

Property Matters

020 0393 5793

Homesforth Ltd

Special

Renters' Rights: Discrimination

After a considerable delay in the progress of the Bill, the House of Lords Committee stage comes to an end in the first week or so of May. This examines the proposed Lords amendments. What does the Bill propose in relation to discrimination?

Under the previous Government's Renters Reform Bill there was no mention of children, housing benefits or any references to discrimination. The Renters' Rights Bill proposes that any term in a tenancy is of no effect if:

- It prohibits a child living with or visiting the tenant.
- It prohibits the tenant from being a benefit claimant.

What will this mean in practice and what will the consequences be of getting it wrong?

Must not prevent

The wording for these two clauses in the Bill is similar and state that a 'relevant person' must not prevent a person with a child, a visiting child or a person claiming benefits from:

- 1) Enquiring about the availability
- 2) Accessing information about the dwelling
- 3) Carrying out a viewing
- 4) Entering into a tenancy

This will make it an offence to advertise a property stating no children or benefits (No DSS!) or to fail to provide information about a property.

Landlords and agents will continue to be able to ensure that any person wishing to rent a property can afford to do so. If a person's income whether that be from benefits, salary, other income or a combination of them is insufficient, then refusal will be permitted.

In this part of the Bill a 'relevant person' is the landlord or someone working on behalf of the landlord, i.e. a letting agent.

Proportionate means, legitimate aim

The legislation will prevent landlords from refusing children where the dwelling is suitable for children to occupy. If however, the landlord can show that their refusal is a proportionate means of achieving a legitimate aim, then refusal would be reasonable. This might, for example, enable the landlord to refuse children in an over 55's retirement development.

Blanket bans

Blanket bans by landlords and agents on housing benefit claimants have, in reality, vanished long ago following court cases deciding that those bans are indirectly discriminatory. Terms in mortgage lender's consent to let letters will likely have been dropped for the same reason. Landlords with mortgages cannot be put in a position where they would break the law by complying with a mortgage term.

Mortgage and lease terms

Any term of a mortgage or lease which prevents a child living with or visiting a tenant or any term in a mortgage or lease requiring the landlord to prohibit the granting of a tenancy to a tenant claiming benefits or with children will be of no effect. They will simply cease to apply if they are written into the terms and conditions.

The landlord of a building comprised of studio flats would likely be legitimately able to refuse children to

ensure that a property would not be deemed as overcrowded.

Insurance

Terms in new insurance contracts that would require the insured to prohibit or which restricts the circumstances in which a child may live at or visit the dwelling will again be of no effect. The same applies to restrictions on benefit claimants. Terms in an insurance contract taken out before the legislation comes into force will continue to apply. As insurance contracts come up for renewal those terms will not be continued in the renewed insurance policy.

Further regulations

The legislation will give the Secretary of State power to write regulations if discriminatory practises are identified that prevent victims of those practises from entering into a relevant tenancy.

Penalties

The local authority will be able to impose a financial penalty if, 'on the balance of probability', a low threshold, a person has breached these requirements of the Bill. The maximum penalty will be £7,000, however, if the breach continues after 28 days or is repeated within 5 years a further penalty may be awarded.

Reality

In reality this will have less impact that it might appear. Most landlords with family sized houses accept children. It is already unlawful to have a blanket "no DSS" policy and crucially, landlords will still be able to consider affordability in choosing a tenant

This newsletter is produced and distributed on a limited basis. Whilst the information researched and provided is believed to be correct, neither the sender nor anyone involved in the production of it, accepts responsibility for its accuracy. © TFP