

# FOR PUBLIC & THIRD SECTOR

Effective Housing Management Team Leadership

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# Introduction

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- Effective leadership
- Empowerment to tackle those difficult decisions
- Case study themed session looking at:
  - ◆ Knowing your tenancy agreement and policies
  - ◆ The importance of record keeping and good file notes
  - ◆ Locality
  - ◆ Health and safety compliance



# Knowing your tenancy agreements/policies

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- Starter tenancies
  - ◆ Assured Shorthold tenancy that “converts” to an assured tenancy on the first anniversary
  - ◆ Each tenancy provides for the mechanism of conversion
  - ◆ Each tenancy provides for the events that will stop conversion
  - ◆ Some tenancies provide for an extension of the initial starter period
  - ◆ If silent as to extension will need variation of contract, in writing signed by both parties



# Knowing your tenancy agreements/policies

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- Case study
  - ◆ D has complex and multiple mental health issues and is causing serious ASB
  - ◆ Section 21 notice served and D requests a review
  - ◆ You have been asked to advise the Panel on their options
  - ◆ T states starter tenancy will not “convert” if valid section 21 notice is in place and/or possession proceedings commenced
  - ◆ T silent as to extending starter period
  - ◆ D attends review supported by social services and family members



# Knowing your tenancy agreements/policies

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- Case study
  - ♦ Panel are sympathetic to D and give the option of extending starter tenancy for 6 months. D verbally accepts.
  - ♦ Decision letter simply confirms a review will be held in 4 months time



# Knowing your tenancy agreements/policies

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- Considerations:
- Has the starter tenancy been validly extended?
- If not, what are the consequences?
- What if the tenancy agreement also provided that the tenancy would automatically “convert” 28 days after the date specified in the section 21 notice?
- Could you have advised the Panel to do anything differently prior to the review hearing?



# The importance of record keeping and file notes

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- Case one
  - ◆ Housing Association A has a private leasing scheme
  - ◆ Private landlord approached it to let out one of his properties
  - ◆ Needed substantial work before being considered habitable – A agreed to do the work, fund it up front and deduct costs from rent
  - ◆ The landlord later denied the agreement, and makes a substantial claim for unpaid rent
  - ◆ Having reached agreement, how would you evidence it?



# The importance of record keeping and file notes

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- Case two
  - ♦ B is a starter tenant. He is 19; following complaints from neighbours about his aggressive behaviour, C Housing Association wrote to B asking him to attend a meeting but when he failed to come, C served a s21 notice on him advising him of his right to review
  - ♦ B asked for a review, and came with his mother to the hearing
  - ♦ C decided to go ahead with the eviction anyway, and proceedings have been issued
  - ♦ A defence has been filed saying that B suffers from autism and that his behaviour results from his disability
  - ♦ DJ has listed it for a hearing and we receive instructions



# The importance of record keeping and file notes

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- Case two
  - ♦ On reviewing the file, we find out that at the review hearing, B's mother said that he was anxious and struggled to control his behaviour. It turns out that the panel did consider whether this was a disability and decided that given the seriousness of the complaints, eviction was justified anyway. However, this was not documented nor was it explained in the decision letter.
  - ♦ Reviewing sign up documentation, there is a mention in there about B having been diagnosed as a child with ASD but noting as "low level" need and concluded that B was able to conduct a tenancy without support.



# The importance of record keeping and file notes

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- Case three
  - ♦ Housing Association D enter into a complex agreement with company E, to build a nursing home on a hard to develop piece of land outside the planning green belt.
  - ♦ Thereafter, there are three years of meetings/planning applications/correspondence, during the course of which E introduces D to another company, F. Things don't progress for a variety of reasons.
  - ♦ By the end of that time, D conclude that they are now more hopeful of getting permission to use the site for general needs housing
  - ♦ They want to end the arrangement. However, due to staff turnover, whilst they know what the original agreement said, they cannot be certain exactly what discussions have taken place with E and F during the many meetings, what promises made and further agreements might have been reached.
  - ♦ F has got wind of the fact they don't want to go ahead and has hinted that they consider themselves entitled to be refunded for the time they have incurred in the project



# The importance of record keeping and file notes

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- Points to note:
  - ♦ It is easy to proceed on the basis we “know” what the position is on something we are dealing with, but if we don’t commit that to paper, it can cause real problems if staff leave / if it later becomes an issue in court and all you have to rely on is your memory. Especially as time goes on.
  - ♦ We might not anticipate something could become contentious
  - ♦ Or how long it might go on
  - ♦ The judge will place much more reliance on a contemporaneous note than on a recollection or memory
  - ♦ Better still, when major points are considered and discussed, write and tell the other party to the conversation. Record action points.



# The importance of record keeping and file notes

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- Consider:
  - ◆ Get a pro forma for file notes.
  - ◆ Write every note as though it is going to be read by the Chief Executive, the Judge and the client.
  - ◆ Make contemporaneous notes, handwritten if necessary
  - ◆ Where possible and you think necessary, share the notes and give others the opportunity to comment on them
  - ◆ Witness diaries often useful
  - ◆ Often it's not a question of what actually happened, but rather one of what can be proven to have happened
  - ◆ There is no substitute for accurate contemporaneous notes with sufficient detail to cover key points
  - ◆ A note of a short conversation might be as important as one of a long meeting
  - ◆ Where do you store them?



# Locality

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- The importance of the term “locality”?
  - ◆ Grounds for possession, notably 2 (HA 1985) and 14 (HA 1988)
    - “...conduct capable of causing or likely to cause a nuisance or annoyance to anyone residing in, visiting or otherwise engaging in a lawful activity within the locality”
    - “...convicted of an indictable offence committed in, or in the locality of, the dwelling house”
  - ◆ Terms of the tenancy agreement



# Locality

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- Case law
  - ♦ *Manchester CC v Lawler* (1999) 31 HLR 119
  - ♦ the locality may include the local shops serving the housing estate but within its boundaries;
  - ♦ whether or not the place in which the conduct occurred is within the locality is a question of fact for the judge (in that case, if a resident was asked whether the area in question was in the locality of the premises, the answer would be yes).
  - ♦ Where is a borderline case it will be a matter for the judge to decide whether the injunction covers the place where the conduct occurred



# Locality

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- Case study
  - ♦ T lives in village A and commits a violent offence in village B, 5 miles away
  - ♦ T is convicted of GBH and sentenced to 2 years imprisonment
  - ♦ Victim is a tenant of same Landlord
  - ♦ Village B consists mainly of a large housing estate more densely populated than village A



# Locality

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- Case study, cont'd
  - ♦ The nearest large supermarket to village B is in village A
  - ♦ It is a shorter distance from village A to B than from village B to the Landlords only housing office

Locality or not?



# Locality

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- Practical points
  - ◆ Consider all the circumstances of the case and the commission of the offence
  - ◆ Where are the local amenities?
  - ◆ Talk to local residents
  - ◆ Record your decision and the reasons for it
  - ◆ If you are unsure seek legal advice before reaching your decision



# Health and Safety Compliance

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- You are due to file your annual compliance statement.
- On review, you discover:
  - ♦ 20 overdue gas services, due to non-access, from 1 to 6 months overdue
  - ♦ 12 properties where no electrical inspection has happened for over six years
- The reasons for non-access are investigated – letters have been sent, but in all but one case ignored by the tenants. No further action has been taken
- In one case, the tenant has said she is too ill to allow staff to access her property. She is suffering from stress and wants to be left alone.



# Health and Safety Compliance

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- What would you do?
  - ♦ Do nothing – you can demonstrate that you tried to do the servicing
  - ♦ Access the properties with or without tenant permission and do the necessary checks
  - ♦ Cut off the gas and/or the electricity
  - ♦ Apply to court urgently for an injunction
  - ♦ Serve a s8 notice seeking possession and issue proceedings as soon as possible
- How might you do it differently next time?
- What would you put in your compliance statement?



# Health and Safety Compliance

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- Another association has advised you that their fire alarms should be hard-wired and several of yours are battery powered. They have also advised they should be inter-connected.
- A tenant has reported something she thinks is asbestos in her loft.
- A new tenant has been taken to hospital suffering from legionella. Upon investigation, the property had been empty for a while before being allocated to him last week and it appears that the water systems were not flushed before he moved in.
- What would you do in each of these situations?



# Health and Safety Compliance

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- Importance of having well drafted, up to date policies
- And not being complacent on things like lack of access
- If you have an incident/failure in your systems:
  - ◆ Investigation
  - ◆ Openness – need to encourage staff to be open and honest about mistakes.
  - ◆ Consider reporting to regulator
  - ◆ Learning lessons





# QUESTIONS

Thank you for listening



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## CONTACT



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