

LANDLORDS GUIDE TO LETTING AND LEGISLATION

A landlord has lots of responsibilities when renting a property. We have put together this guide which highlights the necessary legal requirements which should be adhered to. A landlord is always responsible for repairs to:

- The property's structure and exterior
- Basins, sinks, baths and other sanitary fittings including pipes and drains
- Heating and hot water
- Gas appliances provided by a landlord i.e. gas boiler, pipes, flues and ventilation
- Electrical wiring
- Any damage caused by attempting repairs

A landlord is usually responsible for repairing common areas e.g. staircases in blocks of flats.

Certificates

Gas Safety Certificate

Under the Gas Safety (Installation and Use) Regulations 1998, it is a landlord's responsibility to get a Gas Safety Certificate every 12 months. This must be from a Gas Safe Registered engineer for all gas appliances, pipe work and flues installed at your rented property.

You should visit www.gassaferegister.co.uk if you need to find an engineer.

You need to keep a record of this for two years and provide your tenant with a copy within 28 days of the inspection. We recommend that you have a gas safety check undertaken at the end of every tenancy. If your tenants change, they'll need a copy of the certificate before they move in.

Energy Performance Certificate (EPC)

An EPC is required whenever a property is built, sold or rented. An EPC contains information about a property's energy use and typical energy costs, recommendations about how to reduce energy and save money. It gives a property

an energy efficiency rating from A (most efficient) to G (least efficient) and is valid for 10 years.

You should visit www.epcregister.com to find an accredited assessor who can produce the EPC.

You may be fined if you do not have an EPC. You will need to provide a copy of an EPC to an estate agent (if applicable) and tenant before renting out the property.

From 1st April 2018 there will be a requirement for any properties rented out in the private sector to have a minimum energy performance rating of E on an EPC. The regulations will come into force for new lets and renewals of tenancies with effect from 1st April 2018 and for all existing tenancies on 1st April 2020. It will be unlawful to rent a property which breaches the requirement for a minimum E rating. A civil penalty of up to £4,000 can be imposed for breaches.

Electrical Installation Condition Report (EICR)

An EICR is an inspection of the condition of existing electrical installation in a property. This is carried out in order to identify any deficiencies against the national safety standard for electrical installations. Although this report is not yet a legal requirement, it is strongly recommended by the Council as it is good practice and ensures that the electrics within the property are safe.

You should visit www.electricalsafetyfirst.org.uk to find a registered electrician to carry out the inspection.

Electrical Installation Condition Reports can however be requested and enforced by the Council using the Housing Health and Safety Rating System under the Housing Act 2004.

Housing Health and Safety Rating System (HHSRS)

The Housing Act 2004 introduced a new way in which Local Authorities assess housing conditions in England and Wales. It uses a risk assessment approach called HHSRS, which provides a system (not a standard) to enable risks from hazards to health and safety in dwellings to be removed or minimised.

How do Local Authorities Apply the System?

Local Authorities have a duty to keep the housing conditions in their area under review. Either as a result of that review, or for some other reason, complaint from tenant or neighbour, officers can inspect a property if they have reason to think a health and safety hazard exists there.

As well as providing the legal basis for HHSRS the 2004 Act contains a package of enforcement measures for Local Councils to use. These powers are used to deal with poor housing in the private sector.

Councils have a legal duty to deal with hazards which are assessed as Category 1 under HHSRS and discretionary powers to deal with Category 2 hazards.

Principles: The key principle of the system is that a dwelling including the structure and associated outbuildings and garden, yard, and/or another amenity space and means of access, should provide a safe and healthy environment for the occupants and by implication, for any visitors.

Inspection Process: A risk base assessment and considers the effect of any hazards in the property. Hazards are rated according to how serious they are and the effect they are having, or could have, on the occupants, that is 'the effect of the defect'. The basic principle is that the property be safe for occupation.

HAZARDS

There are 29 hazards

- Dampness, excess cold/heat
- Pollutants, i.e: asbestos, carbon monoxide, lead
- Lack of space – security or lighting or excess noise
- Poor hygiene, sanitation, water supply
- Accident – Falls, shocks, fire, burns and scalds
- Collisions, explosions and structural collapse

Landlords Role

The intention of HHSRS is to ensure that owners maintain their properties in a safe and 'healthy' state. E.g. free from hazards that may affect the occupier's health and safety.

If as a landlord you employ an agent, you must ensure that the agent is able to arrange necessary works and ensure that adequate funds are available to do this.

If you require any further information about the Housing Act 2004 or HHSRS then please access the following link: www.gov.uk/government/publications/hhsrs-operating-guidance-housing-act-2004-guidance-about-inspections-and-assessment-of-hazards-given-under-section-9

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 were introduced on 1st October 2015. They require every rented property to have at least:

- A smoke alarm fitted to each storey within the property used as living accommodation

- A carbon monoxide alarm is fitted to any room of the premises which is used as living accommodation and contains a solid fuel burning combustion appliance

If a landlord does not meet these requirements, they will be given 7 days to do so. Failure to comply will result in a Remedial Notice being served and may finally result in a Fixed Penalty Notice being issued, with a fine for up to £5,000.

Further information on this can be found at www.legislation.gov.uk

Houses in Multiple Occupation (HMO)

A household is either a single person or members of the same family who live together. A family includes people who are married or living together, relatives or half-relatives, step-parents and step-children.

Your property is a HMO if at least 3 tenants living there, forming more than 1 household, and share toilet, bathroom or kitchen facilities with other tenants. Your property is large HMO if it's at least 3 storeys high, at least 5 tenants live there, forming more than 1 household, and share a toilet, bathroom or kitchen facilities with other tenants.

If you are a landlord of a HMO, you must meet certain standards and obligations and may require a licence. For further information please visit www.gov.uk/private-renting/houses-in-multiple-occupation

Gaining Entry to Your Rental Property

Many landlords believe that they are able to gain entry to their rental property with their own set of keys. This is incorrect and is in fact illegal and may be classed as harassment.

Appointments should be made with a tenant with at least 24 hours prior written notice. However, this does not then give the landlord permission to enter the property of their own accord. The tenant must be present at the property or give written permission to provide the landlord with access. It should not be accessed otherwise.

If you are unable to gain entry to your property to undertake an inspection or safety checks etc. you should seek legal advice and consider court proceedings.

The **only** exception to gaining entry without prior notice or consent is in the case of an emergency. For example if there is a gas explosion, serious water leak or fire.

For further information regarding this you should visit www.legislation.gov.uk and see the Landlord and Tenant Act 1985 and Protection from Eviction Act 1977.

Selective Licensing

The Selective Licensing Scheme for the South West Ward of Gainsborough commenced on 18th July 2016. If you own a property in the area that is tenanted you will need to apply for a licence and ensure that the property is compliant with the conditions stipulated by the council. A licence is required for each property that you own. In some circumstances properties are exempt from Selective Licensing.

Failure to apply for a licence or exemption will be a criminal offence and will result in prosecution and fines of up to £20,000. Once issued, failure to comply with the conditions can lead to a fine of up to £5,000.

For more information, please visit <https://www.west-lindsey.gov.uk/my-services/housing-and-home-choices/improving-housing-standards/selective-licensing/>

Legislation

There are many pieces of legislation that governs landlords and the Council has the powers to enforce under. This includes:

- Housing Act 2004
- Public Health Act 1936
- Housing Act 1985
- Protection from Eviction Act 1977
- Government and Miscellaneous Provisions Act 1982
- Prevention from Damage from Pests Act 1949
- Environmental Protection Act 1990
- The Management of Houses in Multiple Occupation (England) Regulations 2006
- The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

Information on these can be found at www.legislation.gov.uk

If you require any information regarding the above, you can contact our Housing and Communities Officers at enforcement@west-lindsey.gov.uk or on 01427 676676.