
DEFENCE CASE STATEMENT ON BEHALF OF

Issues in Case

1. The Defendant maintains his not guilty plea to the offence of failing to licence a HMO contrary of the Housing Act 2004. The two issues are primarily whether [redacted] has a reasonable excuse for not licencing the property under section 72(1) and 72(5) of the Housing Act 2004 and whether, in fact, the prosecution can show that the property had more than four individuals *occupying it as a residence* and was therefore a House in Multiple Occupancy.

The reasonable excuse issue

2. There is no case law on defining what constitutes a “reasonable excuse” in the legislation for not complying with the mandatory licencing requirement. The following propositions are submitted:
 - a. The legislation is plainly intended to stop unscrupulous landlords letting out properties to vulnerable individuals living in overcrowded conditions.
 - b. [redacted] had delegated the general running of the property as a responsible landlord of hitherto good character to a respected letting agent, not a fly-by-night friend or associate. If [redacted] are found liable *and it is found that he has relied on them to manage the property in good faith* it must follow that he has acted reasonably in relying on their guidance and advice.

- c. If [redacted] did not know or suspect that the tenants would sublet rooms in the property (if indeed they did this) this should weigh heavily in the Court's mind. The advert the Court has from Gumtree is plainly not written by [redacted] (or indeed the Letting Agents). This is not a landlord letting out rooms unlawfully online but relying on the guidance of the letting agents with tenants acting in through this Gumtree ad on their own frolic.
- d. The AST makes provision for the tenants to indemnify the landlord if the property is permitted for use as an HMO contrary to the agreement (para 4.1.13 - page 6 of agreement) and declares that it is not an HMO (para 1.5.2 - page 2 of agreement). It is signed by all four tenants. The second AST is signed by five tenants. The AST is not signed by [redacted] but appears only ever to have been initialled by the tenants. It is our case that the letting agency would have arranged the contract and it is the letting agents who are liable not [redacted] if the property was to let to more than four individuals and hence had become an HMO. [redacted] *should not face the stigma of a criminal conviction, a fine of up to £20000, a ban on obtaining an HMO licence in [redacted] and the costs of the matter due to the failings of the letting agent.*
- e. The critical Gumtree advert which started this investigation (agreed by all parties as hearsay at the CMH) is not placed by [redacted] or the letting agent. There is no evidence of this and its language, style and the number on it are clearly indicative of the tenants themselves looking for extra flatmates behind the back of landlord and agent. *It is for the Local Authority to prove any link between the advert and Mr Abedin or his letting agent.*
- f. There are no statements from any of the tenants at all suggesting for instance that [redacted] was an active participant in letting the property to more than four people or that he knew that more than four individuals from September 2024 lived in the property.

- g. *The emails from [redacted] one of the former tenants, to the Council indicate that before September 2014 and the new tenancy the property was only let to four individuals and hence not liable as an HMO. It is only after September 2014 that it appears more than five individuals may have been residing it at the property.*
- h. There are no complaints about the deposit not being protected for instance or by the tenants about the condition of the property. A landlord flouting section 71 would, in general, not be a landlord who would protect deposits and would be one in breach of numerous pieces of housing legislation.
- i. There is no duty in law for a landlord to check the property either constantly (or at all) in order to see that the property has gone from being a non-licensable property to a HMO that is required to be licensed. There is no duty in law either to check the rooms in a property merely to see if a property has gone from being a non-licensable property to an HMO. This must be especially so if as in this case the landlord has delegated the running and management of the property to a letting agent. *Delegation itself cannot immunise a landlord from liability (ie if the managing of the property was delegated to someone plainly incompetent or unsuitable) but this is delegation of management in a reasonable manner to a professional letting agency.*
- j. It is for the Local Authority to disprove beyond reasonable doubt that [redacted] did not have a reasonable excuse for licensing the property.
- k. It is contended that [redacted] had no specific knowledge of the number of occupiers in the property was five or more and there is no evidence that he did – this is a country mile from a landlord who deliberately dishonestly lets a property, say, at the commencement of a tenancy to a large group of seven or eight (or more) vulnerable renters. It is noted that the Act has not made this specific offence one of strict liability. It is suggested that this is because the draftsman would know there would exist honest landlords, maintaining

proper standards, who would fall within this legislation and should therefore have the defence of “reasonable excuse” afforded to them.

1. The Property went from having four individuals in it before September 2014 (see emails from _____ to possibly five individuals occupying it from the second AST the Council have served on us and thus making potentially liable under the Act. This is not a property that has always a large number of illegal occupiers in it as would be the case if this was a landlord who run roughshod over HMO legislation.

Disclosure

3. *This Defence Case Statement is written in advance of the unused schedule which we are yet to receive and a further supplementary Defence Case Statement may well be written on receipt of the unused.* We would ask for the Local Authority to confirm the following in the meantime to expedite matters:
 - a. Confirmation from the Local Authority that there have been no other any other Gumtree Ads for the property linked to _____
 - b. _____ has never come to the Local Authority’s attention for any other breaches of Housing Legislation;
 - c. No statements or evidence are or have been obtained from any of the tenants.

Signed:

Dated: