



Andy Gale

The new world for successful prevention casework

/1

Up until the RRA most PRS tenancy notice cases were based on a Section 21 notice with the most common reason given that the landlord wanted to sell.

Chances of preventing were limited, especially for cases where the real reason was that the landlord wanted a higher rent.

The chances of preventing post the RRA rules are significantly increased.

The new approach Housing Options prevention strategy might be best described as “the carrot and stick approach”

The new world for successful prevention casework

/2

The incentive for the landlord to work with the HOS to find a solution – “the carrot”

The council has the ‘incentive’ to deliver a successful outcome because this is the best solution for the tenant and this will also save Councils the cost of TA

A landlord is far less likely to obtain a successful outcome through another means.

The HOS has prevention fund payments to tackle issues such as rent arrears

The HOS can arrange practical help support to help tenants manage their tenancy and resolve problems

Landlords willing to work with the council can achieve a successful resolution

The new world for successful prevention casework

/3

The financial cost of not engaging with the HOS are likely to be huge for example:

- Court fee: Currently £404 for a standard possession claim.
- Bailiff fees: If the tenant still won't leave after the court order, a warrant for possession costs £148.
- Solicitor fees: If the case is contested, legal representation for a hearing can cost anywhere up to £1,500.
- Court delays due to backlogs will impact especially where the risk is the tenant stops paying the rent

The new world for successful prevention casework

/4

If a landlord or agent won't work with the HOS then the council has a duty to take all reasonable steps to prevent the tenant from becoming homeless. This includes:

Helping the tenant defend the claim based on the Ground relied upon

Telling the tenant to remain until a possession order is granted as the landlord will have to prove the ground/s relied on in court.

The new world for successful prevention casework

/5

HOS tasks to deliver prevention include:

1. Informing tenants in the PRS to contact the HOS immediately if they receive a notice and have no other accommodation options
2. Checking whether a Section 8 notice is valid
3. Helping a tenant defend a possession claim including submitting evidence on their behalf once the landlord's particulars of claim have been issued
4. Submitting evidence of vulnerability so a Court can decide whether to grant possession for the test of reasonableness on any discretionary ground.
5. Working with the local HLPAS provider and solicitors to gather evidence to defend the claim
6. Checking all section 8 court hearings listed for the next 14 days and contacting each tenant

The new world for successful prevention casework

/6

Example 1 - Landlord issued a section 8 ground 1A to sell:

HOS action1 - Checking validity of the notice:

- **Using the wrong form:** Using an older version of Form 3 and not the new Form 3A
- **Typing errors:** Misspelling the tenant's name or getting the property address slightly wrong – *The County Court would decide whether the error was fatal*
- **Incorrect notice periods:** Not giving the full 4 months required for the wanting to sell ground.
- **Issuing a notice that expires** within the 12 months of a new tenancy
- **Failure to protect the rent deposit** – and provide the prescribed information
- **Failing to include the full text of the ground** (or a very close equivalent) in the notice can result in a claim being rejected by the Court
- **Just inserting the number for the ground** - without the text

The new world for successful prevention casework

/7

Landlord issued a section 8 ground 1A to sell example prevention actions

Helping the tenant defend the claim in their response to the landlord's particulars of claim if the view is that the ground has not been proven

Has the key evidence required to prove a sale ground been provided in the particulars of the claim such as proof of sale intention such as evidence that the property is being sold (e.g., a formal contract with an estate agent to market the property, and or a solicitor's letter confirming the sale, or an accepted offer

The new world for successful prevention casework

/8

Plus, attempts to prevent homelessness can continue at the same time as trying to help the tenant defend the ground in Court:

Continuing prevention work could include:

- Explaining the reality of the market, if a landlord is unlikely to be able to obtain their expected sale price - you need to have data on the market re successful sale prices.
- The consequences re prohibiting reletting during the 12 months after the expiry of the notice period
- You can continue to try and prevent until the tenant is evicted or leaves – a landlord can change their mind up until that point.
- And if they are they selling because they are too concerned re the RRA changes and civil penalties you might be able to offer to take the property off their hands under a lease (PSL)

The new world for successful prevention casework /9

Example 2: Rent arrears where a landlord has issued a Section 8 notice on Grounds 8 Serious Rent Arrears and Grounds 10 and 11 – any rent arrears and persistent arrears

HOS action1 - Checking validity of the notice:

- **Using the wrong form:** Using an older version of Form 3 and not the new Form 3A
- **Typing errors:** Misspelling the tenant's name or getting the property address slightly wrong
- **Incorrect notice period:** Not giving the full 4 weeks notice required for serious arrears.
- **Failure to protect the rent deposit** – and provide the prescribed information
- **Failing to include the full text of the ground or Just inserting the number for the ground** - without the text

The new world for successful prevention casework / 10

What can the HOS do to try and prevent?

- Make a prevention payment to ensure arrears are less than 3 months at court date which will mean that the mandatory Ground 8 cannot be proven by the landlord.
- For the discretionary grounds 10 and 11 – help the tenant to enter a defence that it is not reasonable possession to be granted on a discretionary ground.
- Highlight the impact on the tenant and the actions the HOS can take to resolve the arrears and reduce the chances of arrears happening again

The new world for successful prevention casework /11

Attempts to prevent homelessness can continue at the same time as trying to help the tenant defend the ground in Court:

Continuing prevention work could include:

- Explaining that accepting the Council's offer to sort out the arrears is a far cheaper option than the landlord continuing with possession action
- The cost of solicitor, court fees, and further loss of rent if the tenant stops paying is likely to be several thousand pounds.
- It may take months to get a Court hearing due to court backlogs by which time the rent arrears could be equivalent to half a year's rent or more.
- If possession is granted it could be several months to get a Court bailiff to evict