

ONE PUMP COURT

Young People's Legal Rights Conference 2020

Law in the Time of Covid: Housing Law

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What should housing law look like?

- Legal security of tenure
- Availability of services, materials, facilities and infrastructure
- Affordability
- Habitability
- Accessibility
- Location
- Cultural adequacy

So what did the Government do?

- Backed away from commitment to abolish s21
- Extended most notice periods to 3 months and, later, to 6 months
- Restored the 30th centile link between housing benefit and market rents
- Approved the stay on possession proceedings brought in by the courts, later extending it to 20th September 2020
- Brought in guidance asking landlords, hoteliers and caravan park owners not to evict
- Also guidance asking landlords to carry on doing repairs
- Promised a pre-action protocol which never appeared
- Implemented a temporary homelessness and rough sleeping programme



Pre-planned changes

- From 20th March 2020 tenancies must be fit for human habitation: Homes (Fitness for Human Habitation) Act 2018, introducing section 9A of the Landlord and Tenant Act 1985
- For all new tenancies from 1st July 2020 and for existing tenancies from 1st April 2021, landlords must inspect and test electrical installations every 5 years: Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020



Consequences

- Housing prices and rents dropped
- Tenants more in arrears
- Landlords themselves face unemployment and drop in income
- Landlords disincentivised to invest in more lets but incentivised to seek higher value lets
- Local councils had a sharp drop-off in homelessness applications from families and single homeless evicted from family homes
- Home Office extended stays for asylum-seekers beyond when they would normally be passed to local councils

Consequences for the courts

The Government and judiciary were very concerned with:

- (i) the backlog of cases that, at the imposition of the stay, were not concluded and so were held in stasis;
- (ii) the backlog of cases that, in the normal run of things, would have been issued during the period of the stay and that would be issued as soon as the stay was lifted; and
- (iii) the backlog of extra cases brought about because of the financial situation and the effect on rent and mortgage accounts.

CPR PD 55C

- No stayed claim brought before 3rd August 2020 may be listed, relisted, heard or referred to a judge unless and until one of the parties files and serves a Reactivation Notice
- The Reactivation Notice must come at least 42 days prior to trial or that trial date is lost and must include details of the effect of the coronavirus pandemic on the tenant and, if relevant, an updated rent statement
- For all claims brought after 3rd August 2020, 14 days before the next hearing a social landlord must serve a notice on the tenant confirming compliance with the pre-action protocol and all landlords must serve a notice with details of the effect on that tenant of the coronavirus pandemic and they must then bring copies of those notices to that hearing



Overall Arrangements


The strategy behind the Overall Arrangements is to

- (a) reduce volume in the system by *enabling earlier advice and increasing settlement*,
- (b) take account, within limits that the law has imposed, of the effect of the pandemic on all parties, and
- (c) maintain confidence in the fairness of outcomes.

Priority cases

Priority is supposed to be given to cases involving:

- (a) ASB
- (b) 12 months' rent arrears or 9 months' rent arrears where the rent amounts to more than 25% of the landlord's income (there is no detail on how this should be measured)
- (c) Squatter/persons unknown
- (d) Domestic violence
- (e) Fraud
- (f) Unlawful subletting
- (g) Abandonment, non-occupation or death
- (h) Temporary accommodation



Contingency arrangements

- More Nightingale courts;
- More remote hearings; and
- Deploying more judges.

Timetable

- 6th October Evictions
- 19th October Review hearings
- 1st November New mortgage claims
- 16th November Substantive hearings

Other measures

- The Lord Chancellor sent a letter dated 21st October 2020 to the High Court Enforcement Officers Association requesting that no evictions are carried out:
 - where Tier 2 or Tier 3 restrictions are in place, and
 - during the 11 December 2020 to 11 January 2021 period
- The Government has published Operating principles for commissioners and providers of night shelters for people experiencing rough sleeping
- The Government has announced a £10m Cold Weather Payment for councils to help to keep rough sleepers safe this winter, and £2m which will go to faith and community groups to help them get rough sleepers into accommodation