

An Englishman's castle

What could be considered a fair notice period for eviction?

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EVICTION is always an emotive subject and can bring to mind Victorian scenes of the hard-hearted bailiff, throwing a poor family out on the street.

It may not be quite like that nowadays but there are difficult cases. Getting the balance right between landowners (who may be relying on the rent or mortgage payments to fund their ownership) and occupiers (who for various reasons have stopped making the required payments) is not easy. Death, divorce, illness or loss of employment are often the root cause of the problem.

If the issues cannot be overcome and rent continues to be unpaid, then the only solution is for the occupier to vacate and return the property to the landlord. The tenant should have reasonable time to adjust to the inevitable and the landlord should have reasonable notice of when occupation should be handed back.

The case of *Shakir Ali v Channel 5* (2018 EWHC 298) highlighted the difference between the practice in the County Court and the High Court. In the County Court, a Notice of Eviction (Form N54) is issued to the occupier giving the date and time of the proposed eviction at least seven days before the event. In the High Court, there is no similar notice requirement.

In the Ali case, the Writ of Possession was issued on day one and the attendance to evict took place at 08:30 on day two. While it's not quite Victorian standards, it is scarcely reasonable notice to give Mr Ali and his family the opportunity to seek rehousing from their Local Authority, which has the ultimate responsibility to find accommodation for those evicted.

This difference has been picked up by the Civil Procedure Rules Committee in their recent consultation: Enforcement of Possession Orders and Alignment of Procedures in the County Court and High Court, which closes on 2 May 2019.

The simple answer is to impose a notice of eviction requirement on the High Court process. Most High Court Enforcement Officers usually give at least seven days' notice as this often results in the occupier vacating with all of their possessions. The last thing that the landowner wants is to

be left with a property full of the former occupier's belongings, as the landowner becomes responsible for those as soon as the locks are changed.

There are, however, times when notice is unwise. County Court bailiffs have a limited time to complete their eviction and so if the occupier refuses to leave, the eviction is postponed causing further losses for the property owner.

The other reason for evictions ending up in the High Court is the length of time that County Court possession proceedings take, and for those possession orders to be enforced.

If you are a Buy-to-Let landlord, with a single property and a non-paying tenant, you will be desperate to reclaim possession of the property and get it re-let, particularly if you have borrowed to buy the property. By transferring the possession to the High Court, at not inconsiderable expense, you can at least speed up the enforcement side.

Introducing a notice requirement in the High Court is likely to come into effect, with the ability to apply to court for notice to be waived in appropriate cases. In the case of domestic possessions, allowing time before eviction is entirely reasonable, but there needs to be a limit, which is when the landowner becomes seriously disadvantaged.

County Court bailiffs are generally overstretched and it can be difficult for them to deal with an eviction in four or five weeks from the date of the County Court order. Hence the current willingness to transfer to the High Court.

Sometimes an Englishman has no choice but to leave his home but the process should be as even handed as we can possibly make it.

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