

# PRIVATE TENANT

## EVICTED *for* Complaining

### The problem of retaliatory eviction

**A recent CAB report, *The tenant's dilemma*, highlights the problem faced by thousands of private tenants – whether to put up with bad housing or exercise their rights to have repairs carried out only to risk eviction as a result.**

The practice, known as retaliatory eviction, is not recognised in UK law although other countries such as New Zealand and Australia do have laws against it. Currently, private landlords can use Section 21 of the Housing Act 1988 as a mandatory term to end an assured shorthold tenancy agreement – effectively a fast-track means of evicting a tenant – without needing to provide a reason why (unlike Assured or Protected tenancies which have much greater security). Typically, vulnerable tenants on low incomes, who can't simply leave their accommodation and move elsewhere, are most at risk of being forced to remain in poor conditions. The 2000 Survey of English Housing shows that private tenants were over represented in the most deprived wards where they accounted for 17% of all households as compared with 10% overall.

The report states that many private tenants are living in poor housing because they fear eviction too much to complain. Although the scale of the problem is not known Government figures indicate that nearly one million private rented homes fail the Government's decent homes standard and therefore need

repair – a higher percentage (43%) than in any other tenure.

The problem is not a new one – dating back to the introduction of the 1988 Housing Act which introduced Assured Shorthold tenancies – but became a bigger one when the 1995 Housing Act introduced them as the 'default' tenancy. Now after the inception of the Decent Homes Standards which aims to bring all housing across tenure up to a basic minimum standard, and with the recent introduction of HMO licensing, more pressure is being brought to bear on private landlords to bring their properties up to scratch – which many are still resisting.

The problem is, if a tenant brings a complaint about disrepair, for example the Housing Advice

department, the landlord, who either doesn't want to or can't afford to carry out the repair, can simply wait for the end of the contractual tenancy period and give the tenant notice to quit which the Courts are normally obliged to uphold; tenant moves on and case is closed. The landlord is then free to let the property to another tenant, who hopefully won't bother trying to exercise their rights, or if they do, can simply repeat the process.

The Tenant's dilemma is also the Adviser's dilemma, as housing advisers are well aware of this problem and are reluctant to advise tenants to pursue repairs knowing full well that their clients could find themselves homeless as a result.

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**CFPT Administrator, Sharmin Islam is joined briefly by Danny Hunt, Camden Energy Management Officer, on our stall at the Kings Cross County Show**

# UPDATES

## Access to Justice Campaign

**You will recall from our last article (*The Camden Private Tenant Spring 2007*) it was proposed that from October 2007 a fixed fee is paid to legal advisers for each case they take on. In housing cases the proposal is to pay £171, which is equivalent to about 3¼ hours work. There has been no change of Government stance on this, and it seems inevitable that this Fixed Fee regime will be introduced from 01/10/07.**

The strong fear remains that the proposed fees are totally inadequate and many suppliers of legal advice will stop doing legal aid work altogether, or will deal only with the simplest most straightforward cases; and as we know, landlord tenant law is some of the most complex there is.

The proposals are going ahead despite the ongoing campaigns against them, including the one spear-headed by the Access to Justice Alliance (see below).

In May, the Constitutional Affairs Committee (made up of mostly Labour MPs) published a very critical report about the Government's proposals, but it seems that this is being ignored. The Committee stated: "... if the reforms go ahead there is a serious risk to access to justice among the most vulnerable in society."

The Access to Justice Alliance held a week of action across the country called 'Justice: Access Denied' from 14<sup>th</sup>-18<sup>th</sup> May 2007.

Demonstrations were held outside 15 County Courts and Tribunals across London and England. There were articles in many of the local papers (unfortunately not the *Camden New*

*Journal* which decided not to cover the event), and in the *Law Society Gazette*. It was also covered by one local radio station.

Locally there was a demonstration outside Central London County Court, 26-29 Park Crescent from 10 am on Wednesday 16<sup>th</sup> May where there was a good attendance from Camden Federation of Private Tenants.

A well-attended meeting was also held at the House of Commons on Monday 14<sup>th</sup> May 2007. The meeting was chaired by Alison Hannah, then director of Legal Action, and the speakers were Karen Buck MP, Alan Beith MP of the Constitutional Affairs Committee, Lucy Anderson of the Mayor's Office, Richard Millar Director of the Legal Aid Practitioners Group, and Wilma Morrison of Central London Law Centre who is one of the joint writers of this article. Members of the Camden Federation of Tenants were also present and making their views heard.

In order for you to make your views known please write to your MP and Councillors and/or the Access to Justice Campaign (which can also supply example letters for you to send).

If you or anyone you know is having difficulty getting legal advice you should immediately contact your local Councillor/MP. Please also send the details by email to the Access to Justice Alliance, or contact Camden Federation of Private Tenants to let them know. Examples for case studies of actual problems faced in getting advice will be very useful in the campaign – again, please contact CFPT or the Campaign direct.

On a more positive note, Camden has recently agreed to continue funding the following legal advice organisations; Camden Law Centre, Central London Law Centre, Citizens Advice, DISC, and Mary Ward Legal Advice Centre. Unfortunately, Camden Tribunal Unit funding has been withdrawn.

### Contact:

Access to Justice Alliance  
c/o Citizens Advice  
Myddelton House  
115-123 Pentonville Road  
London N19LZ

[www.accesstojusticealliance.org.uk](http://www.accesstojusticealliance.org.uk)  
[accesstojustice2005@yahoo.co.uk](mailto:accesstojustice2005@yahoo.co.uk)

Thanks to Wilma Morrison and Ginny Halley of the Central London Law Centre.

## Commonhold – where the legislation

### The introduction of commonhold tenure has proved a complete flop.

Less than a dozen commonhold developments have been registered over the past five years; by contrast over 250,000 new leasehold homes were built in the same period. The leasehold system is far more profitable to developers than commonhold, because of the rich pickings to be made from leaseholders.

No existing leaseholders have been able to transfer from leasehold to commonhold, because the

Government has effectively blocked all such transfers. No transfer can take place unless each and every party with an interest in the building agrees – including all the leaseholders, their mortgage lenders and the landlord. It would be easier for a leaseholder to win the London marathon than to transfer from leasehold to commonhold.

Service charges have increased much more rapidly than inflation – and worse is to come. Many ex-council tenants on low incomes, and

# STOP IGNORING protected tenants

**Mary\* is a Rent Act Protected tenant living in Belsize Park. She's been living in the same two bed plus a box/guest room flat since 1963, which she originally shared with a friend.**

After her friend moved out, Mary kept the tenancy. Since then she has had over 10 different landlords, many of whom have tried various means and ways of getting her to leave ('winkling' is the common term used for this sort of practice) to capitalise on vacant possession; worth roughly a third of the total property value. To put it into perspective, Mary's flat is worth somewhere up to half a million quid more without her in it. Mary has managed to hang in there, but not without it taking its mental and emotional toll on her.

Mary is now 73. She is on a more or less fixed income based on a combination of state pension and savings, the latter of which pays for her £220 a week rent. Now some may think that Mary has got a really good deal; private sector rents in Belsize Park are generally astronomical, and certainly much higher than her capped rent. But for Mary, this is neither here nor there, as she can ill afford to pay her rent, and is terrified that her savings will

run out, particularly as her rent can be increased every two years. And although there is a rent cap in place (Maximum Fair Rent Order 1999), this can pan out at around 13-15% at today's RPI + 5% of the current rent. Needless to say, if the RPI increases, so will these rents. For someone, particularly quite elderly, to be faced with ever increasing rents with dwindling financial resources, this can be quite terrifying – and no number of assurances that eventually housing benefit will cover the rent if the savings run out will really help.

So what could help Mary and the many others in her situation? What about renting out the other rooms to lodgers? This would make sense and could help ease the affordable housing shortage in Camden, in fact this is an avenue being promoted in high demand areas, where elderly residents with extra space are being encouraged to do this at low cost.

**“To put it into perspective, Mary's flat is worth somewhere up to half a million quid more without her in it.”**

And if Mary was a council or housing association tenant, (not only would her rent be substantially lower) then she could probably do this (without making a profit), but in Mary's private sector tenancy agreement – in which this is a discretionary term – this is forbidden. No longer to protect landlords from the creation of sub-tenancies, it is a tool now used by some landlords more often than not to threaten and intimidate or evict over.

Oh, and because Mary has a 'secure' tenancy, she isn't eligible for council or social housing. And because Rent Act Protected – or Regulated – tenants are declining in numbers, priority is no longer given to this complex area of landlord tenant law. Advisers are no longer trained adequately, and often do not have much of an idea of what it means to be a 'Protected' tenant. And because Mary has savings she is not entitled to legal aid, which seems to be disappearing at an alarming speed anyway.

Regulated tenants, although still numbering approximately 250,000 in the UK and up to 2,500 in Camden, are a slowly shrinking group, and because of this are being increasingly ignored and sidelined. But the issues affecting them are not going away. Many still face harassment on regular basis, live in substandard accommodation, fear ever increasing rents while incomes remain static or are reducing, worry that their children will not be able to afford the market rents if they were to succeed the tenancy, and are not be able to get their landlords to carry out the most basic of repairs without a fight, let alone adapt their homes to accommodate their aging needs.

Communications Minister Baroness Andrews writing recently in *Roof* magazine recognises that 'a third [of older people] live in non-decent housing, with the worst conditions in the private sector'.

**For these and many other reasons, it is time to put these issues back on the housing and social policy agenda.**

*\*Not tenant's real name*

## has failed

who exercised the right to buy, have received bills well in excess of £10,000 each for major works on their blocks – often to put right building defects present prior to the leaseholders exercising the right to buy.

The cost of buying the freehold has increased so far beyond its market price, that this move is now completely prohibitive for the majority of leaseholders. Recent tribunal decisions have pushed up the cost of freeholds to a multiple of their level only a few years ago. Hardly any leaseholders have been

able to exercise the right to manage, because of the tortuous procedure involved and the requirement to comply with the complexities of company law. Just over a hundred right to manage companies are currently active.

**Thanks to *The Leaseholder*, the newsletter of the Campaign for the Abolition of Residential Leasehold – visit CARL at [www.carl.org.uk](http://www.carl.org.uk) where you can find more information and join the campaign**



Are you a private tenant living in Camden with a drug or alcohol

issue? Is this causing problems with your landlord or your tenancy? If so, then ARP's Camden Tenancy Support Service (CTSS) may be able to help you.

Our skilled team provides a high quality client-led service for people at least 18 years of age whose primary problem is sustaining their tenancy plus an associated drug or alcohol issue. Our aim is to improve the lives of Camden residents with support needs who are experiencing tenancy problems that are related to their substance misuse. We achieve this by working supportively with our clients to address their substance misuse, to resolve their tenancy problems and to encourage them to move on and positively change their lives. We are a fully trained and experienced team supporting clients in a planned and organised way for up to two years. CTSS works in partnership with other agencies to help clients achieve their goals such as helping them to identify the underlying causes of their substance misuse; enabling settled independent living; a healthier lifestyle; reduction of anti-social behavior and taking up meaningful occupations such as further education, voluntary work and paid employment. The service is free to landlords and clients and we work in complete confidence at every level of our work. If you feel you may benefit from our service you can self-refer or feel free to contact us for an informal chat at:

ARP Floating Support Service  
Camden, Jacob House, 3<sup>rd</sup> Floor  
3-5 Cynthia Street  
London N1 9JF  
Tel: 020 7837 0063  
Fax: 020 7837 7839  
Email: floatingsupportcamden@arp-uk.org

We are open 9am-5pm, Monday to Friday, 8am-6.30pm every Tuesday. Please note there is no disabled access at our office

## End Feudal Tenure throughout the British Isles

**Gordon Brown need look little further than his native Scotland for a sensible approach to ending feudalism.**

The Abolition of Feudal Tenure (Scotland) Act finally brought to a close its feudal system of land tenure. On 28 November 2004, all vassals (yes, many Scottish home owners were still described as such!) living on land controlled by their feudal superiors would own their land outright. The payment of feu duties (equivalent to ground rent) was abolished, after the payment of a modest amount of compensation by the vassal. Last year, the Scottish Law Commission has proposed the conversion of the few remaining long leases in Scotland (estimated at just over 13,000) into outright ownership. The Commission notes that one of the disadvantages of long leases is that the landlord can, in certain circumstances, terminate the lease without compensation. This hideously punitive situation persists for the three million leaseholders living in England and Wales. Take note Gordon.

Meanwhile in the Republic of Ireland, the Landlord and Tenant (Ground Rents) Act 1978 abolished the right of landlords to create new leases for residential dwellings and charge ground rent. For those leases that remain, Ireland's land registry operates the ground rent purchase scheme, which allows leaseholders to transfer to outright ownership for

a reasonable sum calculated on a simple formula. If there is more than 15 years to run on a lease, the compensation paid to the landlord represents the capitalisation of the annual ground rent assessed by reference to the yield on the most recent long-term government bond. If there is less than 15 years to run on the lease, then additional compensation representing just a fraction of the reversionary value of the property is also payable. Nor do leaseholders in Ireland have to pay marriage value in order to acquire their freeholds either.

Thanks to *The Leaseholder* for this article

### You are invited to Camden Federation of Private Tenants AGM

*'Encouraging Responsible Letting'*  
A consultation by the Law Commission

**Speakers:** Richard Percival from the Law Commission and Cllr Chris Naylor, Camden's Executive Member for Housing

**Date:** Mon 24 Sep @ 6.30pm  
**Venue:** 11-17 The Marr, Camden St, NW1 0HE  
(next door to The Camden Pub)

For a summary of the Paper, please contact the office on 020 7383 0151 or email [camfpt@lineone.net](mailto:camfpt@lineone.net)

## Camden Housing Advice Service

**Free, expert advice** for private tenants, leaseholders and people seeking accommodation.

Housing Advice Centre, North team, 179 West End Lane, NW6 2LH  
**Mon, Thurs, Fri:** 9.30-4.00pm,  
**Tues:** 9.30-1.00pm; 4.00-7.00pm,  
**Wed:** Closed

Housing Advice Centre, South team, Bidborough House  
20 Mabledon Place, WC1H 9BF  
**Mon, Tues, Thurs, Fri:** 9.30 - 3pm, **Tues:** 4 - 6pm, **Wed am:** Somali speakers only

Tel: 020 7974 5801  
email: [housingadvice@camden.gov.uk](mailto:housingadvice@camden.gov.uk)



Camden

HOUSING



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## Three million new homes by 2020

Housing Minister Yvette Cooper has introduced the long awaited Housing Green Paper saying it was "the most significant programme of house-building for decades". Cooper said in England there is a 38,000 shortfall between new homes built and households created each year. To address this the government wants to see 240,000 new homes being built every year, two-thirds of which to be built on brown-field sites. A 'significant' number of the new homes will be social rented housing, other affordable housing will be available through shared ownership schemes. A new scheme will introduce interest free equity loans, available to first-time buyers to cover 17.5% of the cost of homes and up to a value of £60,000.

The government has set a target

that all new homes will be made 'zero carbon' by 2016 featuring improved insulation, smart electricity meters and solar panels and reduced water consumption. Five new 'eco-towns' will also be established with 5,000–20,000 family homes each, up to 50% of which will be affordable housing. A major change of policy will also allow Councils to create new local housing companies to use their own land to build homes, and will be allowed to keep full rents from these and cash from any sales.

## Landlord fined £16,000

Camden's done it again! Hot on the heels of our last issue in which we reported rogue landlord S Bukhari fined £80,000 for serious disrepair, landlord Leo Kaufman was recently fined for failing to keep two properties in Mornington Crescent fit for the occupants of 17 bedsits. Council

inspections revealed broken vents and steps, damp, and unhygienic common areas. Executive Member for Environment, Cllr Mike Greene, quoted in the *Ham & High* said "landlords have a duty of care to maintain their properties in a reasonable condition for tenants".

## Law Commission consultations

There are two Consultation Papers out currently – *Housing: Proportionate Dispute Resolution – The role of Tribunals*, and *Encouraging Responsible Letting*. Closing dates for responses are 28<sup>th</sup> Sept and 12<sup>th</sup> Oct respectively.

As usual, these are lengthy tomes, but have summaries, for a copy of either please contact our office (details back page) or view at [www.lawcom.gov.uk](http://www.lawcom.gov.uk).

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Debbie Crew, a CAB worker from Merseyside, wrote the report after becoming aware of the practice whilst helping a woman who was suffering from Crohn's disease and living in damp, cold accommodation.

The bureau helped her apply for a grant to have central heating installed, but her landlord refused to pay for safety work needed to enable her to have it fitted. The bureau advised that she could take action requiring her landlord to carry out the work, but had to warn her that her landlord might then evict her. This lady was so afraid of eviction that she dropped the matter, continuing to live in substandard conditions affecting her health rather than run the risk of becoming homeless as a result of pursuing her rights.

This is plainly wrong and goes against a number of Government initiatives, including its policies on homelessness reduction as well as scuppering its attempts to bring private sector properties up to minimum basic standards of decency.

CFPT asked Camden's Housing Advice how widespread retaliatory

eviction is in Camden – and therein lies a further problem, how can you prove that a landlord is serving notice as a response to complaints of disrepair when he or she doesn't have to have a reason to evict once the initial contract is up? Manager Neil Le Bihan told us he can state that on occasions it does clearly happen but that the HAS wouldn't be able to say they have noticed any general pattern of the problem in this area.

He went on to say that recent changes in HMO Licensing regulations from the Housing Act 2004 have created a potential issue for tenants, regarding being served with s.21 notices by their landlords trying to avoid the licensing requirements (and payments), or in the cases of temporary exemption orders being granted where the landlord may be provided with a period of time to comply. Camden has successfully defended s.21 proceedings on a couple of occasions already where the property is not licensed. And the HAS have had a couple of cases of late where tenants have approached them after the landlord has served notice to vacate following his being granted a temporary

exemption notice, however this has only occurred because considerable works are required by the landlord in order to comply with the requirements, which means the tenants would have to leave in order for it to happen.

Camden's Environmental Health Department now e-mail Neil Le Bihan directly if they come across any unlicensed HMOs as part of their enquiries, or if they are considering serving notices on landlords, so the departments have a coordinated approach to this area. Le Bihan added "as the licensing regulations have not been in for long though, and there is no concerted feedback as of yet, the best I can say at this time is 'watch this space' in this area".

*The tenant's dilemma* report calls for restrictions to be placed on landlords' use of Section 21 notices where a tenant has recently taken steps to enforce statutory rights on disrepair and health and safety issues, which CFPT fully endorses and will be updating you on this developing campaign.

**For a copy of the report visit [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)**

## 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 below) 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

## Free information leaflets – call today

- 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.

Contact us today for details.

**Tel: 020 7383 0151**

**Email: [camfpt@lineone.net](mailto:camfpt@lineone.net)**

# Camden Federation of Private Tenants

## CFPT 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.

**You may contact us at:**

**CFPT, 11–17 The Marr,  
Camden Street**

**London NW1 0HE**

**Tel: 020 7383 0151**

**e-mail: [camfpt@lineone.net](mailto:camfpt@lineone.net)**

This Mark means that we offer a Quality Assured Information Service.

**Community  
Legal Service**



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

## 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 \_\_\_\_\_

Tel no. \_\_\_\_\_

Email \_\_\_\_\_

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

**2** I would like to donate £ \_\_\_\_\_ **3** Total enclosed \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

*\*We can waive the application fee in cases of hardship, please contact the office in complete confidence.*

**Please fill in your details and send with payment to:**

Camden Federation of Private Tenants  
FREEPOST LON12470

London  
NW1 2YW

**I am an/a: (please tick)**

Regulated Tenant

Assured Tenant

Assured Shorthold Tenant

Other