

IT WASN'T ME, YOUR HONOUR!

A landlord's tale of a nightmare experience



ARSH ELLAHI



This month, I have decided to share a recent experience that has left me feeling perplexed. It has made me question whether I want to stay in property. For those who know me well or have heard me speak on one of several webinars, you know how passionate I am about property.

As you may be aware, I have a relatively decent-sized portfolio in which I own many single lets and HMOs. The HMOs vary from a four-bedroom 'Mini-Mo' right up to a 23-bedroom 'Monster-Mo'. Generally, these properties have treated me extremely well and provided me with a rather comfortable lifestyle; I believe I am financially free.

However, I also believe I have plenty more to do and give, and love the challenge and the chase that comes with the game. But in 2016, I started to wonder ... what's the point, when someone is round the corner always trying to beat you down? Here's what happened ...

In addition to my owned portfolio, I have a portfolio of rent-to-rent (R2R) properties. (The R2R strategy is where you simply take on the management of a property and provide a guaranteed rent to the landlord for a substantial period of time – I prefer to offer seven-year guaranteed rent periods.) On the whole, I would like to think that, with just under 40 properties under my R2R belt, this portfolio is doing relatively well.

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In the city where I operate, I am fairly well-known to the local authority because I own a number of HMOs within the district. If you want to do any research, you'll find my company names plastered all over the HMO registers. I do my best to offer both tenants and the city a great service – tenants are guaranteed a clean, secure and comfortable home with limited capital required upfront. This opens up the doors to people from all walks of life, ranging from doctors and nurses to paid-weekly workers, and I also house people on

benefits. As happens with all landlords, from time to time the odd maintenance issue arises but we have a maintenance team on board who are pretty quick at resolving any such issues.

The doorbell rings

In May 2016, I recall sitting in my home office when the postman rang the doorbell and asked me to sign for a letter. At the time I thought nothing of it so signed and collected. It was addressed to me, in my personal name, so I opened it to find that I had been called into the council for a PACE interview.

A PACE interview is where bodies like the local authority or the police invite your business to attend a formal interview under caution (sometimes referred to as a Police and Criminal Evidence Act (hence PACE) interview). This happens when the business is suspected of committing a criminal offence in breach of the Health and Safety at Work etc Act 1974, or any of its subsidiary safety regulation or environmental legislation. Attending the interview and determining what information to provide, if any (you have the right to silence), are crucial decisions that will affect whether the business is subsequently prosecuted and for what offence.

The letter informed me that the council recommended attending with a solicitor to act on my behalf. Before receiving this, I had always believed I had been working with the local authority; after all, my brother and I had been appointed as chairpersons for their Landlord's Committee – by the very same local authority. So on receipt of this letter, I decided to call the person who wrote it to ask whether there was indeed an issue, as I had not been notified beforehand.

The tone of conversation between us had changed from what it was previously. The environmental health officer (EHO) informed me that she could not discuss the matter on the phone, and that I should get legal advice and attend the interview. Alarm bells were ringing, quietly at this point, but still ringing. They asked me to submit a number of documents relating to a specific property prior to the interview, which I was happy to do. Among other things, these included:

- Gas safety certificates
- Electrical safety certificates
- PAT testing certificates
- Fire alarm / emergency lighting certificates
- Fire alarm log book
- Tenancy agreements for all tenants who currently and had previously resided at the property
- Rent statements for all tenants who currently and had previously resided at the property
- Accounts for the company.

Luckily, I had all but one of the documents to hand and submitted them on the deadline day. I spoke to the lady who had requested them, and she confirmed that she would extend the deadline by one more day. However, this was only confirmed verbally, on the phone.

The interview

I decided not to take legal representation at this point as I genuinely felt I had nothing to hide and had been acting in accordance with the law. I attended the interview and as soon as I sat down the EHOs put me under caution and started asking questions about one of my R2R properties.

It appears that a tenant I was evicting at the time for anti-social behaviour and rent arrears, had reported me to the local authority for not up keeping standards at the property, and had invited the EHOs to visit and walk around. As mentioned previously, up

to this point I believed I had a relatively good relationship with the council. If any maintenance issues were reported, the EHO usually called me to discuss defects and allow me to rectify them, knowing that they would be done swiftly and to a decent standard.

“Within a 12-month period, after attending court on the two occasions, we were adjourned as the council requested further time to collect evidence”

However, on this occasion, I was never notified about any defects nor had any been reported by tenants. Yet in the interview, under caution, they presented me with 22 minor defects found at the property, and then tried to charge me. I genuinely could not believe what had just happened. Looking back, it became clear that the disgruntled tenant had caused some malicious damage prior to the EHOs attending, thus preventing me from having an opportunity to rectify any defects.

One of the charges stated that the grass was above ankle height and therefore deemed unsatisfactory under HMO management.

Other charges included one bulb being out on a three-bulb light holder, and lots of minor

defects such as small marks on the wall where tenants may have scraped against it. The tenant who reported the property also tried to claim that there were in excess of ten people living there, when I am clearly aware of my license conditions of no more than eight.

Getting legal advice

Anyway, I came out of the interview in a bit of a daze and immediately called my legal team to ask their opinion. Their suggestion was to get advice and start fighting this immediately before it escalated any further. My solicitors requested a copy of the interview from the authority, and wrote a letter back to them immediately asking for everything to be dropped instantly, as they – the local authority – had made a fatal error from the very start. They were trying to charge me personally, whereas the lease and everything to do with this property was in the company name.

The council responded with a one-line response: “We do not believe so.” They continued to pursue me for 22 charges of neglect so I decided to enter into a legal fight. We attended two court hearings and employed a high level barrister who repeatedly informed me that this was more of a personal attack, because any defects could have been rectified within a seven-day time limit, yet I was not given this time or notice to do so.

It seemed that the council were using bully-boy tactics, asking me if I wanted to enter into a plea bargain and suggesting I plead guilty for a lighter fine.



We continuously refused and reminded them of the fact that they had no case as they had charged the wrong person from the outset.

Within a 12-month period, after attending court on the two occasions, we were adjourned as the council requested further time to collect evidence. Every time we reminded them of the incorrect charging, they failed to accept their wrongdoing. So we fought on.

Finally ...

... We were due to attend trial in April 2017. The day before the trial, my barrister received a call from the local authority's barrister to inform us that they were no longer proceeding due to lack of information. They also gave me an ultimatum:

- We continue to trial; or ...
- The council drops all charges on the basis that we do not pursue them for damages or legal costs.

Admittedly, I was relieved – but also furious as they had only now admitted to charging the wrong person, something we had been telling them all along. Not only that, I had by now spent £15,000 on legal fees fighting something that should never have happened. I was in two minds as to whether to fight on or not, but finally decided that I would be spending more good money on bad, and left it there.

Where does this leave us as landlords?

Now, I completely understand and appreciate that the council has a duty of care to the community. I also appreciate that the council must do their due diligence to ensure tenants are housed in suitable accommodation. There are far too many rogue landlords who abuse the system and leave properties in disrepair, creating a public dislike for landlords up and down the country. The sheer number of fly-on-the-wall documentaries in recent years highlights the terrible standards some people are forced to live in.

Even to someone who has been through a colourful property journey, the last 12 months have been extremely stressful, expensive and difficult. But as it is not in my nature to dwell on the negative, I choose to

instead to consider the important lessons this experience has taught me.

- Always, **always** be meticulous with your paperwork; you never know when you will need to produce documentation.
- Ensure your property is well maintained to a high standard and meets all regulations, including fire, etc.
- Ensure your workforce is aware of all legislation surrounding HMOs, especially if they are managing them on a daily basis.
- Stay up to date on your landlord's rights.

“I still continue to buy property, but have decided to shift my investment strategy to purchasing blocks of flats instead of HMOs”

It did make me wonder what would have happened if I had not had the funds to fight the council. Would it have caused a smaller landlord to go bankrupt if they had failed to pay the fine? Potentially, I could have been charged in excess of £30,000 plus my legal costs, totalling over £50,000 as I would have had to pay the council's legal costs as well. If you believe you are right and have the evidence to back it up, don't be afraid to stand your ground and contest the charges if you find yourself in a similar situation.

I ask the question whether this sort of thing has become a revenue earner for the local authority, and also whether certain members of the authority were trying to justify their positions, especially where and when massive cut backs are being made.

Admittedly I am over the moon with my victory; however, I cannot help the feeling that maybe this is just the start. Have I ruffled their feathers, as they have clearly lost in excess of £20,000 of taxpayers' money trying to convict me?

I have contemplated involving the press to share my story, as well as contacting the CEO of the local authority to question why they have spent so much taxpayers' money unnecessarily.

I also wonder whether perhaps we as landlords are not just sitting targets. It is clear from central government that we are not flavour of the century, so I also question, has this now been passed through to local authorities to penalise us heavily wherever possible?

I still continue to buy property, but have decided to shift my investment strategy to purchasing blocks of flats instead of HMOs. As a result of the last 12 months' experience, I have tightened up our HMO management and checks to avoid this happening again.

Arsh Ellahi



As you may be aware, I now focus on deal sourcing and trading, which I find to be fast paced, rewarding and without the hassles of tenants, management and maintenance. This strategy is all about finding properties of all sorts, and selling them to investors. Over the last year, I have traded in excess of 300 properties and you can learn to do the same with my new deal trading programme – 30 deals in 30 days, sourcing deals such as:

- Below market value opportunities
- Lease options
- R2R
- Development opportunities

To find out more, please email me directly arsh@arshellahi.com. Alternatively, if you are an investor looking for a great deal, please get in touch.

As ever, you can connect with me on my social feeds by finding me on: **Facebook, Twitter, LinkedIn & Youtube**. Finally, to get access to all my updates and whereabouts, please sign up to my weekly newsletter at www.arshellahi.com

Arsh Ellahi is the author of **“Boom, Bust and Back Again: A Property Investor's Survival Guide”**

