



## Irish Council for Social Housing

### Guidance note: 7

#### **Residential Tenancies (Amendment) Act 2015 and the Impact on Housing Associations – Group Homes**

This guidance note intends to clarify the position of the accommodation type commonly known as ‘group homes’ under the remit of the Residential Tenancies (Amendment) Act 2015 and the Residential Tenancies Board (RTB).

#### **1. What are the characteristics of a group home?**

Generally, a group home consists of:

- A number of people living in the one house / dwelling;
- Each person will generally have their own room – this room may or may not contain a bathroom, storage, some cooking facilities, a seating area;
- There are generally communal areas in the rest of the house – kitchen, living area, bathroom, washing room;
- The people living there may be in need of, and receiving, care and support facilities i.e. people with disabilities.

#### **2. Do tenants in groups homes have exclusive occupancy?**

Exclusive possession (even of part of a property such as a bedroom) is the right to exclude others, including the landlord from the dwelling. Exclusive occupation **can** relate to just a bedroom in a house. Bedrooms may or may not contain bathrooms, cooking facilities, seating area – the various types of bedrooms still come under the remit of the Act.

The fact that the exclusive occupation of the bedroom is alongside the non-exclusive occupation of the common areas does not preclude it from being exclusive occupation and therefore does not preclude it from the requirements to register under the Act.

In a group home, where a full time carer is in place, this should **not** impact on a landlord’s obligation to provide peaceful and exclusive occupation once the tenant continues to retain control of the dwelling. Therefore, where care / support staff are in place to assist the tenant, it is considered that the tenant still has exclusive occupation and therefore **does** come under the remit of the Act.

#### **3. What is the distinction between a Landlord and Carers?**

The Landlord is the person who is entitled to receive the rent paid in respect of a dwelling by the tenant. A landlord cannot gain unauthorised access to a tenant’s dwelling/(bedroom). Staff / carers will usually have an agreement with tenants for access to their rooms in order to provide the care/support needed. In some cases, AHBs are providing both services i.e. landlord *and* carer services, and in these instances the housing association needs to be clear on what their roles are and when they apply.

**4. What is non-exclusive occupation?**

Taking into account question 2 above, in a group home if the resident / tenant does not retain control of the dwelling; has no control over who they live with or who supplies their support package then this would point to non-exclusive occupation and therefore would **not** come under the remit of the Act.

**5. Do group homes have to register with the RTB?**

Taking into consideration the information outlined at Question 2 above, most group home scenarios **do** come under the remit Act and the RTB, and so **do** need to be registered as tenancies, if they enjoy exclusive occupation as outlined above.

**6. What if a person living in a group home does not enjoy exclusive occupation, but the home was funded under CAS or CLSS?**

If the dwelling is CAS or CLSS funded, it is usually a requirement that a tenancy arrangement is in place and therefore tenants should be registered with the RTB.

**7. What if a person living in a group home does not enjoy exclusive occupation, but receives rent supplement?**

If the tenant / resident receives rent supplement, it is usually a requirement that a legitimate tenancy arrangement is in place and therefore tenants should be registered with the RTB.

**8. If a staff member or carer lives in the dwelling, do they have to be registered?**

A staff member/carer who stays on the dwelling in a group home does not need to be registered as it is not their primary residence.

**9. How should a housing association register tenants in a group home?**

How the landlord registers tenants in a group home is at their own discretion – there are 2 options:

- a) As one registration listing all the tenants with one fee of €90 covering all tenants, or
- b) As Individual registrations for each tenant – at a fee of €90 per tenant or the composite fee may apply (€375 for up registration applications made for up to 10 units made by the same person at the same time, of dwellings comprised in the same property). **ICSH recommend registering by this method to ensure that individual tenancies are protected.**

**10. How do group home scenarios affect Part four security of Tenure?**

Depending on how the tenants in a group home were registered, as set out in Q9 above, the following applies in relation to security of tenure:

- a) If the tenants are registered as one registration, listing all tenants, then the part four security of tenure cycle commences on the date the original anchor tenant(s) moved into the dwelling following continuous occupation for 6 months. If a subsequent tenant moves in, then that tenant will gain the part 4 rights gained by the anchor tenant, once they have been in continuous occupation for 6 months. In this scenario, there can only be **one** part 4 cycle per dwelling.
- b) If the tenants are registered individually, then there are individual part 4 cycles running for each tenant, commencing on the date that each tenancy commenced. In this scenario, there are multiple part 4 cycles running in the group home.

**11. What is the tenancy commencement date for existing housing association tenants in a group home?**

Housing association tenants who were in place in group homes up to and including 7<sup>th</sup> April 2016, will have a tenancy commencement date of 7<sup>th</sup> April 2016 (when the legislation commenced). If a new

tenant moves in to a group home, they will gain the part 4 rights depending on how they were registered and following continuous occupation for 6 months, as outlined at Q10 above.

**12. What if the group home is also registered with HIQA?**

If the group home is registered with HIQA, this does **NOT** necessarily exclude it from the remit of the Act (e.g. if the dwelling was CAS funded, there should be a tenancy agreement in place. Similarly, if the tenants are receiving rent supplement, there should be a tenancy in place).

**Disclaimer note:** The content in this guidance note is provided for general information purposes only. If you are unsure about any of the information contained in the Act, please seek legal advice.

*Last Updated: 14<sup>th</sup> November 2017*