

Brighton & Hove City Council

Council

Agenda Item 62

Subject: Protect renters this Winter: Stop revenge evictions!

Date of meeting: 15 December 2022

Proposer: Councillor Williams

Seconded: Councillor Allcock

Ward(s) affected: All

Notice of Motion

Labour Group

Council notes:

1. This Winter's cost-of-living emergency and dangers to tenants in properties with health hazards i.e. damp, mould, excess cold;
2. The tragic death of two-year-old Awaab Ishak from prolonged exposure to mould;
3. Mould, damp and serious disrepair in the social and private housing sectors needs addressing;
4. Action the council can take to prevent revenge evictions, raise standards and deter landlords from breaking the law;
5. The council has legal powers¹ to intervene in cases of revenge evictions with 'improvement notices'² to invalidate s21 notices;
6. The 2019 High Court ruling in favour of Hull City Council³;

Council therefore resolves to request officers to bring a report to Housing Committee:

- a) Reviewing the council's private sector housing enforcement policy to reduce tenants' risk of 'revenge evictions' by serving 'improvement notices' and 'emergency remedial action notices' at the soonest opportunity.
- b) outlining plans to display on the council website steps private renters can take regarding repairs requests and revenge eviction notices

¹ Retaliatory Eviction & Deregulation Act 2015, Housing Act 2004

² Under 33 & 34 of The Deregulation Act 2015

³ Verdict held that a local authority was entitled to amend their private sector housing enforcement policy and take a tougher line against retaliatory eviction by making formal action under the Housing Act 2004 the default position where either a category 1 or 2 hazard existed.

Supporting Information:

- The tragic death of Awaab Isaak in his property in Rochdale – a coroner has said this should be a 'defining moment' for the UK's housing sector
- "No-fault" evictions have surged to higher than pre-pandemic levels in recent months, with alarming government figures showing close to 20,000 households were made homeless in England in 2021/22, up from almost 9,000 in the previous financial year;
- The Government has still not delivered on its promise to ban section 21 "no fault" evictions
- Retaliatory or revenge eviction is where a tenant makes a legitimate complaint to their landlord about the condition of their property and, in response, instead of making the repair, the landlord serves them with a section 21 asking them to leave

If a tenant has an assured shorthold tenancy or a renewal agreement which started on or after 1 October 2015 and is given a section 21 notice it will be invalid where all these apply:

- before the section 21 notice was issued, the tenant made a complaint in writing either by email or letter to the landlord regarding the condition of the property. A tenant will be considered to have made a complaint if they did not know the landlord's postal or email address, or had made reasonable efforts to contact the landlord to complain but could not
- the landlord:
 - did not provide a response within 14 days of the complaint being made
 - did not describe the action they would take to fix the problem or give a reasonable timescale within which action would be taken, or
 - served a section 21 notice following the complaint being made by the tenant
- the tenant then complained to the council about the same or a very similar issue
- the council sent the landlord a housing improvement notice or emergency remedial action notice because the property was found, following a visit in response to the complaint, to have a serious health or safety hazard
- and if the section 21 notice was not given before the tenant's complaint to the council, it was given before the service of the relevant notice.

If the council serve a landlord with a relevant housing notice, a valid section 21 notice cannot be issued within six months of the council's notice. A section 21 will be valid if it is served after 6 months have passed.

There are restrictions on the service of a valid section 21 notice to end an assured shorthold tenancy (AST) when a landlord served the notice following a written complaint from the tenant about the condition of the property and the local authority has served a 'relevant notice'. A relevant notice is an improvement notice in relation to a category 1 or 2 hazard, or an emergency remedial action notice.

<https://www.gov.uk/government/publications/retaliatory-eviction-and-the-deregulation-act-2015-guidance-note/guidance-note-retaliatory-eviction-and-the-deregulation-act-2015>

<https://www.citizensadvice.org.uk/housing/renting-privately/during-your-tenancy/if-you-get-a-section-21-notice/>

<https://www.citizensadvice.org.uk/housing/renting-privately/ending-your-tenancy/if-youre-being-evicted-because-you-asked-for-repairs-renting-privately/>

<https://www.eastriding.gov.uk/housing/private-housing-residents/advice-for-tenants/harassment-eviction/>

<https://www.theguardian.com/society/2022/sep/22/surge-in-no-fault-evictions-prompts-calls-to-renew-uk-wide-ban>

<https://www.theguardian.com/uk-news/2022/nov/15/death-of-two-year-old-awaab-ishak-chronic-mould-in-flat-a-defining-moment-says-coroner>

https://england.shelter.org.uk/professional_resources/legal/housing_conditions/local_authority_duties_to_deal_with_poor_conditions/local_authority_hhrs_enforcement_action

Humber Landlords Association v Hull City Council (2019) EWHC 332 (Admin)