hearing – including evidence
 - (2) warrant requiring defendant's attendance
- CPR 81.8: contempt hearing
 - (2) lawyers and Judge to be robed
 - (6) reasoned judgment
 - (7) defendant's right of appeal

Part 81 of the Civil Procedure Rules

- CPR 81.9: powers of the Court
 - (1) imprisonment, fine, confiscation, other punishment
 - (2) warrant of committal
 - (3) personal service
 - (4) power of arrest
 - (5) 2 year time limit

Following the Defendant's arrest

- S.4 ASBCPA 2014 – power of arrest
- S.9: production within 24 hours
- Schedule 1:
 - Release
 - Deal with breach
 - Custody
 - Bail
- Judge may direct under CPR 81

- Affidavit, not witness statement
- Affirmation or religious oath
- Statement of truth:
 - *'I believe that the facts stated in this affidavit are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.'*

- Compliance with CPR PD 32
 - In witness' own words
 - Exhibits
 - Personal recollection
 - Identify documents
 - Witness' own language
 - Statement of truth
 - Concise
 - Refreshed memory

- Compliance with CPR PD 32
 - Who is the affidavit made on behalf of
 - Paper and margins
 - Legible, single side
 - Bound
 - Consecutive numbering
 - Numbered paragraphs, chronological order
 - Numbers in figures
 - Bold exhibit references

- Beyond all reasonable doubt
- Prove allegations
 - Who?
 - What?
 - Where?
 - When?
 - How?
 - Why?

Punishment / sentencing

- Imprisonment, fine, confiscation
- Civil Justice Council Guidelines – July 2020; 8 steps
 - 1: determine the seriousness of the breach
 - A: high culpability
 - B: deliberate breach between A and C
 - C: low culpability

Punishment / sentencing

- Imprisonment, fine, confiscation
- Civil Justice Council Guidelines – July 2020; 8 steps
 - 2: starting point and category range
 - Cat 1: serious harm or distress
 - Cat 2: between Cat 1 and Cat 3
 - Cat 3: little or no harm or distress
 - Suspended sentences are common

Punishment / sentencing

- Imprisonment, fine, confiscation
- Civil Justice Council Guidelines – July 2020; 8 steps
 - 3: reduction for admissions
 - 4: totality principle
 - 5: suspension
 - 6: time spent
 - 7: reasons
 - 8: review of positive requirements

Benefits

- Deterrent
- Reinforce commitment to tackling ASB
- Possession proceedings

Examples

- Assault
- Threats of violence
- Erratic driving
- Exclusion zone

Questions and answers

Thank you

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