

NO-FAULT EVICTIONS 101

CHECKLIST



It is still up for debate whether the long-awaited abolition of “no-fault” evictions will happen this year. Whilst we all wait for more news on the Renters (Reform) Bill, business continues as usual with the service of Section 21 Housing Act 1988 notices. Landlords should be wary that this is a technical area of law and there are many pitfalls that they can fall into when trying to evict tenants using a S21 notice. Following is a checklist of important steps that landlords should be taking at the start of a new assured shorthold tenancy (‘AST’) and throughout existing ASTs dated after 01 October 2015.

TENANCY DEPOSITS

General

- Keep copies of all written tenancy agreements

- Check for any provisions that may indicate the agreement is not an AST

- Obtain and retain a copy of the HMO license if renting out a house in multiple occupation

- Confirm with the tenant if they are comfortable receiving documents via email

Deposit

- Ensure to stay within the capped allowance of the Tenants Fees Act 2019 and avoid prohibited payments when taking a deposit. (Cleaning fees or other permitted monthly charges could be considered part of the deposit)

- Protect the deposit in a Tenancy Deposit Scheme and provide the "Prescribed Information" within 30 days

- Keep records and evidence of when and how the required documents for the "Prescribed Information" were given to the tenant

Energy Performance and Gas Safety Certificates

- Provide a valid EPC and GSC before occupancy, renewing every 12 months for GSCs and every 10 years for EPCs

- Keep records and evidence of providing these documents to the tenant for record-keeping purposes

'How to rent' checklist for renting in England

- Provide current "How to Rent" checklist before occupancy and consider providing updated versions during the tenancy

- Keep records and evidence of providing these documents to the tenant for record-keeping purposes

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SERVING THE S21 NOTICE

Preliminaries

- Confirm that the fixed tenancy period has ended or whether there are provisions for a contractual break right to terminate the AST. Seek advice if unsure

- Ensure that 4 months have passed since the tenancy began

- Comply with regulations for providing EPCs, GSCs, HTR checklists, and deposit information

- Do not accept any prohibited payments

- Protect the tenant's deposit within 30 days or return it

- Seek advice if receiving complaints from the tenant or notices from the council regarding property conditions.

Preparing the S21 notice

- Use the most recent version of Form 6A to prepare the S21 notice.

- Calculate the correct notice period (typically 2 months).

- Ensure the notice does not expire before the fixed term of the tenancy ends.

- Verify names and property address are correct on notice and sign and date it

- Check whether the AST has any requirements concerning the provision of notices and follow those. Send the notice to the tenant and keep a record of when and how you do so (ideally, by First Class post, email and by hand).

If you are in any doubt about the legal requirements for a valid S21 notice, our specialist property litigation advisors will be pleased to investigate and provide detailed advice as to your position.



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