

Since the ending of the possession stay in September 2020, there have been a few newsworthy items. This article will give a brief overview of what has happened over the last two months in case you missed any of them.

Evictions

It was an exciting few weeks watching the development of ‘if and when’ evictions could occur with a threat of judicial review proceedings by NRLA.

After the stay was lifted, the Lord Chancellor wrote to the High Court Enforcement Officers Association “requesting” that no evictions were carried out in tier 2 or 3 restricted area or anywhere between 11 December 2020 and 11 January 2021. The HCEOs and county court bailiffs seems to agree to this request despite it having no legal basis.

Then the second national lockdown was announced and the Lord Chancellor again wrote to HCEO’s asking them to not evict but with specified exceptions (ASB, fraud, domestic abuse or trespassers). Still no legal basis for this.

Legal Counsel for the NRLA sent a pre-action judicial review letter to the Ministry of Justice challenging the lawfulness of the Lord Chancellor’s letters.

On 16 November 2020, The Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020 were laid and came into force the next day. These Regulations put the Lord Chancellor’s letters on a legal footing and apply until 11 January 2021.

The exceptions to the ban on evictions are:

- A claim against trespassers;
- Anti-social behaviour grounds;
- Fraud;
- Domestic abuse;
- Substantial rent arrears of 9 months accrued before 23 March 2020;
- Or death of a tenant.

Practically speaking, a landlord will need to make an application to the court with supporting evidence to show that one of the exemptions applies and the Court can then decide if it is appropriate for the eviction to be issued and carried out.

Updated guidance

To coincide with the second national lockdown, the following non statutory guidance was updated:

- Guidance for landlord and tenants;
- Technical guidance on eviction notices;
- Guidance for local authorities.

Whilst the documents are lengthy, I think a main point is that they confirm that landlord can take steps to carry out repairs and safety inspections throughout the national lockdown and, once it is lifted, those repairs and inspections can continue irrespective of the tiers the property is under. This is subject to public health advice and the safety guidance previously discussed in both our training and articles on the subject.

Committals – which level of Judge?

Following the revisions to Part 81, there was some confusion over what level of Judge was required to hear committal applications.

This has now been cleared up by The Civil Procedure (Amendment No 6) Rules 2020 which amends CPR 83.3 and expressly allows a District Judge to hear committal applications and proceedings following arrest.

And finally, the Social Housing White Paper

This document really deserves an article in its own right. However, to focus on the main points for housing litigators, I would draw your attention to:

- A suggestion of extending the requirement to carry out 5 yearly electrical safety checks (currently in the PRS) to social housing;
- New tenant satisfaction measures will be created to measure how providers tackle ASB;
- Increased signposting for tenants reporting ASB;
- Better advertising of the community trigger;
- An emphasis on better dealing with county lines gangs, drug dealing and cuckooing;
- Revision of the Regulator's standards to ensure that landlords have a policy setting out how they deal with domestic abuse; and
- Landlord should allow the keeping of pets depending on location and provided that they are looked after and do not adversely affect neighbours to improve mental health.

White Papers are policy documents setting out the Government's proposals for future legislation so these proposals are at an early stage and it remains to be seen what makes its way through the legislative process.

If you have any queries, please contact Jane Talbot

Whilst every effort has been taken to ensure that the law in this article is correct, it is intended to give a general overview of the law for educational purposes. Readers are respectfully reminded that it is not intended to be a substitute for specific legal advice and should not be relied upon for this purpose. No liability is accepted for any error or omission contained herein.



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