

Islington & Shoreditch Housing Association (ISHA)

Non Occupation & Subletting Policy & Procedure

Definitions

- Non Occupation is where the legal occupier is not living in the property and/or is not using the property as their sole or principal home
- Subletting is where the legal occupier has let out the whole or part of the property without obtaining the consent of ISHA

Policy Statement

Section 3.21 of the tenancy agreement states that 'the tenant shall not part with possession of the premises or sub-let the whole of the premises nor grant an assured sub-tenancy of any part of the premises'. This basically means that subletting is not permitted and therefore formal action needs to be taken in cases where subletting is suspected or is found to have taken place.

Subletting is not to be confused with Flat or Home minding which is where the Association has agreed to a request from a tenant for a single person to mind their property whilst they live abroad for an agreed period. This is dealt with under a separate policy.

Social housing is made available to those in housing need. Non occupation of a property by the legal occupier is a breach of the tenancy agreement and formal action needs to be taken to ensure that the property is used to legally house someone who is in housing need.

Procedure

Before initiating Non Occupation and/or Subletting action it is important to make sure that all necessary steps have been taken to contact the legal tenant. This may be through making home visits during the day and or evening, by telephone, by letter etc. If these steps have not resulted in making contact with the legal occupier then ISHA will take the following action:

1. If the tenancy has been ended by the service of a Notice to Quit then the procedure for Unauthorised/squatted properties should be followed.
2. If the legal occupier has left the property then **letter 1** should be sent to ascertain whether they have an intention to return.
Send Letter 1 - Non occupation & subletting.
3. If there is no response then letter 2 should be sent.
Send Letter 2 - Non occupation & subletting.

4. ISHA will also carry out a thorough investigation which will include:
 - Obtaining statements from neighbours, unauthorised occupiers, Estate Officer, (when they last saw legal occupier), home visits, etc,
 - Contacting the Housing Benefit & Council Tax Department to check if HB or Council Tax is being claimed and in whose name?
 - Checking the rent account - Where rent arrears have built up over a period of time with no payments being received. Are payments consistent with the previous record
 - Confirming with British Gas, Water companies, Electricity supplier and any other supplier that their services are connected and that the supply is registered in the legal occupier's name
 - Checking the Electoral Roll
 - Looking for evidence that the property has been advertised i.e. in newspaper advert, through letting agents, etc. **(Please note this is not an exhaustive list)**

5. Once the above checks have been made and if there has still been no contact from the legal occupier, then legal action will be initiated to obtain repossession of the property. The Tenancy Services Manager will serve a Notice to Quit & Notice of Seeking Possession on the legal occupier. **Serve Notice to Quit & Notice of Seeking of Seeking Possession.**

The Notice must be accompanied by a covering letter.

6. The covering letter will state the reasons why the notices have been served. The notices must be served on the ISHA property and the last known address of the legal occupier. The covering letter should state that both notices have been served without prejudice. The notice should be delivered by hand to the property and be sent by first class post to the last known address of the legal occupier (if different to the property address)

7. ISHA will notify the illegal occupier in writing that:
 - That the tenancy/lease will end if the legal occupier is not living at the property when the notice expires.
 - On the expiry of the Notice to Quit, we will not accept any payments as rent. Any money received will be treated as payment in lieu of use and occupation of the property.
 - The illegal occupier should approach the Homeless Persons Unit in their Borough to seek housing advice and to find out if they might be eligible for re-housing.

8. When the NTQ & Notice of seeking Possession expires, ISHA will either:
 - Take up possession of property if is empty or
 - Instruct a nominated solicitor to proceed to court for possession order or

- Initiate DIY Possession proceedings.
- 9. The Tenancy Services Manager will attend Court to give evidence with the nominated solicitor who will present the case.
- 10. At court a judgement will be requested for any outstanding arrears and any other amounts outstanding in lieu of lost rent.
- 11. If an Order is granted by the Court, the Tenancy Services Manager will instruct the nominated solicitor to apply for a warrant for eviction at the earliest opportunity.
- 12. The legal occupier will be notified of the Court's decision in writing by the Tenancy Services Manager. The letter will be sent to the property and also to the last known address of the legal occupier (if different).
- 13. Following eviction, the Tenancy Services Manager will arrange for the property to be voided on Universal Housing. They will also update the void spreadsheet.

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Peter Ward
Supported Housing Manager