

PRIVATE TENANT

Legal Aid in Crisis

At the recent launch of the Access to Justice Alliance campaign against the decimation of legal aid, the Legal Aid Practitioners' Group reported that there were no housing contracts in the whole of Kent. NACAB also reported that 7¼ million people who needed advice last year didn't receive any. Incredibly, at the same time, the legal aid bill for 2004/05 was underspent by 25%.

CFPT were quick to highlight the emerging problem of the decline in Legal Aid and invited Ruth Wayte of the Legal Services Commission to debate the issue at its 2003 AGM. Ms Wayte argued at the time that there was no great cause for concern; two years on and many would still beg to differ.

Practitioners cited red tape, excessive paperwork and poor fee rates as the reasons for pulling out of legal aid; attitudes that have snowballed to huge proportions.

Has legal aid, introduced under the Access to Justice Act in 2000, become a victim of its own 'success'?

By attempting to ensure that all of those who needed it were able to exercise their rights, the legal aid bill soared. But practitioners blame the huge rise in the criminal aid bill which has drained civil aid funds giving rise to restricted hours for civil aid clients and poor fee rates.

Speaker and Director of Liberty, Shami Chakrabarti, made an impassioned and eloquent plea to dispel the myths of fat cat lawyers growing rich on a so-called legal aid 'gravy train'. A myth that has been



used by the media and politicians to rubbish the legal aid system, and which derogates those practitioners who believe strongly that legal aid should be an essential right and should be incorporated as part of our welfare state.

The crisis has also highlighted the need for the development of Alternative Dispute Resolution models to avoid costly and lengthy court cases where possible and appropriate – although ADR should never be used to simply replace the current Legal Aid system. CFPT staff recently met with the Law Commission and other housing professionals to discuss ADR in landlord/tenant cases. The ideas drawn from this meeting will form the basis of a consultation paper on ADR to be put out in early 2006. (More on the legal aid crisis and the AJA campaign on page 4)

MP Ross Cranston QC, Bob Nightingale OBE of Wandstead and Merton Law Centre, Steve Hynes of the Law Centre's Federation and Shami Chakrabarti of Liberty addressing the campaign launch.

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Camden Federation of Private Tenants is registered under the Industrial and Provident Societies Act as The Camden Federation for Private Tenants Limited Registered No: 25086R

Leaseholder group wins groundbreaking case

The Canary Riverside Residents Association were celebrating in May after a Leasehold Valuation Tribunal ruled against their landlords 'right' to claw back legal costs through service charges.

It is a case that will have huge implications for many leaseholders throughout the country.

The CRRA had originally applied to the LVT to appoint a manager for the whole estate, or alternatively, four residential blocks in a mixed-use estate of commercial and residential leases. The LVT ruled against the Association and in favour of the landlords who had mounted an expensive defense against this.

However, the landlords then sought to recoup their costs via service charges under the heading 'Landlords LVT costs' with a demand for £180,142 from the residents. The leaseholders' defense challenged this at a further LVT on grounds within the Commonhold and Leasehold Reform Act 2002 and the Unfair Terms in Consumer Contracts Regulations 1999.

Schedule 12, 10(4) of the Commonhold and Leasehold Reform Act 2002

The LVT upheld the CCRA challenge that the interpretation of this Schedule must be a literal one; that the landlord is not entitled to include any of the costs he has incurred in connection with proceedings before a LVT in a service charge.

If this ruling is upheld it will be a major breakthrough for all residential lessees who wish to make applications to the LVT, but are intimidated by the possibility that the landlord could recoup the costs by the back door by including them in service charges.

Unfair Terms in Consumer Contracts Regulations 1999

The LVT ruled that any terms in a lease which allows a landlord to recoup money from the service charge for his legal costs, while preventing the tenants from doing the same, is unfair under the 1999 Regulations.

This is the first time the Unfair Terms Regulations have been addressed by a LVT and also the first time *any* court has applied them to service charges.

Just for good measure, the LVT determined that the costs being sought by the landlord were also unreasonable, reducing the (inapplicable) amount from £180,142 to £50,580.

As of 13th May, landlords Gross Fine were still failing to credit the lessees' service charge accounts with the amounts due and were even sending out final demands and threats of legal action against some residents.

If you would like a copy of the full LVT Determination contact CFPT offices on 020 7383 0151 or email us at camfpt@lineone.net

WAS THERE SOMETHING ELSE TO ADD IN HERE?

Camden Housing Advice Service

Free, expert advice for private tenants, leaseholders and people seeking accommodation. You can phone us, come in or email us.

Housing Advice Centre
North team
179 West End Lane,
NW6 2LH
Tel: 7974 8855
hacnorth.housing@camden.gov.uk

Opening hours
Mon, Thurs, Fri: 9.30 – 4pm
Tues: 9.30 – 1pm; 4 – 7pm
Wed: Closed

Housing Advice Centre
South team
Bidborough House
20 Mabledon Place, WC1H 9BF
Tel: 7974 5801
hacsouth.housing@camden.gov.uk

Opening hours
Mon, Tues, Thurs,
Fri: 9.30 – 3pm
Tues: 4 – 6 by appointment
Wed am: Somali speakers only



Awarded for excellence

HMO Licensing: The impact in Camden

An estimated 1200 Houses in Multiple occupation (HMO's) of the 9,500 HMO Buildings in the private housing stock in Camden will come within national HMO licensing introduced under the Housing Act 2004.

Licensed properties are those falling within a new legal definition of a House in Multiple Occupation (HMO). And are in a 'High Risk' category: HMO's of 3 or more storeys (not counting basements) occupied by at least 5 persons living as two or more separate households. Detailed guidance on which HMO's are licensable is still awaited at this time

HMO licensing, a Labour manifesto commitment in 1997, and a campaigning issue for Environmental Health Officers way before this, is now due to come into force in the Autumn. It targets those properties in the highest risk category. Conditions in these properties are often poor and they are the homes of some of the most vulnerable people in our community. Also fire risk in

HMO's of 3 or more storeys is about 4 times that of low-rise properties.

Licenses will only be issued where the license holder – the landlord, or an agent appointed by him/her – is a 'fit and proper' person. In this way, licensing should help to root out the cowboys and improve management standards across the private-rented sector, as well as giving tenants greater confidence to raise concerns when standards are not maintained. Licenses may also set out specific requirements including for the installation of fire alarms and escapes, adequate bathrooms and kitchen facilities and will fix a limit on the number of occupants.

Those who manage licensable HMO's will now be obliged to approach Camden Council for a license rather than Camden's EHO's

going looking for them. Fines of up to £20,000 can be imposed for failure to obtain a license or breaching its conditions.

Camden's EHO's have to inspect all licensable HMO's within 5 years of the Act coming into force. Resources for additional staff have already been pledged through action from the Council's Private Sector Scrutiny Panel, currently reviewing the entire Sector. "One of our priorities, advised Councillor Jane Schlopflin (Chair of the Panel) is to set up a database of licensable HMO's".

If you think your home falls into the licensable category please contact Kevin Askew in our Environmental Health Renewal Team Tel: 020-7974 2090.

Are your electrics safe?



New rules controlling who can carry out electrical installation works in homes came into force in January this year.

These rules come under what is known as Part P Buildings Regulations (Electrical Safety in Dwellings). 'Electrical installation' is defined as fixed electrical cables or fixed electrical equipment both in tenants' homes and in any shared parts of the building.

If your landlord is organising to carry out any electrical work in your home, you may want to remind them that they must get a competent person in to do it. By 'competent' the rules mean someone who is currently registered with an approved self-certification scheme, which

monitors and regulates the person's activities. Approved schemes include: BRE Certification Ltd; ELESKA Ltd; Zurich Certification Ltd, British Standards Institution; NICEIC Certification Services Ltd.

If you suspect your landlord is not using a competent electrician through an approved scheme (including him or her self!), contact Camden's Environment Department on 020 7974 5613.

**And remember gas
carbon monoxide
can kill**

Your landlord must ensure your gas appliances are checked once a year by a Corgi registered gas engineer.

Your landlord by law has to provide you with a current certificate on request; if you have any doubts about the safety of your gas appliances, again contact the Environment Dept., or the Health & Safety Executive Gas Safety Advice Line on 0800 300 363. Your life could depend on it!

Legal Aid in crisis

by Wilma Morrison and Ginney Halley
of the Central London Law Centre

LEGAL AID IS NOW IN A STATE OF CRISIS. LAST YEAR the Government proposed reforms the effect of which would have meant that far fewer people would have been able to get public funding for civil cases, i.e., housing, family, debt, benefits, immigration etc. These proposals included

- 45 reducing the upper income limit for legal aid to pay for representation in court
- 46 encouraging the use of mediation, complaints and ombudsmen schemes instead of the courts
- 47 forcing more people to use “no win, no fee” agreements to fund their cases, even if they couldn’t afford the insurance necessary to protect against the risk of having to pay the other side’s costs
- 48 preventing most homeowners from qualifying for legal aid

After a rambunctious campaign against these cuts by many groups, the Government has back-tracked to an extent, and indeed introduced one improvement in that people are now usually eligible for legal aid with savings up to £8,000 rather than the old limit of £3,000.

“Solicitor firms are dropping out of legal aid work in droves”.

As you may recall from the article in Autumn 2003 Camden Private Tenant “YOU NEED TO WALK A MILLION MILES, FOR ... ACCESS TO JUSTICE – NEVER MIND A SMILE” gaps in advice provision have been growing. This is now an even greater problem than ever.

Solicitors’ firms are dropping out of doing legal aid work in droves. In a recent survey carried out by one of the legal profession’s magazines, around 98% of the firms that responded said they were sick of legal aid, and 9 out of 10 said they felt more pessimistic about the future than they had a year before.

In housing, the numbers of advisers continues to reduce. In the first half of 2003, 25% of specialist housing advisers had pulled out of housing work, and people are continuing to pull out at over 10% per annum. The Result? – Less and less people are able to get the advice they need to deal with their housing problems. As a consequence, the areas where there is no specialist legal adviser are growing, and the distance many people would have to travel to get that advice has grown. Of course the result is that many people will not get the advice that they need.



“A right that you can’t enforce is meaningless”.

This is clearly not acceptable. A right that you can’t enforce is meaningless and of no value to you. Equal access to justice for all is a basic right in a decent modern society, and legal aid should be considered part of the welfare state like the National Health Service. Legal Aid is currently less than 0.5% of all public spending. We believe that legal aid and advice services should be protected and improved for everyone’s benefit.

The “Access to Justice Alliance” has recently been formed as a result of the crisis facing civil legal aid. Membership of the Alliance is wide and includes Advice UK, Advice Services Alliance, Child Poverty Action Group, Citizens Advice, Justice, Law Centres Federation, Legal Action Group, Legal Aid Practitioners Group, Liberty, Public Law Project, Rights of Women and Shelter amongst others.

In order to involve all types of national and local community organisations in a broad-based campaign the Access to Justice Alliance held a public meeting on 9th April 2005. Over 200 people attended including CFPT staff whom promptly affiliated Camden Federation of Private Tenants to the alliance.

The Alliance is proposing to continue to challenge the Government to ensure provision of an adequate legal aid system. With this in mind, it hopes to continue to build support among the legal advice and community agencies, and to continue a campaign strategy including organising a further public meeting at Parliament.

A campaign pack is being produced and once it is completed, it is hoped that it will be very widely available, including of course at CFPT. In the meantime you may want to write to your newly elected MP.

At time of going to press we have just learnt that the Government intend to protect and possibly increase the amount spent on civil legal aid which has fallen by 22% since labour came to power in 1997. However this is all very uncertain and all the campaigning groups will need to keep pressing the Government till legal aid is available to allow access to justice for everyone who requires it.

For more information or to get involved in the campaign, contact Bridget Stark or Elena Nemtseva at CFPT's offices. (Contact details on back page)

Many thanks to Wilma Morrison and Ginny Halley of the Central London Law Centre for this piece.

The Access to Justice Alliance campaign launch demands:

The AJA calls on the government to restate its commitment to legal aid and to take the following action as a matter of urgency

- Scrap plans to cut eligibility to legal aid and to prevent certain types of case from being funded
- Make sure that the whole legal aid scheme is properly resourced so that both criminal and civil work can operate within a realistic budget
- Protect the civil legal aid budget so that it cannot be used to cover rising expenditure on criminal legal aid
- Ensure that local authorities contribute properly to the appropriate funding of independent advice services in their area
- Recognise the effects of policies in other parts of government on legal aid spending - and make sure that the legal aid budget is compensated
- Provide co-ordinated funding for legal education, law reform and other non-casework services

2 adverts to come

ELECTION Hustings report

In the run up to the General Election CFPT invited local candidates from Holborn St Pancras and Hampstead & Highgate to two local hustings to discuss their views and parties' policies on mainly housing issues affecting the private rented sector.

This is the second series of election hustings that the Fed has hosted and in time honoured fashion they were respectively hosted by Eric Gordon of the Camden New Journal and Geoff Martin, Series Editor of the Ham & High. The former, although not as well attended as hoped (due perhaps to Arsenal playing Liverpool at home that day!), and despite Frank Dobson's absence, was an interesting meeting in which tenants managed to air issues not normally given credence at these events.

All of the Holborn St Pancras candidates, plus Labour Cllr Raj Chada standing in for Frank Dobson, agreed that the Law Commission's proposals to do away with the six-month minimum security for shorthold tenants was a bad idea. They were also illuminated as to the problems faced by Regulated tenants, including persistent disrepair and harassment, which many of these tenants have to deal with on a daily basis. In fact, Lib Dem candidate Jill Frasier went as far to say that the candidates had learnt more from the meeting than those attending. Green candidate

Adrian Oliver advocated more comprehensive housing advice provision whilst Conservative candidate Margot James concluded that enforcement seemed to be the priority.

“Camden has had a poor record on enforcing repairs”.

Cllr Chada admitted that Camden has had a poor record on enforcing repairs in the private sector, but that it was a key issue for the Council and invited CFPT staff to meet to discuss the problem further. The hustings' Chair, Eric Gordon, closed the meeting urging private tenants experiencing housing problems to contact the CNJ.

The Hampstead and Highgate event was held at the Hampstead Old Town Hall and all of the running candidates at the time turned up, apart from the Rainbow candidate who was in Northern Ireland! This meeting, although better attended, was less useful for private tenants

“Proposal to reduce shorthold security was an issue of serious concern”.



However, although Sian Berry believed that each country should have one,

as questions inevitably shifted on to more general issues.

Glenda Jackson opened the questioning by reiterating that the proposal to reduce shorthold security was an issue of serious concern, but it was highly unlikely that it would be accepted at face value. Con Cllr Piers Wauchope believed it would make little difference, and went on to add that he thought landlord licensing would result in shortage of housing whilst not solving the problem. Green candidate Sian Berry that while in the current climate it was not right to abolish the six-month moratorium, ultimately there needs to be a range of tenancies, whilst Lib Dem candidate Ed Fordham thought the proposal offered landlords some leeway. Magnus Nielson, the UKIP candidate, on the other hand agreed heartily with Glenda on this as on most other issues discussed, and spent most of the evening extolling the virtues of her responses!

Chair Geoff Martin steered the end of the meeting onto other issues and the candidates were faced with questions ranging from hung parliaments to vivisection. On the subject of the EU referendum, however, although Sian Berry believed that each country should have one, Glenda was clear; if France voted 'No', no one could have the referendum as the constitution would have to be re-examined.



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It's official – wooden floors 'drive neighbours mad'!

Up to 40,000 complaints were received by environmental health officers during 2004 about the noise created by the use of wooden floors. A government study has found that walking on a carpet with underlay is 22 decibels quieter than walking on a wooden floor and the difference between walking on a wooden and concrete floors was 34 decibels.

The authors of the study at Napier University have called for a return to carpets among interior designers. They point to the fact that already a quarter of developers no longer provide laminate flooring in flats because of noise complaints. Over 20% of the UK population live in flats, this figure rising sharply in London, particularly in densely populated areas such as Camden.

Mary Stevens of the National Society for Clean Air and Environmental Protection noted "poorly insulated hard floors can cause absolute misery for those living below them". The Napier study is one paper which will feed into a conference attempting to quantify the health impacts of rising noise levels.

Why we need good neighbours

Adding weight to CFPT's research into security and length of tenure and community engagement, the Telegraph recently ran a story on the decline of neighbourliness.

Based on a study by ICM commissioned by Lloyds TSB Insurance, the article revealed that less than half of the 1,008 people questioned would call on their neighbours in an emergency, and that one in 20 admits that they do not know their neighbours at all.

The report does not indicate tenancy or residency type of those who responded, which is a shame, as this may have backed up the conclusions of CFPT's study that those with the least security of tenure, ie., assured shorthold tenants, were the least inclined or able to engage in their neighbourhoods or community. And with growth of short term and decline of protected tenancies, this situation looks likely to get worse.

Empty homes setback

A MORI poll of 5,000 long-term empty home-owners carried out on behalf of Birmingham Council showed that almost half said that no services would encourage them to bring their properties back into use.

The report concluded that with so many owners not looking for a solution at all, councils need to be imaginative and proactive in promoting their services in order to be successful in reducing the number of long-term empties.

The report reinforces the suspicion that a lot of people who own empty homes do so for investment purposes, perhaps with no intention of letting at all.

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Did you know?

CFPT has a wide range of information leaflets on all issues relevant to private tenants and private leaseholders.

If you would like any of the following free information leaflets, please contact our offices (details on back pg) and we will send you the information free of charge:

- Assured and Assured Shorthold Tenancies
- Regulated Tenancies
- Repairs – a guide for landlords and tenants
- Unfair tenancy terms – don't get caught out
- Notice that you must leave – a brief guide for landlords and tenants
- Bothered by Noise – There's no need to suffer
- My Landlord Wants Me Out – protection against harassment and illegal eviction
- Right of first refusal – for long leaseholders and other tenants in privately owned flats
- Residential Long leaseholders – A guide to your rights and responsibilities
- Home repair assistance
- A Practical Guide For Protecting & Maintaining Your Home (Age Concern)
- Dealing With Your Debts (Rent)
- DIY Home Energy Check
- Have a warmer, healthier home – grants from the Government's Home Energy Efficiency Scheme

And many more from making a small claim to County Court Fees.

Or why not visit our resource library.

Contact us today for details.

Vereniging van Privé huurders, Camden heeft u nodig.

CFPT wordt bestuurd voor en door privé huurders. Wij werken aan alle aspecten van huren en huurders kwesties, wij verzorgen informatie en middelen, wij lobbyen bij de Overheid en voeren campagne op zowel regionaal als nationale kwesties.

Wij hebben nauw werkende banden met andere groepen zoals Shelter en hebben met het voormalige DETR aan een aantal kwesties gewerkt.

Als u geïnteresseerd bent om mee te doen, kunt u contact

opnemen met ons. Indien u informatie wenst over een van de andere besproken onderwerpen, laat het ons a.u.b weten.

Wij zijn benieuwd naar u vragen, commentaren en suggesties. U kunt lid of abonnee worden. Dit zal u op onze adressenlijst plaatsen en u zult worden bericht van vergaderingen, workshops, evenementen, speciale rapporten, enz. U kunt ook ons bulletin ontvangen voor £7.50 per jaar.

Wij hebben ook vrijwilligers nodig om aan de nieuwsbrief te werken, die een bijdrage kunnen leveren aan het

beleid van de organisatie en consultaties, af en toe bijwonen van rechtszaken, en ons vertegenwoordigen samen met andere organisaties en comités commissies.

U kunt contact opnemen op onderstaand adres:

**11-17 The Marr,
Camden Street,
London NW1 0HE
Tel: 020 7383 0151
Email: camfpt@lineone.net**

Camden Federation of Private Tenants

needs you

CFPT is run for and by private tenants. We work on all aspects of tenant issues, providing information and resources, lobbying

Government and campaigning on issues both locally and nationally.

We have close working links with other groups such as Shelter and have worked with Government Departments on a number of issues.

If you are interested in becoming involved, please contact us. If you would like to see other topics covered, please let us know.

We welcome letters, questions, comments and suggestions. You can become a member or a subscriber. This will put you on our mailing list

and you will receive notice of any meetings, workshops, events, special reports, etc., as well as our newsletter for £10.00 per year.

We also need volunteers to work on the newsletter, contributing to policy work and consultations, attending occasional court cases, and representing us with other organisations and committees.

Please contact us at:

11-17 The Marr,
Camden Street, London NW1 0HE

Tel: 020 7383 0151
e-mail: camfpt@lineone.net

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**Community
Legal Service**



Why not become a member of CFPT?

As a member of CFPT you will be kept informed on current housing issues, legislation and campaigns. You will receive our quarterly newsletter to your door, as well as invitations to meetings and notice of relevant consultations. Your membership will also add valuable support to the Fed.

Name _____

Address _____

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1 I enclose £1 for membership plus £9.00 subscription fee*

2 I would like to donate £ _____ **3** Total enclosed _____

Signature _____ Date _____

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