


Levelling Up, Evictions, and the Implications for Property Professionals

The Government's much-publicised 'levelling-up' programme brings with it a number of changes and challenges for property professionals which, without careful preparation, could see a steep rise in allegations and claims for professional negligence.

 15 February 2022

The Government's much-publicised 'levelling-up' programme brings with it a number of changes and challenges for property professionals which, without careful preparation, could see a steep rise in allegations and claims for professional negligence.

As part of its mission to improve housing quality, the Government's proposals look to grant greater power to tenants and greater regulatory burdens for property professionals. This includes the creation of a 'National Landlord Register', to which all landlords must be included in prior to being able to rent out any properties. This will likely serve as an indirect extension to the Selective Licensing Schemes which have been introduced in various local authorities across England over the last several years. This will inevitably create a heavier regulatory burden on agents and landlords, and is another critical requirement that will have to be adhered to as part of the lettings process.

One of the most notable proposed changes however, is the long-expected change to the section 21 eviction process. Presently, this system allows 'no-fault' evictions to take place by way of serving formal written notice, even in cases where there has been no improper conduct from the tenant.

The indication now is that this process will be ended, meaning that 'no fault evictions' may no longer be an option available for landlords who wish to regain access to their properties.

These changes do not mean that agents or landlords will be unable to evict tenants in situations where, for example, rental arrears have accrued and so eviction proceedings are commenced via the section 8 process. What it does mean, however, is that landlords may be unable to seek to evict a tenant in cases where they may simply wish to move back into the property themselves, or where they may be looking to sell the property and wish to sell it without a tenant in-situ.

What Are the Risks For Agents?

Many landlords rely on letting agents to secure tenants and manage tenancies on their behalf, and sometimes may not be intimately familiar with the processes for eviction and other such issues affecting tenancies. Instead, they will often rely on their agents for advice about the process.

The risk for agents is that landlords may seek to pursue claims for professional negligence in cases where they find cannot easily evict a tenant, and where they believe agent failed to advise them of this risk before granting a tenancy on their behalf. Many landlords who work internationally rent out their UK-based properties whilst they are away, and then wish to regain access to their properties once their work is concluded. In these cases, section 21 notices are often used to remove the tenant and allow the landlord to move back in. However, the proposed changes mean that this option may no longer be available and so the landlord will be unable to regain their property, meaning they may have to find alternative rental accommodation of their own. A landlord in this case may look to recover these personal costs and expenses if they feel that their agent failed to adequately warn them of the potential difficulties with regaining access to their properties prior to arranging a tenancy agreement on their behalf. The costs of these could prove high and result in significant claims being reported.

Whilst many agents' professional indemnity insurance policies may be able to offer support, insurers will inevitably be monitoring the changes in the profession and the increased risks to the industry, and so policy premiums may face sharp rises in the coming years.

Action Points for Agents and Professionals

Now that the initial details are known, agents should now be taking active steps to familiarise themselves with the proposals, and ensure that they are making their landlord clients aware of the possible implications on them. Whilst the eventual changes may only impact on tenancies which begin after the new rules are implemented, agents may still wish to begin having discussions with their landlord clients now. Ideally, these discussions should take place ahead of any new tenancies being agreed, including the formal renewal of any existing tenancies. Such steps will help protect agents from the risks of claims for negligence/a negligent failure to advise from their clients.

Whilst the above points are important to keep in mind, landlords and agents should be equally be alive to the possible benefits of these proposed changes as the removal of section 21 notices means that tenants may feel more secure in their rental homes and be content to go into a tenancy with a long-term arrangement in mind, free from possible fears that an eviction notice may follow. In turn, longer-term tenancies can lead to greater financial income streams for landlords and their agents, without the added costs of potentially having to source new tenants on a regular basis.

Further details will be published in the near future, but for now there is much for property professionals to consider. A link to the Levelling Up White paper itself can be found [here](#). A property focused White Paper (with more specific detail on the above proposals) is to be published in Spring 2022.

In the meantime, Browne Jacobson are ready and available to help property professionals with discussing what steps they might want to take now and what other risks they might want to prepare themselves against for the future. Reach us via email to Daniel.seely@brownejacobson.com or telephone on 0115 908 4125 to discuss how we can help you.

Contact



Mark Hickson

Head of Business Development

onlineteaminbox@brownejacobson.com

+44 (0)370 270 6000

Related expertise

Government

Insurance

Local government

Social housing