



SOCIAL HOUSING MANAGEMENT

ASB INJUNCTIONS

Our housing management team has been involved in numerous anti-social behaviour actions concerning claims for possession and/or injunctions, both on notice and without notice. A number of these cases have raised complex issues, particularly in respect of mental health and human rights/public law defences.

DISREPAIR

We regularly advise housing associations on their obligations under section 11 of the Landlord and Tenant Act 1985. Our case load includes pre action correspondence, court claims brought outright by tenants and those where disrepair is utilised as a defence to possession proceedings commenced by the landlord. Repair records and inspection reports are key and we focus on ensuring that our advice on the merits of the claim and the likely quantum are provided at the earliest opportunity to avoid unnecessary costs escalating.

We frequently assist housing associations on obtaining an injunction for access to tenanted property to undertake internal and external repairs.

ENFORCEMENT OF TENANCY AGREEMENTS

Our work involves advising and representing housing associations on all aspects of general landlord and tenant law and civil procedure in respect of tenancy agreements to include enforcing the provisions of tenancy agreements through letters before action, injunctive relief and/or possession actions in respect of various breaches. These cover keeping dangerous animals, pets causing nuisance, unauthorised alterations to property and immoral/illegal use.

UNLAWFUL SUBLETTING/SUCCESSION

It is both a civil and criminal offence to unlawfully sublet assured and secure tenancy properties. With a lack of housing stock in the country and these tenants paying below market rents, it can be very attractive to the more unscrupulous tenant to unlawfully sublet the whole of their property at or above market rents without the knowledge of their landlord.

The careful management of a client's portfolio will make it easier to identify those properties which might have been unlawfully sublet. We regularly advise on and issue proceedings in relation to unlawful subletting (including claims for unlawful profit orders) pursuant to the Prevention of Social Housing Fraud Act 2013.

Spurious claims of succession are a common issue. Housing associations usually have high waiting lists of people desperate to be housed and so we take a fair but robust approach in dealing with tenants who try to succeed to tenancies unlawfully. We recently took possession against a deceased tenant's niece who only occupied the property after the death of her elderly uncle but claimed to have been living there before his death and to be entitled to succeed. In another case where a tenant refused our offer of alternative accommodation, we acted in proceedings to recover possession of a four bedroom house from a sole occupant following succession.

GAS ACCESS INJUNCTIONS

It is imperative for all landlords to take their obligations under the gas safety regulations seriously as the safety of their tenants and surrounding neighbours is paramount. In our experience, the courts recognise the significance of a



tenant's refusal to grant access to undertake the annual gas safety inspection and county court judges tend to take a robust approach with non-compliant tenants.

Where tenants have failed to provide access to contractors to carry out annual gas safety checks, we provide a fast, efficient, cost effective service to help manage our clients' portfolios. If necessary, we obtain injunctions (attaching a penal notice) using the CPR Part 8 procedure to ensure that access is granted.

POSSESSION PROCEEDINGS

We regularly assist housing associations in the preparation of Notices to Quit, NOSPs and section 21 notices in anticipation of commencing court proceedings which can be based on rent arrears or some other form of breach of the tenancy agreement. Our early involvement in the matter helps streamline the process and coordinate strategy to ensure that more often than not possession is ordered at the first hearing.

GENERAL ADVICE

Our expertise also covers leasehold and property management issues, including shared ownership leases.

- We have been instructed by housing associations regarding the nature and scope of the section 20 consultation process and regularly make applications to the First Tier Tribunal in respect of disputed service charge liability and enfranchisement/extension actions in relation to the 1993 Act.
- We advise on the extent of the landlord's repairing obligations and recently provided guidance to a client on whether this could extend to remedying items of poor design which were not in disrepair, but had inherent defects resulting from poor specification of the original development.
- We acted for a client to deliver vacant possession of five housing estates due for demolition and regeneration as part of a £250 million scheme. This involved the issue of hundreds of possession claims against residents to protect the client's position should offers of alternative accommodation be refused.
- We regularly advise housing associations on title disputes including unauthorised oversailing, challenges to prescriptive rights and building outside the title envelope.

FIND OUT MORE

For further information, please contact:



BEN ROBINSON
T: +44 (0)20 7457 3122
E: ben.robinson@penningtons.co.uk



MICHAEL GERKEN
T: +44 (0)20 7457 3124
E: michael.gerken@penningtons.co.uk