

Unit Title

LA40 Housing Legal Advice and Casework

Summary

This Unit is designed for you if you specialise in the provision of legal advice in relation to a broad range of housing issues. This includes advising clients on more complex areas of law. You will also know how to prepare and present cases in formal or informal hearings.

This is a new Knowledge Unit that has been developed for the independent Legal Advice sector. This Knowledge Unit supports the generic National Occupational Standards for Legal Advice.



To meet the National Standard, you must be able to:

- a) Interpret and explain the legislation, case law and guidance relating to statutory housing allocation
- b) Describe the key features of all major types of tenancies and the rights and responsibilities of landlords and tenants under them
- c) Explain how to analyse relevant housing standards and describe how to establish appropriate enforcement action
- d) Explain when and how to apply for and assist a client through a statutory review in relation to homelessness and ways of challenging decisions
- e) Identify when and explain how to assess accurately levels of rent, service charges and mortgage repayments for different types of occupation
- f) Interpret and explain how to apply legislation and case law relating to statutory housing allocation
- g) Explain how to establish and apply possession procedures, including court procedures and representation of clients
- h) Explain how to establish and apply procedures in relation to protection from eviction
- i) Explain how to establish and apply legal housing rights and responsibilities in the event of relationship breakdown
- j) Describe the different kinds of social housing available for older people
- k) Explain the impact of immigration legislation on eligibility for housing

Knowledge and Understanding

You must show that you know and understand:

1. Relevant and up-to-date legislation, case law and guidance relating to statutory housing allocation
2. Types of tenancies and rights and responsibilities, including security of tenure:
 - How to distinguish between a licence, a tenancy and excluded occupiers
 - Contractual and statutory, periodic and fixed term in relation to licences and tenancies
 - Types of letting and rights and responsibilities of landlord and occupier under each:
 - public sector
 - secure tenancies and licences
 - assured
 - assured shorthold or starter tenancies
 - introductory
 - demoted tenancy
 - occupiers with basic protection and excluded occupiers
 - succession assignment
 - tolerated trespasser
 - trespasser
 - the possible effect of anti-social behaviour on the tenancy
 - private sector
 - assured shorthold
 - assured
 - protected
 - occupiers with basic protection and excluded occupiers
 - succession assignment
 - tolerated trespasser
 - trespasser
 - How to identify a licence or tenancy
 - The importance of dates when tenancies were created
 - Protected/regulated tenancies
 - Tied and agricultural tenancies
 - Housing co-operative tenancies
 - Service occupation
 - Long lease holders
 - Ending tenancies
 - surrender
 - assignment
 - joint occupation and co-ownership
3. Housing standards and related enforcement action:
 - Remedies and how to take enforcement action in relation to:
 - housing disrepair protocol and its application
 - expressed terms
 - implied terms
 - defective premises location
 - nuisance
 - negligence

- environmental protection
 - statutory nuisance
- health and safety regulation
 - gas safety
 - fire safety regulations
 - health and safety executive framework
- local authority regulatory framework
 - houses in multiple occupation/licences
 - tests to apply for overcrowding
 - statutory fitness standards
 - deposit schemes
- Grants for improvement/repair
- Other practical remedies

4. Housing standards and related enforcement action:

- How/when to carry out a statutory review
- How to challenge decisions on homelessness
- Grounds for challenge:
 - 'not homeless' decisions
 - 'not eligible' decisions
 - 'not priority' decisions
 - 'intentionally homeless' decisions
 - suitability of accommodation
 - local connection referrals
 - provision of temporary accommodation
- The importance of time limits for review
- How/when to refer for a court appeal
- How/when to refer for a judicial review

5. Rents and service charges for different types of tenancies:

- Regulated tenancies
- Assured tenancies
- Service charges (rental and leasehold properties)
- Distraints
- Rent arrears
- Benefits and what a tenant can do to challenge increases

6. Statutory housing allocation:

- How/when to challenge decisions to exclude or suspend priority
- How to interpret relevant legislation and case law
- How to recognise where there are grounds for judicial review and when to refer
- The use of the Local Government Ombudsman

7. Possession procedures:
 - How to recognise valid notices and possible consequences
 - Mandatory and discretionary grounds for possession
 - How to negotiate settlement priority to court action
 - How to recognise notice/possession orders/warrants and their implications for clients
 - Possession procedures for owner occupiers
 - How to recognise when there are grounds for defence
 - The probable timescales and costs for the process
 - How to maximise income
 - How to prepare defence forms
 - The powers of the court to stay/suspend/adjourn hearings
 - How/when to represent a client in court
 - The consequences to security of tenure of breaching a suspended possession order
 - The powers of the court in relation to possession
 - Accelerated possession procedure and its use
 - Time limits for appeals
 - Recognising the need for and preparing defence forms

8. Rights and entitlements in relation to eviction:
 - Occupiers with protection from relevant protection from eviction legislation
 - How to advise clients who have basic protection
 - How to advise licensees
 - Legal remedies to prevent harassment/illegal eviction
 - Civil and criminal remedies available to the occupier
 - How to make representation to the landlord on behalf of the tenant to prevent harassment/illegal eviction

9. The role and responsibility of Social Services in relation to housing young people leaving care, including extended responsibility up to age 25 years

10. Housing rights and entitlements in the event of relationship breakdown, with particular reference to:
 - Domestic violence:
 - homeless application
 - consequences to joint tenants giving notice
 - Relationship breakdown:
 - security of tenure rights
 - Family Law
 - children's rights
 - partnership rights (including civil partnerships)
 - the Children Act (or other relevant and up-to-date legislation) relating to the transfer of property and intentionality
 - local authority policy on the allocation of property
 - homelessness

11. Types of housing available for older people:

- Sheltered
- Extra-care facilities
- Residential