

Introductory Tenancies

By

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for

Scrutiny Panel 2010

Types of Tenancies

- Introductory Tenancies
- Secure Tenancies
 - Most RBC Tenancies are secure
 - “Secure” because if the tenant complies with the terms of the tenancy agreement s/he can keep the tenancy for as long as s/he wishes.

Introductory Tenancies

- Introduced as a tool to tackle anti-social behaviour (but can be used for any breach of tenancy) e.g.
 - Selling drugs/drug abuse
 - Threats/use of violence
 - Verbal abuse/harassment/racial abuse
 - Loud music
 - Arguing/door slamming
 - Threats/damage to others property

Introductory Tenancies

- Adopted by Rotherham from October 2003
- All new tenants **MUST** be ITs (unless immediately before the start of the tenancy they were a secure tenant of another LA or assured tenant of a Housing Association).
- 12 months ‘trial period’.
- If no breaches of tenancy agreement, tenant automatically becomes secure tenant after 12 months.
- No Security, No right to buy

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- To end the tenancy RBC must serve the tenant with a Notice of Proceedings for Possession (“NPP”).

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- inform the tenant that s/he has the right to request a review of the decision to seek a possession order & the time in which the request must be made i.e. 14 days from date tenant served with the NPP (Leaflet).
- inform the tenant that if s/he needs help or advice about the NPP, s/he should take it immediately to CAB/Housing Aid Centre/Law Centre/Solicitor.
- Personal service or post through letterbox.

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- Review – If tenant wants an oral hearing s/he has to request it within 14 days of receipt of NPP. **NB** request need not be in writing.
- Oral hearing conducted by elected members.
- Tenant has to be given at least 5 days notice of the date of the review hearing – if less than 5 days notice given, hearing can only proceed with consent of tenant/representative.

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- Prior to the hearing Tenants will be supplied with the written evidence relied on by RBC. This may include:
 - chronology of events;
 - witness statements from officers (which may include hearsay from unidentified complainants);
 - witness statements from identified complainants.

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Members of the review panel follow the procedure BUT can deviate from this in order to ensure a tenant has a fair hearing as long as the following principles are maintained:

- (i) Tenant can be heard & hear evidence against them;
- (ii) be accompanied and/or represented by another person (professionally qualified or not) – a representative has the same rights as the tenant;

Introductory Tenancies

- (iii) call persons to give evidence;
- (iv) put questions to any person who gives evidence at the review panel (but not witnesses who have not attended but have given statements); and
- (v) make representations in writing.

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- Guidance suggests reviews should be conducted as far as practicable as an ‘inquisitorial’ hearing rather than as a court style ‘adversarial’ hearing.
- Make tenant/representative aware at outset as to how members intend to conduct the review.

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- Vulnerable Tenants - need special consideration.
- Officers should have made early contact with support agencies to explore solutions/additional support rather than immediately evict.
- Be aware of different cultures/languages.

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- **Members of the Review Panel must:**
 - (i) review the evidence before them;
 - (ii) disregard any evidence that is not credible or irrelevant;
 - (iii) check the NPP is valid; and
 - (iv) decide on balance of probabilities (i.e. more probable than not) whether tenant has breached terms of tenancy agreement.

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- If proper notice of the review hearing is given to the tenant but the tenant does not attend – members must take into account all the circumstances (including any explanation given for the tenant's absence) and can either:
 - (i) proceed in the tenant's absence; or
 - (ii) give directions re. future conduct of review.

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- If tenant requests a postponement of the hearing members can grant or refuse as they see fit – they should provide reasons if they refuse.
- The hearing can be adjourned at the request of tenant/representative or if Members wish to adjourn – But the same members must sit at the adjourned hearing or there has to be a complete rehearing. Can have 1 of the original members missing but only with the consent of tenant/representative.

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- Review must be carried out and tenant supplied with written reasons before date specified in NPP i.e. date after which possession proceedings can be begun.

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- A written decision letter must be served on the tenant which clearly sets out:
 - (i) what evidence was heard;
 - (ii) which facts were established as agreed;
 - (iii) which facts were in dispute; and
 - (iv) the findings of the review panel and the reasons for the findings.

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- If the tenant fails to vacate the property the Council must apply for a possession order.
- Possession proceedings must be issued in the County Court before the end of the 12 month trial period - otherwise the introductory tenancy will automatically become a secure tenancy.

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- **Court must order possession if we prove:**
 - (i) the tenancy was an IT
 - (ii) the NPP was valid (& review properly carried out if requested).
 - (iii) court proceedings were begun after the date stated in the NPP.
- Court can only postpone possession for up to 14 days (or up to 6 weeks in cases of “exceptional hardship”).

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- If the review upheld service of the NPP the only viable way of challenge is by judicial review.
- Application High Court.
- E.G. no reasonable authority could have come to that decision, failure to conduct hearing properly, failure to give proper reasons.

Extending the Introductory tenancy

- Extension of 12 months trial period by further 6 months so total of 18 months.
- Introduced June 2005
- Used for more minor breaches e.g.:
 - occasional noise
 - minor damage to home
 - upkeep of home/gardens

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- Serve notice of extension at least 8 weeks before end of 12 months trial period.
- Notice must give reasons and deal with review procedure.
- Tenant must request review within 14 days of service of notice.
- Oral/Written review.

Continued

- Must give tenant at least 10 clear days notice of date of review and if oral review, time and place.
- Tenant must supply any written representations to RBC at least 2 clear days before the date of the review.
- Same rights for tenant as in review of NPP.

Questions

