Post course resources - How to effectively tackle anti-social behaviour (ASB)

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hqn TRAINING

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1 Message from Aisha

Thank you to all for attending;

please find attached;

- slides

-ASB proportionality form word

-risk assessment word

Link to serious offences; Housing Act 1985 (legislation.gov.uk)

Heres a good article on Roseberry v Williams case; Judge criticises housing association over anti-social behaviour injunction bid, awards £27,500 damages for anti-discrimination counterclaim (localgovernmentlawyer.co.uk)

What Happens if the Defendant Refuses to Co-operate with a Capacity Assessment?

- The Mental Capacity Act Code of Practice at paragraph 4.59 states that a person cannot be compelled to undertake a capacity assessment.
- The local authority should try and determine why there is a lack of co-operation.
- If it is because the assessors attend at the wrong time (the tenant is high, in the grip of a hallucination, sleepy) or there is a lack of trust or similar then the local authority will need to try again and again.
- If it appears the tenant is not co-operating then the local authority should explain to the tenant refusing an assessment why it is needed and what the consequences of refusal are.
- The tenant runs the risk of not accessing the help they may need to save the home.
- If the tenant continues to refuse to co-operate then the local authority should obtain a capacity assessment on the papers without an interview.

Link to Noise app; The Noise App

HO spot light report; mentions ASB; Spotlight on: Attitudes, respect and rights – relationship of equals (housing-ombudsman.org.uk)

HO report on noise; Follow up report: Spotlight on Noise complaints – Time to be Heard (housing-ombudsman.org.uk)

ASB in leasehold properties;

An ASB injunction is more useful; your ASB ill apply to leasehold properties too. the only difference is the possession process as below;

For forfeiture proceedings to be available to a freeholder, the following conditions must be satisfied: a forfeiture clause in the lease – this is a provision allowing forfeiture and specifying under what circumstances it occurs.

In case of breach of a term (other than non-payment of rent or service charges or a breach not capable of being remedied), before forfeiture can occur the freeholder must serve a section 146 notice of forfeiture on the leaseholder to give them an opportunity to put things right. This is effectively a warning notice.

A notice of forfeiture does not need to be in any specific form but must include the following:

- The breach of the term that the freeholder is complaining about
- A requirement that the leaseholder remedies the breach (if this is possible)
- How much monetary compensation the freeholder requires from the leaseholder (if appropriate).

The freeholder seeking to forfeit the lease must first comply with section 168 of the Commonhold and Leasehold Reform Act 2002 which requires either that the breach is admitted by the leaseholder or that it is proved. The First-tier Tribunal (Property Chamber) has jurisdiction to make a determination that such a breach has occurred.

Upon receipt of the section 146 notice of forfeiture, the leaseholder must remedy the breach and pay the monetary compensation (if applicable) within a reasonable time, depending on the circumstances of each case. Even if a breach has been established, the freeholder cannot repossess an occupied property without a court order. Vacant residential property can, however, be repossessed without a court order.

M=Many thanks

Aisha

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