**ATRO** Newsletter Issue 3 2014

# Association of Tenancy Relations Officers

## Legislative update

### Immigration Act 2014

The requirement for landlords to undertake immigration status checks on potential tenants seems less likely to be implemented this year.

The Act received the Royal Assent on 14 May 2014. Although the First and Second Commencement Orders were issued for some provisions to be brought into effect on the 14 and 28 July, they do not include Sections 20-33 of the Act concerning landlords and tenants.

It was decided during the parliamentary debates that the provisions should be tested by a pilot scheme in one area, following which, their effectiveness and practicality would be assessed. The proposed pilot was to last for a period of 6 months. The earliest that a pilot scheme could commence would be mid-October, possibly after the political party conference period, that starts with Labour on 21 September and lastly the Conservatives that ends on 1 October. A general election will be held before 5 May 2015, however parliament is suspended three weeks beforehand and therefore any assessment of the pilot may be delayed.

Some Peers were particularly concerned about the provisions and it is possible that if the pilot does not operate successfully, further delay may be caused or the proposed changes may not be implemented at all.

**Jeremy Corbyn's** Bill discussed in the last Newsletter did not pass the Second Reading and therefore, not unexpectedly, failed.

**Julian Huppert's** Bill concerning Letting Agents fell as it did not complete all stages before the end of the session. There had been an indication that the government would support the Bill. A summary of the main provisions is given below

*A Bill to prevent the charging by letting agents of above–cost fees; to provide that the Consumers, Estate Agents and Redress Act 2007 and Estate Agents Act 1979 apply to letting agencies; to facilitate the establishment by councils of landlord and property accreditation schemes; to establish a housing ombudsman service for tenants in the private rented sector; to require the Secretary of State to undertake a review of the legislation applying to the private rented sector; and for connected purposes.*

New Trading Standards guidance on business practice affecting Letting Agents has been issued that will provide some of the changes proposed by Mr Huppert, although it is only guidance. Further information is given below

## Retaliatory Eviction

Sarah Teather MP (Lib Dem) the former government minister is the main sponsor of a new Bill to prevent landlords of ASTs from evicting a tenant, by the no fault S21 procedure if such eviction is in response to a complaint about property conditions.

The Bill is also supported by Tim Farron MP (Lib Dem) who is also the Party President.

Sarah Teather was reported on the Landlord Today website as saying;

*"It's completely wrong that some rogue landlords evict tenants simply because they ask for repairs to be carried out……Everyone should have somewhere comfortable and safe to live. But all too often, tenants put up with things like damp, dangerous electrical fittings and mould because they are too scared to complain."*

Landlord Today, commented-

*" landlords shouldn't be over-concerned that the Bill will become law - Private Members' Bills rarely make it on to the statute books.*

The main provisions of the Bill are likely to be

- Prohibition of issue or validity of a Section 21 Notice for 6 months after a report of Cat 1 or 2 disrepair and issue of Improvement, ERA, Hazard Awareness Notices and other specified issues
- Prohibition of a Section 21 Notice being issued in the absence of a Gas safety or EPC
- A Local Authority Certificate issued by a qualified designated person to be proof of the defect
- Provisions to prevent spurious claims
- Provision to allow sale of property in specified circumstances

## Anti-Social Behaviour Crime and Policing Act 2014:

Changes to Grounds for Possession ss.97 – ss.99 in Part V

## Mandatory ground

A new Ground 7A (Housing Act 1988) is introduced. A Court may order possession under this ground if:

- the property is or has been subject to a Closure Order or Closure Notice (in Part 4 of the Act) and access has been prohibited for a continuous period of more than 48 hours; or

- a tenant, a member of the tenant's household or a person visiting the property has been:

  - convicted of a serious offence (including murder and kidnapping - the full list of offences is included in Schedule 4 of the Act);
  - found by a Court to have breached an IPNA (in Part 1 of the Act);
  - convicted for breach of a CBO (in Part 2 of the Act); or
  - convicted for breach of a Noise Abatement Notice or Order in relation to the tenant's property under the Environmental Protection Act 1990.

The Notice period for this Ground is out of step with the other schedule 2 grounds. In the case of a periodic tenancy, the NOSP minimum length is: the earliest date on which apart from the Housing Act 1988 section 5, the tenancy could be brought to an end by a notice to quit given by the landlord.

In the case of a fixed term tenancy, it is: one month after the date on which the notice was served.

## Discretionary Grounds

The Act also introduces a new discretionary ground, Ground 14ZA, in Schedule 2 of the 1988 Act, enabling a Court to order possession in the case of riot-related convictions anywhere in the UK. However, this ground only applies to properties in England and possession may only be granted if it is reasonable to do so.

Ground 14 is amended to cover conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions".

The reference to the landlord's functions relates to those obligations that a landlord has, for example, under HMO or other licensing regulations or statutory obligations.

The amended Ground 14 and the new 14ZA came into force on 13 May, however Ground 7A was not included in the Order. Some solicitor's websites anticipate that it will be brought into operation in October 2014.

## Deposit Cases

The legislation on deposits continues to cause difficulties for landlords, tenants and the Courts. In a County Court case that appears to have been strongly argued by both sides at Birmingham, the judge ruled against a landlord and rejected their possession claim because they had failed to re-issue the Prescribed Information for a tenancy that had become a statutory periodic after a fixed term had ended. There was some factual confusion in the case because the landlord had indeed protected the original deposit and had "attempted" to issue the Prescribed Information four times, (one of which may have been successful, during the fixed term) but had not done so again during the periodic time.

Parliamentary Counsel ought to spend a little time during the last year of the coalition government and attempt to tidy up the legislation that was intended to create a simple system for landlords and tenants.

## Eviction & harassment prosecutions.

Sheffield Council

### Landlord Naveed Hussain

On 5 August 2014 at Sheffield Magistrates. Naveed Hussain was convicted of two charges under the PfEA. The Court heard that the tenant Mr Tesfay had had a number of problems at two of the landlord's properties on Pitsmore Road and had complained to him. This culminated in April 2013 when Mr Hussain grabbed and twisted his wrist and forcefully took his key, racially abused him and ordered him to leave. Mr Tesfay told the Court that Mr Hussain then threw his CD player across the room and started removing his possessions. Mr Hussain was charged with:-

(1) unlawfully depriving the tenant, of occupation of his room, contrary to s1(2) and
(2) doing acts likely to interfere with the peace or comfort knowing or having reasonable cause to believe that those acts were likely to cause him to give up his occupation of the premises, s1(3A) PfEA

Mr Hussain was sentenced to

- 120 hours of unpaid work in the community
- Costs of £1538
- Victim surcharge of £60

### Landlord Shamim Ali,

On 7 August at Sheffield Magistrates Shamim Ali of Witney Street in Sheffield pleaded guilty to harassing her tenants into leaving their rented house on the same street. Magistrates imposed a 12 month conditional discharge. She must also pay £993 court costs and a £15 victim surcharge.

The tenant had complained that Mrs Ali had been threatening and used abusive language, forcibly entering her home, throwing their belongings outside and frightening their young daughter. Mrs Ali was charged with doing acts likely to interfere with the peace and comfort of the tenants with the intent to cause them to leave, contrary to PfEA, 1977 s1(3) The sentence might be seen as disappointing but the Council recovered full costs and hope that the penalty will deter her from committing such acts again and warn other landlords that TROs will intervene when necessary.

Birmingham Council

On 27 June 2014 at Birmingham Magistrates a landlord pleaded guilty to a charge of "acting in a manner likely to interfere with the peace and comfort of the residential occupier, knowing or having reasonable cause to believe that such conduct would likely cause the residential occupier to give up occupation under Section 1(3A) of PfEA1977.

On 8 April 2013 the landlord entered the property whilst the tenant was out. He changed the front door lock and proceeded to pack the tenants belongings into bin liners. He went through all her and her children's clothes and personal papers and removed the food from the fridge and freezer. When the tenant returned to the property she was unable to get into the house and the landlord was in the house. She called the Police and the Council.

Tenancy Relations officers attended the property and negotiated that the tenant could remain in occupation, and ensured that the tenant was given keys for the new front door lock.

The landlord pleaded guilty at the earliest opportunity and he was fined £200, ordered to pay a contribution towards prosecution costs of £250 and a £20 victim surcharge. A collection order was made and the Defendant was ordered to pay in 14 days.

Whilst sentencing is entirely a matter for the magistrates, the sentence given by the Court is disappointing

## Section 8 Notices

## Words, Words, Words

*Masih, R v Yousaf [2014] EWCA Civ 234*

This CA case involved the use of the words in a Notice

_____'rent owed' rather than 'rent unpaid'____

In this case the Court was not impressed by the tenant's contention that, as the actual words stated in the Act were not used, the notice was invalid. The Court held that rent owed and rent unpaid were so close in meaning & understanding that it fulfilled the legislative purpose.

However, it also noted the comment made in Mountain v Hastings (CA) and quoted from that judgment

*"'It is difficult to think of any good reason why a person given the task of settling a form of notice should choose to use words differently from those in which the Crown has stated in the schedule."*

## CMA Guidance for Lettings Professionals

The Competition and Markets Authority (CMA) replaced the Office of Fair Trading earlier this year. On 13th June 2014 it issued:-

**A Guidance for lettings professionals on consumer protection law**.

The CMA advised that anyone involved in the Lettings Industry should read the document.

Much of what is included within the guidance is not new and pulls together various previous guidance into one document. The underlying principle is that letting professionals must act fairly with all people that have dealings with the agent. This is a positive obligation that agent's must actively set out to achieve the objectives of the rules.

**https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319821/Key_Principles_for_Lettings_Professionals.pdf**

**https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319820/Lettings_guidance_CMA31.PDF**

**Boris Johnson, London Mayor**

**and**

**Hugh Rayner, Mayor of Barnett.**

In the last few months Boris Johnson has highlighted the problems that many Londoners face in respect of private housing. That includes rent levels, availability and standards of management. When Boris Johnson was asked by an Assembly Member what, in his view would constitute a rogue landlord, he agreed to the various scenarios raised by the AM that, if committed by a landlord, were of a nature that would make the landlord a "rogue".

Amongst other things,

- Permitting the landlord to increase or vary the level at anytime
- turning up at a property late at night asking the tenant to sign a new contract
- presenting the tenant with only the last page of a contract to sign having no opportunity to read the full document.
- a 'witness' having pre-signed a contract

The AM asked, whether such a landlord would meet the Mayor's London Rental Standard.

*"No, of course not, replied Boris,. Sounds a terrible case……..."*

The Assembly Member having obtained the agreement of the Mayor was then able to identify the landlord who had committed those various deeds.

It was in fact the Mayor of Barnet who has been a landlord for many years and owns several properties.
The person who countersigned the contract as a 'witness' was another Tory Barnet Councillor!

Red faces for both the Mayor of London and his Barnet colleagues.

I hope that our ATRO member in the borough has had the opportunity to provide his employer with guidance or a 'good talking to', rather than having to interview them under PACE!

*We understand that the footage of the Assembly question and answer session is on the Barnet Blog although we do not have the link.*

## Retaliatory eviction law will prevent rent arrears and ASB claims, say the Residential Landlords Association

The RLA is particularly worried about the proposal for the law on Section 21 notices, which allow landlords to gain possession of homes at the end of an assured shorthold tenancy, to be overhauled.

*"If landlords see Section 21 under threat they will withdraw from the sector," said Mr Ward. "Landlords are frightened that they cannot evict tenants who are in rent arrears or who are guilty of anti-social behaviour easily and cheaply. We still have complaints that even under Section 21 there are costs and delays involved in obtaining possession."*

*Statement on the Residential Landlords Association website 15 Aug 2014*

## Listen to the NLA

"Public prosecutions can really help to drill home that bad practice is unacceptable and that there are consequences. Unfortunately, in 2012, fewer than 500 landlords were prosecuted; compare this with the 155,000 people prosecuted for not having a TV licence. Councils should also receive a proportion of prosecution fines in order to incentivise future enforcement activity to protect tenants from the few who think they can get away with poor or illegal property practices."

A call for TRO to investigate and prosecute more often. Many local authorities stop at a tenant being reinstated and not prosecuting, in contrast to the Birmingham case above.

## How to obtain possession without a Possession Order and the hassle of a Court!

## Or don't listen to the NLA!

The National Landlords Association is again promoting the quickie guide to obtain possession by use of a **5 DAY** Abandonment Notice.

The National Landlords Association London Representative, Lucy Regan suggests on their website that if a landlord suspects that a tenant has vacated a property and they have not been able to get a response from them, they should ask the neighbours if they think the tenant has moved, and if so, they "can" *(as if it is a right to do so*) then put a,

**"Notice of Abandonment"**

on the door, but suggest that it should be fairly small so as not to attract potential burglars to the fact that the property may be empty!. She advises that ;-

"*After five days the locks may then be changed" (again, suggesting that it is by some legal right)*

if the tenant has not been in contact. Ms Regan also advises that a Council's Tenancy Relations Officer can advise them on drafting of witness statements about the "abandoned" property. Lucy Regan did not provide any reasoning why the notice should be five days rather than four, six or seven. It is assumed that she believed it would be a good idea. The landlord is advised to pack up possessions in the property and keep them for a reasonable period. There is no suggestion of what period of time would be a reasonable. Would that be another five days?

She says that the landlord should also inform in writing, the *Council's "rent officer"* of what they have done.

However, after having advised of the procedure to follow in cases of abandonment, she then mentions, almost in passing, that the landlord's action could result in civil and criminal proceedings. The article will confuse many landlords. They are also advised to obtain a possession order and legal advice if there is any doubt!

We expect there would be doubt in most situations unless the tenant has signed a document that could be considered to be a surrender or returned all the keys.

This quick DIY way of obtaining possession was suggested by the NLA some 8 years ago, whereby "good" landlords, ie those Accredited by a Local Council, could obtain possession by the use of these notices. They said that "bad landlords" would not be permitted to use the procedure. They also suggested that the procedure would benefit local councils because homeless families could be placed in the available property. At that time however they thought that a ten day notice was appropriate and that a landlord should be able to obtain a signature of a council employee, possibly a TRO, that the landlord could go ahead to take the property! As can be seen the duration of the notice has shortened by 50%. ANUK (Accreditation Network UK) had provisionally adopted the idea in 2007 until challenged by ATRO, in conjunction with the NUS, Shelter, and other groups. The then Abandonment Notice procedure was dropped. The link below will take you to the NLA article.

http://nlauk.wordpress.com/2014/07/01/are-you-having-abandonment-issues/

## The costs of being a "rogue" landlord

Some magistrates and judges are beginning to consider that offences committed by landlords in relation to housing law are very serious and that the punishment should fit the crime. A recent case taken by Redbridge Council against joint landlords of a property in Ilford has resulted in what is thought to be the highest penalty that has ever been imposed under the 2004 Housing Act.

This prosecution related to HHSRS standards and letting property in breach of Emergency Prohibition Orders that had been issued by the Council. At a hearing in March 2013, the landlords pleaded guilty. However the offences continued and the landlords were prosecuted again in December – and again they pleaded guilty. Sentencing was referred to Snaresbrook Crown Court and in a hearing in July this year the landlords were fined a combined sum of £65,970 to be paid within 5 five months, or the couple will face a jail term of 18 months. The fine included a confiscation penalty imposed under the Proceeds of Crime Act.

When will that level of penalty be considered appropriate for offences under the Protection from Eviction Act? Some magistrates in recent years have been prepared to impose custodial sentences but fines are more likely to be imposed, but are often set at less than £1000 with perhaps a suspended custodial sentence as has been shown by the reports from Sheffield and Birmingham.

**Just a little snippet of arcane history to round off this edition.**

**Distress for Rent Act 1737,**

**Yes, 1737**

We have recently discovered on the Landlord Law blog an ancient piece of legislation that is still in force and was cited in court as recently as 1999. The Act is on the government's legislation website.

If a periodic tenant gives notice but stays beyond the date of expiry, they are liable to the landlord for **double the rent for the period if the property has been promised to a new tenant.**

Section 18 says:-

**"18**
*Tenants holding after the time they notify for quitting, to pay double rent.*

*And whereas great inconveniences have happened and may happen to landlords whose tenants have power to determine their leases, by giving notice to quit the premisses by them holden, and yet refusing to deliver up the possession when the landlord hath agreed with another tenant for the same: from and after the said twenty fourth day of June one thousand seven hundred and thirty eight, in case any tenant or tenants shall give notice of his, her, or their intention to quit the premisses by him, her, or them holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained, that then the said tenant or tenants, his, her, or their executors or administrators, shall from thenceforward pay to the landlord or landlords, lessor or lessors, double the rent or sum which he, she, or they should otherwise have paid, to be levied, sued for, and recovered at the same times and in the same manner as the single rent or sum, before the giving such notice, could be levied, sued for, or recovered; and such double rent or sum shall continue to be paid during all the time such tenant or tenants shall continue in possession as aforesaid."*

(*The spelling of premisses in the Act was common at the time although some spelling of some words has changed in the last two hundred years.)*

**How many of you knew of the existence of this old law?**

**The next issue will include Property Guardians, the relatively new phenomenon whereby 'residents' (not tenants), pay for the privilege of guarding property that is owned by someone else. The owners also pay the intermediate for the same service.**

**Members with experience of these arrangements who have had any involvement, successful or unsuccessful, to support occupiers, are invited to send us an outline of the case.**

**Other issues are landlord's use of High Court Sheriffs to enforce possession orders.**

**Reminder**

**Spencer v Taylor**

This case will not be heard on appeal in the Supreme Court because it refused formal permission to do so.

The law is now settled that a landlord may issue a simple section 21 (1)(b) Notice to end a statutory periodic tenancy that will be valid, providing it lasts at least two months from the date of service. The complications that often arose concerning correct expiry dates for statutory periodic tenancies, with S21(4)(a) notices, not containing a savings clause, will no longer be relevant providing the Notice does not specifically state that it is a Section 21 (4) notice.

It should be noted that S(21)(1b) only requires the landlord to state " that he requires possession of the dwelling-house". It does not require a statement or sentence that says the notice is given under the provisions of S21 or at all. It seems unlikely that the courts will require the actual word 'possession' as long as the meaning is clear

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Items are invited for the next issue to be published in December. Reports of 150-200 words is standard. Any members who wish to contribute longer items should contact me at :-

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Published September 2014

## Appendix

**ATRO was invited to attend a seminar in July on the procedures for eviction of tenants on grounds of rent arrears. This is a follow up article written by the organisers.**

Particular concern was expressed about possession applications submitted by private landlords in that they are often poorly prepared and take up a disproportionate amount of Court time

It was first published by the New Law Journal and we thank them for permission to re-publish.

**http://www.newlawjournal.co.uk/**

**The key to change**
**NLJ. 15 August 2014**
**(Volume 164 7619, pp. 13-14.)**

**Susan Bright & Lisa Whitehouse report on attempts to improve the eviction process**
Following our report on the housing possession process which raised questions concerning whether there is effective access to justice (**see "Losing a home", NLJ , 20 June 2014, p 16**), we held a seminar to discuss the issues raised. Key actors involved in the possession process—judges, housing advisers, claimant representatives, policy makers, court administrators—imagined how the process might be improved.

There were two key themes that emerged. The first focused around the low levels of defendant participation in possession cases: notwithstanding the fact that the home is under threat, many defendants do not receive legal advice and do not actively participate in the court process. This matters not only because of the importance of participation to procedural justice, but also because of its impact on outcome. Research suggests that there is a relationship between attendance and more favourable decisions to the defendant. The second area of interest was on eviction by private landlords. This is highly topical as the government has established a working party "to examine proposals to speed up the process of evicting during a tenancy tenants who do not pay rent promptly or fail to meet other contractual obligations".
Improving defendant participation
There are no official statistics about the number of defendants who attend or are represented in possession cases or file defence forms, but our research suggests it is fewer than half (and maybe as low as 20% attending and 10% filing defences in some courts). At the seminar, there was a presentation from a firm of solicitors that represents claimants in over 1,500 mortgage cases each month. Their statistics show that defendants attend in 38% of their mortgage cases. This is what we expected from our own research but is likely to be the high point; attendance in tenancy cases tends to be lower. Further, this firm's figures reveal that if the defendant does not attend, outright possession is given in 47% of cases compared with 31.5% of cases where the defendant is in attendance.

What is particularly surprising from this firm's statistics is that while defendants attend in 38% of the cases they are involved in, defendants are represented in only 20% of all cases (and most of these receive help under the free representation schemes on the day of the hearing). This means that of the minority who do attend, around

half will have representation. Again, there are no official statistics on these levels of representation. The firm's figure is worryingly low. We do not know how this might compare with tenancy cases, but when we combine it with the fact that few defendants in housing cases receive any legal advice before the hearing what we see is a picture with potentially as many as four out of five people facing eviction receiving no legal help. And this is set in a climate in which cuts to legal aid and advisory services is making it increasingly difficult for defendants to access advice.

A spokesperson from Greenwich Housing Rights explained the impact that the funding cuts are having on their local landscape: three law centres had closed in the previous nine months; Citizens Advice and other law centre services were severely restricted and a large proportion of expertise and capacity to deal with the underlying causes of possession claims has been lost. The result is that an area with a population of nearly 1.1m is now served by only one specialist not-for-profit agency, and this at a time when demand for their services is rising dramatically across all tenure types.
For those who do receive free representation at court, there were concerns expressed at the seminar that the time available to give advice and support is simply too short. The role of the adviser is clearly to assist defendants but there can be tension with the funding agency to reduce the time spent with clients by agreeing terms of a suspended possession order rather than seeking adjournment.
A number of suggestions were made as to what can be done to encourage more defendants to turn up at court.

**Publicity**

Information needs to be bolder, more striking in appearance, and more widely available. The court forms do clearly state that the defendant should attend and that they may be evicted if they do not attend, but the "ostrich effect" means that defendants already under pressure may not open official looking post. There need to be eye-catching posters and leaflets at places where people go: GP's surgeries, libraries, bus stops, churches and the like. The message needs to be stronger too: it is not too late, turning up at court can make the difference between eviction and being able to stay in the home.

**Friendlier courts**

Courts can be scary places for those unfamiliar with them. As one delegate said: the county court can appear fortress-like, the court counters are often closed and may deal only with urgent applications. It may not be possible to change the architecture, but it can be made less daunting by welcoming people into the court at non-crisis moments. A few courts, for example, have held successful annual open days where families can wander in to see what it is like.

**More accessible court opening hours**

Some defendants do not turn up because they cannot take time off work, or have caring responsibilities. If courts could list some cases in the evenings and at weekends, this might make it easier for defendants to attend (although it may not be popular with those who have to staff and manage the cases). Telephone hearings were also suggested.

**The one-stop shop or drop-in**

There was a lot of support for the idea that there should be a drop-in facility at court that litigants should be strongly encouraged to go to before the hearing. There would be various people available to talk to and get support from such as benefits advisers, social landlord representatives, the personal support unit, and lawyers from the free representation scheme. As well as giving practical support, perhaps with benefits claims and filling in the defence form, it would also help to demystify the process. There may be creative ways of thinking about how this might be staffed. For example, perhaps more use could be made of law students. In the context of family law disputes, the state of California runs successful "self-help" clinics and workshops that make resources available as well as giving practical advice. This one-stop shop could be accompanied by redesigning how information is accessed for litigants in person—with a central hub of information that is accessed through call centres and the web.

**Private sector**

There are real problems with the eviction of private sector tenants. Vulnerable persons are increasingly housed in the private sector, and yet local authorities struggle to dedicate resources to tenancy relations and provide support to private sector tenants. In most cases, private tenants have no defence to a possession action provided that the proper process has been followed**.** However, there is particular concern regarding illegal and retaliatory evictions; Shelter reports that a significant number of tenants are reluctant to raise concerns about repair and conditions with their landlord. It is pursuing legislation that aims to prevent retaliatory evictions by restricting the use of s 21 notices, and a Private Member's Bill was introduced by Sarah Teather MP last month which will have a second reading in November 2014.

The seminar confirmed findings from our report: private landlord cases are often badly prepared and managed, frequently there are procedural errors, and they take up unnecessary court time.

The Department for Communities and Local Government's working group is looking at improving eviction as part of its wider concern with encouraging landlords to offer longer tenancies in the private rented sector. The working party has not yet concluded and has yet to report to the government, but one issue that it sees as troublesome is the s 21 notice that has to be served before possession proceedings can begin. Although some problems have been lessened by the Court of Appeal case of Spencer v Taylor [2013] EWCA Civ 1600, [2013] All ER (D) 230 (Dec), there is still scope for further improvements, possibly through a standard s 21 form (a proposal also supported by Shelter) and wider use of the accelerated possession procedure. A number of suggestions were made during discussions at the seminar.

**Clearer court forms**

Given the number of mistakes commonly made, the forms should be redesigned so that it is obvious what has to be completed, and who can fill it in and sign it (it appears that frequently agents, and even solicitors, are signing when the landlord personally is required to).

**Clearer guidance**

Most landlords are amateurs and many are not aware of their obligations. There should be accessible and clear guidance given to them, and one suggestion was that this should accompany the grant of a buy-to-let mortgage (for example, a booklet on "How to be a good landlord" and "What to do if things go wrong").

**Diverting form checking from judges**

Particularly in private sector cases, judges spend a lot of time checking whether things have been completed properly and talking landlords through errors. This does not need to be a judicial job and could be done by other trained personnel, as occurs, for example, in some of the tribunal jurisdictions.

**A national licensing scheme**

One suggestion that received wide-spread support from the delegates was for a licensing scheme funded by private landlords. In order to seek possession, a private landlord would have to be licensed under the scheme. The annual fee paid by landlords would fund the provision of information on issues such as eviction and current legal developments.

**Joined-up processes & conversations**

Although courts do have user groups there are clearly benefits to be gained from more "joined-up conversations". Income team leaders from a London housing authority illustrated this with reference to how a frustratingly high number of adjournments led them to develop a better understanding of the court process and its requirements by talking to judges and court managers. Some courts have focus groups to promote the exchange of information and best practice, but this is not a nationwide model and geography might make this difficult in more remote places.

**Conclusions**

Amid the various issues discussed and recommendations put forward at the seminar there was one consistent and unifying theme, which was the need for more effective information about the possession process to be disseminated to both defendants and claimants (particularly private landlords). Effective access to justice demands that individuals are able to make an informed choice about whether to engage with the legal process and if they choose to do so, do not feel inhibited in seeking to defend or enforce their claims.

Our research suggests that more needs to be done to ensure that the housing possession process is achieving these fundamental requirements.

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The research team gratefully acknowledges financial support from the ESRC Impact Acceleration Account as well as the participation of all those who attended the seminar.