



# **Looking to let out a property?**

**A good practise guide for landlords**

[www.homesforbolton.org.uk](http://www.homesforbolton.org.uk)

**Homes for**  
**Bolton**



## **Housing Advice Services**

1 Silverwell Lane, Bolton, BL1 1QN

Tel: (01204) 335900

Email: [housingadvice@bolton.gov.uk](mailto:housingadvice@bolton.gov.uk)

We are available by telephone from 9am to 5pm daily or call in to see us during the times below:-

### Drop-in times

Monday: 9am to 12noon

Tuesday: 9am to 12noon

Wednesday: By appointment\*\*

Thursday: 9am to 12noon

Friday: 9am to 12noon

\*\* Wednesday will predominantly be morning and afternoon appointments by prior arrangement and between 9am to 12noon emergency presentations and a triage service will be offered.

Large print, interpretations, text only and audio formats of this publication can be produced on request. Please ask your social worker for more information.

As part of Bolton's commitment to a sustainable future, this document is printed (using vegetable based inks) on paper from sustainable forests.

## About this guide

This guide has been produced by the Bolton Housing Advice Services to assist private landlords, especially those who are considering renting out property for the first time.

This is a general guide to the legislation surrounding private renting and to good practice in this area. More detailed leaflets on most of the subjects here are available from the Housing Advice Service.

Please note, this is not an exhaustive guide to the law, nor does it cover every situation that may arise.

### The guide covers: (Sections are colour-coded).

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## **The Housing Advice Service**

Bolton Housing Advice Service is part of Bolton Council and offers a drop-in service at its Silverwell Lane offices in the town centre, as well as advice by telephone, writing or e-mail.

The service works closely with other departments of Bolton Council and other agencies.


The service has been instrumental in a number of initiatives in the private sector, including the Landlord Accreditation and Registration Schemes, provision of training for landlords and production of information leaflets for both private landlords and tenants.

The service offers comprehensive advice to landlords on the following areas of housing law:

- Repairs
- Rights and obligations of landlords and tenants
- Procedure for ending a tenancy
- Rents
- Arrears
- Abandonment
- Housing benefit.

It also offers a point of contact for landlords and prospective tenants. A list of landlords is published and given out to members of the public and to other agencies. The team also keep details of current vacancies on file and will ring landlords on a customer's behalf to arrange appointments to view.

The service does not, however, 'vet' prospective tenants or manage the properties for landlords. Landlords must decide for themselves whether a prospective tenant is suitable.



The service also works closely with the Bolton Bond Board, a non-cash deposit scheme. The team issues Bonds on behalf of the Board and can give advice to landlords about the scheme.

The service also stocks a range of free booklets for landlords as well as tenancy agreements (for which there is a small charge).

# Setting up a tenancy

## Contents

- Areas to consider
- Types of tenancies
- Managing the property
- Houses in multiple occupation (HMO)

## Areas to consider

There are many issues which a prospective landlord should consider before deciding to rent out a property (and there is more on different types of tenancies in section 03), but one of the first should be: Can the landlord afford to rent out the property?

A landlord needs to consider if the rent will cover all the expenses. For example, if the tenant cannot or does not pay the rent, if damage to the property occurs, or for the cost of fulfilling repair obligations (see section 02).

## Mortgage or Leasehold Property

If the property is subject to a mortgage, permission from the lender must be obtained prior to renting out the property.

If the property is leasehold, written consent from the freeholder may also be required before renting out the property - see your lease for details.

## Rental income

Rental income is taxable, so you must inform the Inland Revenue that you are renting out a property. Contact the Inland Revenue directly for further details.

## Insurance

A landlord should inform their buildings and contents insurance company, in writing, that the property is to be let and ensure that the property is

appropriately insured. This includes any furnishings, fittings and appliances included in the letting.

Tenants are responsible for contents insurance for their own goods.

## **Is the property in a fit state to be rented?**

General condition.

The property should be clean and in good repair before a tenancy starts.

## **Energy Performance Certificates (EPCs)**

From 1 October 2008 all landlords are required to provide an Energy Performance Certificate (EPC) when they rent out a home. An EPC gives information on the energy efficiency of a property you want to let.

### **What does this mean in practice?**

You need to provide an EPC whenever a home\* in the social or private rented sector is let to a new tenant.

(\* An EPC is only required for a property which is self-contained. It is not required when a tenant rents a room and shares facilities, where a tenant has a separate contract with the landlord).

You must make the EPC available **free of charge** to prospective tenants at the earliest opportunity. This should be when they are first given written information about the property or view it, and before any rental contract is entered into.

EPC's are valid for 10 years and can be reused as many times as required within that period. It is not necessary to commission a new EPC each time there is a change of tenant although landlords may commission EPC's for these properties at any time to prepare for a change in tenant.

If a newer EPC has been produced for a home within the ten year period, only the most recent one is valid.

The EPC provides prospective tenants with information about how energy efficient a property is that they are considering renting.

An EPC is not required for any property that was occupied before 1 October 2008 and which continues to be occupied after that date by the same tenant.

## **How do I get an Energy Performance Certificate?**

EPCs must be produced by an accredited Energy Assessor. As a landlord you are free to seek accreditation for yourself and your employees and so become competent to certify your own properties.

If you use an independent energy assessor make sure they are a current member of an accreditation scheme, as this ensures your energy assessor is operating to professional standards. An EPC is only authentic if issued by an accredited Domestic Energy Assessor (DEA). Details of accredited DEAs can be found at [www.epcregister.com](http://www.epcregister.com)

Each EPC has a unique number which will be entered on to a national register by the Energy Assessor. Once the EPC has been created, you can download further copies in the future by using the report reference number on the top right hand side of the certificate.

If you have recently bought a property and are considering letting it, you should have received an EPC as part of the Home Information Pack which can be given to prospective tenants.

## **What are the penalties if I do not provide an EPC?**

The provision of EPCs is enforced by the Trading Standards department of the local authority. If they receive a complaint that an EPC has not been provided they can impose a penalty charge on you of £200 for each breach.

The Housing Advice Service have copies of a more detailed leaflet on EPCs or further information can be obtained from:

Communities and Local Government [www.communities.gov.uk/epbd](http://www.communities.gov.uk/epbd)

## **For further information about energy efficiency, practical advice and grants;**

Energy Savings Trust [www.est.org.uk](http://www.est.org.uk) or ACT ON CO<sup>2</sup> advice line: 0800512012

To find an accredited Energy Assessor or to download a copy of an existing EPC [www.epcregister.com](http://www.epcregister.com)

### **Electrical appliances**

All electrical appliances/fittings should be safe to use.

### **Gas appliances**

All gas appliances/fittings should be safe to use - if unsafe, gas appliances can produce carbon monoxide which is a poisonous, invisible gas that can kill.

Landlords are legally obliged to maintain gas appliances and pipework.

Landlords should arrange annual checks by a Corgi registered contractor. **Please note**, as from 1st April 2009 Corgi Certificates will no longer be valid and must be replaced by certificates which have been checked by a 'Gas Safe' registered contractor

A record of checks and services should be kept, which the tenants may inspect.

For further details, consult the Gas Safety (Installation and Use) Regulations 1998 (enforced by the Health & Safety Executive). An explanatory leaflet on this subject is obtainable from the Housing & Public Health team (telephone 01204 336500 or email: [housingandpublichealth@bolton.gov.uk](mailto:housingandpublichealth@bolton.gov.uk)).

### **Heating**

Heating should be controllable by the occupants, and safely and properly installed and maintained. It should be appropriate to the design, layout and construction, such that the whole of the dwelling can be adequately and efficiently heated.

The advantages of doing this are:

- It will make the property easier and more attractive to rent
- It may persuade tenants to stay longer
- It will avoid problems such as condensation and fire risks caused by other types of heaters.

## **Fire precautions**

In the case of a House in Multiple Occupation (HMO) e.g. a house let in bedsits or flats, fire precautions are essential. Landlords should consult the Housing & Public Health Unit (Tel: (01204) 336500 or email: [housingandpublichealth@bolton.gov.uk](mailto:housingandpublichealth@bolton.gov.uk) ) for advice on the means of escape and other fire precautions to be provided.

## **Should the property be furnished or unfurnished?**

It makes no difference to the type of tenancy offered by a landlord whether the property is furnished or not.

Single people in bedsits, for example, would often prefer furnished rooms (including crockery and pots pans etc.), however, some families may prefer unfurnished accommodation, as they may already have their own furniture.

It would be good practice for the landlord to be flexible about furnishing.

It is good practice to complete an inventory (list) of all the furniture and fittings provided in the tenancy and sign it together with the tenant. This can be used to resolve disputes should there be any loss or damage. The landlord and the tenant should each have an identical copy of the Inventory.

## **Regulations**

If a landlord provides furniture it should meet fire safety regulations as laid out in the Furniture and Furnishings (Fire Safety) Regulations 1988, amended by the Consumer Protection Act Amendment 1993. A copy of these regulations can be obtained from HMSO (see section 07) for more details.

- From 31 December 1996, all furniture must comply with these regulations, except furniture made before 1950
- If the property was let to the current tenant before 1 March 1993, any furniture supplied which is not up to standard, must have been replaced by 31 December 1996, with furniture which meets the fire safety standards/regulations.

## **Types of tenancies**

Tenancies starting after 28 February 1997 are subject to regulations set out in the Housing Act 1988, as amended by the Housing Act 1996. For tenancies commencing before that date - seek advice.

These regulations include the legal rights and obligations of both landlord and tenant, relating to issues such as:

- Security of tenure
- Procedures for increasing rent
- Procedures for seeking possession
- Legal requirements for setting up tenancies.

A tenancy may either be an Assured Tenancy or an Assured Shorthold Tenancy. (See sections 03 and 04 for details).

## **Managing the property**

The landlord can either manage the letting of the property personally or appoint someone to manage it for them. For example, a commercial agent, an estate agent or letting/property management agency.

Agents usually charge for their services. If you prefer not to manage the property yourself it is advisable to contact several to find the most suitable

Agents can provide most of the following services:

- Finding a tenant
- Collecting rent
- Dealing with problems
- Starting possession proceedings.

## Charging for gas, electricity and water

It should be decided how gas, electricity and water are going to be charged.

If the landlord manages the gas and electricity meters in the property there are maximum rates set for resale. The Office for Gas & Electricity Markets (OFGEM) produces helpful leaflets for both landlords and tenants about charges.

Other properties may have their own meters or card meters. The tenant is responsible for these costs.

See section 07 for the address of OFGEM and the Office for Water (OFWAT).

## Definition of a House in Multiple Occupation (HMO) under the Housing Act 2004

A House in Multiple Occupation means a building or part of a building (e.g. a flat):

- Which is occupied by more than one household and in which more than one household shares an amenity (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities or
- Which is occupied by more than one household and which is a converted building which does not entirely comprise self contained flats (whether or not there is also a sharing or lack of amenities) or
- Which comprises entirely of converted self contained flats and the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulations and more than one third of the flats are occupied under short tenancies.

And is 'occupied' by more than one household:

- As their only or main residence or
- As a refuge by persons escaping domestic violence or
- During term time by students or
- For some other purpose that is prescribed in regulations.

And the households comprise:

- Families (including foster children, children being cared for) and current domestic employees
- Single persons
- Co-habiting couples (whether or not of the opposite sex).

For example HMOs may include bedsits, shared student houses, hostels, bed and breakfast establishments and certain self-contained flats.

Landlords of HMOs have to abide by legislation covering:

- Management regulations
- Fire safety standards
- Means of escape
- Permitted numbers and overcrowding
- Housing Health and Safety Rating System
- Mandatory licensing conditions where applicable.

Certain categories of Houses in Multiple Occupation (HMO) may be subject to licensing. If you are unsure whether your property falls into this category, you should check with the Housing & Public Health Unit. (See section 07 - Useful Addresses - for details).

## **Security measures**

Landlords are expected to ensure properties are capable of being secured against unauthorised entry, which will both delay and deter intruders and will make the occupants feel safer.

The use of window locks or deadlocks, burglar alarms, security lights and window grilles reduce risk of an occurrence considerably.

Considering the current levels of property crime, these precautions may:

- Reduce or prevent damage to your property by intruders
- Make the property more attractive to prospective tenants
- Save you a lot of money in repairing damage in the long-run.

It would be good practice to consider:

- Installing window locks/mortice locks
- Good secure front/back doors
- Security lighting
- Burglar alarm
- Door chains
- Secure mail boxes.

## **Finding a tenant**

There are several ways to find a tenant. Usually, some form of advertising will be necessary, this can be:

- Advertising in the local paper
- By word of mouth
- A notice, for example, in a shop/supermarket/post office etc
- Through an estate agent/letting agent.

It is also possible to leave details of properties to let with the Housing Advice Service which can be passed on to interested customers. However, the Housing Advice Service does not act as an agent nor is it able to vet prospective tenants for the landlord.

Remember, prospective tenants may come from different backgrounds and have different lifestyles to the landlord. It is good practice to take a tolerant view of this, providing the tenant takes reasonable care of the property and does not cause a nuisance to neighbours.

## **References**

Before accepting someone as a tenant, a landlord would be advised to take up references from, for example, a previous landlord, bank, employer or independent person/agency.

Landlords should not discriminate against prospective tenants and must comply with current legislation.

Contact Housing and Public Health Unit to ensure that your HMO meets all the legal requirements - (01204) 336500.

## **Deposit/rent in advance**

You may or may not wish to ask for a deposit, bond or rent in advance. (See section 02 for details).

It is good practise to negotiate with the prospective tenant if some form of deposit is required and to give proper receipts.

It is good practise to ensure that required deposits are received before the tenant moves in

From 6th April 2006 a landlord is required to lodge a deposit with a Tenancy Deposit Protection Scheme (see section 2 for full details)

## **Benefit Claimants or not?**

People who are receiving benefits such as Income Support or Job Seekers Allowance, are eligible to claim Housing Benefit to help pay their rent.

Landlords should decide whether or not they will accept people who claim benefits as tenants. Given the current economic climate, working tenants are subject to redundancy, sickness and job loss etc., and may have to claim Housing Benefit. Therefore it is good practice to be aware of the Housing Benefit rules and to accept people claiming benefits. (See section 02).

## **Tenancy agreements/keys**

Standard Agreements for Assured Shorthold tenancies are obtainable from Legal Stationers or Housing Advice Services quite cheaply.

Alternatively, a landlord may wish to have their tenancy agreement specially produced by a solicitor.

Tenancy agreements should be signed when a prospective tenant is ready to take up the tenancy and before keys are handed over.

## Information

**You must, by law,** give your tenant your name and address.

It would be good practice to give a telephone contact number for emergencies or repairs.

A landlord may consider putting a notice in the property with their name, address and telephone number on **and must do so if the property is a HMO.**

Once the property is let, the tenant has the right to privacy and quiet enjoyment.

A landlord should be accessible and responsive if there are any problems.

### BARLO Housing Limited

BARLO Housing Ltd represents a partnership between private landlords, the Council, Bolton at Home and other Housing Associations operating in Bolton. Together we have developed and adopted a Code of Standards based on approved models of good practice at a regional and national level to which it has contributed. This Code of Standards does not replace or remove any other landlord legal obligations or responsibilities.

## Introduction

BARLO recognises the value and importance of a well managed private rented sector for being quick and easy to access, offering a range of property types, with rents and facilities that help meet the needs of specific tenants Private Landlords and their agents who contact BARLO and its partners are offered information, advice, and access to services, which can lead to longer and more successful tenancies.

With many new investors and experienced private landlords expanding into specific neighbourhoods, property types, and tenant groups, standards can vary considerably. In certain circumstances weak property and tenancy management standards can result in problem tenancies, adversely affecting residents, other housing providers, leading to a decline in neighbourhoods.

This Code of Standards will be used by BARLO and its partners to help assess, and if necessary request improvement in housing management standards in the private landlords and their agents who own or manage properties linked to Bolton's

- Accreditation Scheme
- Town Centre Accommodation
- Private Sector Housing Renewal Areas
- Lease Management Scheme
- The bond Board Ltd
- Mandatory & Additional Licensing Schemes

may be asked to achieve and maintain this Code of Standards. Landlords and Agents who do so, are eligible to become members of BARLO which offers coordinated access to a range of members benefits designed specifically for the private rented sector.

For more detailed information on BARLO Housing Ltd and the Accreditation Scheme and application forms please contact: The Accreditation Team on Tel 01204 33548 [barlo@bolton.gov.uk](mailto:barlo@bolton.gov.uk)  
By reading the other sections in this guide, you will have a better idea of the many issues that may arise during a tenancy.

If you need further advice or assistance relating to tenancy issues the Housing Advice Services will be pleased to assist.

If you do not live in the Bolton area you can get advice from either a local Housing Advice Service, Housing Aid Centre, a local Citizens Advice Bureau, or your solicitor.

This is not an exhaustive guide to the law, nor does it cover every situation that may arise. For detailed interpretation you should seek legal advice.

## Money issues

### Contents

This section includes information on:

- Setting rents
- Tenants on housing benefits
- Deposits and rent in advance
- Rent arrears.

## Money issues

As a private landlord it is accepted that you need to make a profit from renting a property, whether this is as a business or simply to cover expenses due to a temporary absence.

## Mortgaged property

It is essential to contact the mortgage lender if there is a mortgage on the property, as you require their permission to rent out the property. It may also be necessary to convert the mortgage to a business loan.

If the property is on leasehold, the permission of the freeholder may also be required.

Income received from letting is taxable, therefore it is wise to seek advice from an independent financial adviser or an accountant, or the Inland Revenue (see section 07).

## Rent

Rent can be determined by comparing rent charged for similar properties in the area.

If the property is to be rented to someone who is going to claim Housing Benefit, then it is necessary to consider if Housing Benefit will cover all, or some, of the rent.

If a property falls within the HMO Licensing requirement, but the landlord

has failed to obtain a licence, the tenants living in a property can apply to the Residential Property Tribunal to claim back the rent they have paid during the unlicensed period. They can claim back up to 12 months' rent. The Local Authority can also claim back housing benefit paid in the same way.

## **Housing Benefit**

Housing Benefit is administered by the council (not the Benefits Agency). A tenant can get help to pay their rent even if they are working, providing their income is low enough.

For further advice on eligibility for Housing Benefit refer your prospective tenant to the Housing Advice Services. Alternatively they may call into Access Bolton on the ground floor, Town Hall or telephone Housing Benefits Department on 331576 or 331590. They will be required to fill in a form to claim.

The essential elements required for the processing of a Housing Benefit claim are:

- The completed claim form
- Proof of income and capital
- Proof of Identification of the tenant/partner and their National Insurance number
- Proof of rent liability, either a Tenancy Agreement or a 'Proof of Rent' form with landlord's declaration, signed by the landlord

It will speed up the processing of the claim if the tenant provides all the proof requested with the form and hands it in immediately. However, if all 'proofs' are not available, the form should be returned immediately and any outstanding information forwarded within one calendar month. It is advisable to keep a copy of the form. Housing Benefit forms, where possible, should be handed in at Access Bolton. A receipt will be given and Housing Benefit staff will check through the form and advise if further details or proof of identification or income are needed.

When all the information has been received by the Housing Benefit office, they are under an obligation to determine benefit within 14 days. Please do not contact them before this, but you may wish to get in touch after this

date to find out how the claim is progressing. If the Housing Benefit is not processed by this time, the tenant can ask for an interim payment of Housing Benefit.

Normally, Housing Benefit will start from the Monday after the claim has been received by the Council. In some cases it can be paid from the date they move in.

Housing Benefit is paid by cheque. The cheque will be paid every four weeks, in arrears.

## **Pre - 2 January 1996 tenancies;**

If your tenant commenced the tenancy prior to 2 January 1996, then the Rent Officer determines the rent by using a different method. If you require more information, please contact the Housing Advice Services.

## **Local Housing Allowance - 7 April 2008**

Local Housing Allowance (LHA) is a new way of working out Housing Benefit for Private Tenants. LHA is part of the government's reform programme that aims to simplify the Housing Benefit scheme.

LHA is a flat rate allowance based on the size of the household and the area in which a person lives. There are no changes to entitlement rules, it will still be means tested; based on a person's income and savings.

## **LHA will apply on or after 7 April 2008 where:**

- A new claim for Housing Benefit is made where the date of the claim is on or after 7 April 2008.
- There is a break in entitlement of one week or more on an existing HB claim
- A change of address (move to private rented accommodation)
- An in-work claim has been made following the award of an extended payment AND
- The property they are claiming for is privately rented accommodation that would normally be classified as a deregulated new scheme.

## **LHA will NOT apply to**

- Bolton at Home properties
- Housing Association properties
- Tenancies which started before 15 January 1989
- Properties registered with a 'fair rent'
- Protected tenancies such as supported housing provided by social landlords, charities or voluntary organisations
- Tenants of caravans, mobile homes or houseboats
- Board and lodgings.

Under LHA, the rent will not be referred to the rent officer. Instead a set LHA rate will be applied to the claim. The Rent Service will supply the Local Authority with the new rates before the end of each month and these rates will be widely advertised.

## **The LHA rate will depend on;**

- The area in which they live (known as the Broad Rental Market Area)
- The number of occupiers in the household
- The size criteria

And the rate that applies for a particular month.

Local Housing Allowance does not take into account the actual number of rooms a property has, it is based on the number of bedrooms a household should have, according to the size criteria.

One bedroom for:

- A couple
- Any other adult aged 16 or over
- Any two children of the same sex under 16
- Any two children regardless of sex under 10
- Any other child

## Shared Accommodation

Under LHA there is a shared accommodation rate. This applies to:

- Single claimant under 25 years old who does not have a non dependent living with them (replaces single room rent)
- Single claimant aged 25 years and over if they choose to live in accommodation with shared facilities\*
- Couples with no dependent children if they choose to live in accommodation with shared facilities.

\*Accommodation with shared facilities is where the tenant has a room or bed-sit of their own, but all or some of the facilities are shared, e.g. kitchen/facilities for cooking, bathroom, toilet or living room.

Important: The shared accommodation rate will NOT apply for a single person aged 25 years and over and couples with no dependent children if they live in accommodation that has the exclusive facilities (not shared).

## Payment of LHA

A main feature of LHA is that payments will be made to the claimant. This means that a claimant can no longer choose to have payments sent to their landlord.

However, there are still some circumstances where the payment may be made to the landlord and some circumstances where the payment must be made to the landlord.

- Circumstances where the payment must be made to the landlord:
  - Where the claimant has rent arrears of 8 weeks or more
  - Where deductions are already being taken from their Income Support or Jobseekers Allowance to pay off rent arrears.
- Circumstances where payment may be made to the landlord:
  - The tenant is likely to have difficulty managing their financial affairs
  - It is improbable (unlikely) that the claimant will pay their rent

Our direct payment policy will assist in making a decision where payment may be made to the landlord.

## **Direct Payment Policy**

The direct payment policy will be applied where payment may be made to the landlord.

To apply for direct payment to the landlord, an application must be made in writing by: the tenant, their representative or the landlord. Normally they will be asked to complete the form "Application for direct payments of LHA to your landlord" as this is designed to gather the information required to make a decision. The request should be accompanied by supporting evidence.

## **Overpayments of LHA**

The rules around overpayments have not changed.

## **Discretionary Housing Payment**

If the rent has been restricted by the Rent Officer, under the old Pre Tenancy Determination rules and there is a shortfall which your tenant is finding difficulty in meeting, the tenant may apply to the Housing Benefit office to pay above the Rent Officer figure. The tenant must show that, they have a shortfall between the amount of Housing Benefit or Council Tax Benefit and the amount they actually have to pay.

If the tenant wishes to appeal they can be assisted by the Housing Advice Services or Welfare Rights Services.

## **Deposits and rent in advance**

You may consider asking for a deposit, or rent in advance, before a tenant moves in. It is good practice to provide a receipt for any money which you take from a tenant. The maximum amount of deposit you can ask, in law, is the equivalent of two month's rent. However, it may be necessary to consider the tenant's ability to obtain such a deposit.

## **Tenancy deposit protection scheme**

From 6 April 2007 all deposits taken in relation to an Assured Shorthold tenancy (ASH) by a Landlord, landlord representative or Letting Agent, will

be subject to the Tenancy Deposit Protection scheme (Housing Act 2004).

There are two types of schemes: **a custodial scheme** and **two insurance-based schemes** see below for more details of each scheme.

The Landlord not the tenant will have the option to choose which scheme they should adopt.

The Landlord will have 14 days, from receipt of the deposit, in which to safeguard this.

The Landlord will also have to provide the tenant with prescribed information about the scheme adopted within these same 14 days.

To avoid disputes having to go the Courts, both schemes will be supported by an Alternative Dispute Resolution (ADR) Service - although the use of this will not be compulsory.

## **Returning the deposit**

At the end of the tenancy, provided the Landlord and tenant agree to how the deposit should be returned, in full or in part, it must be paid back within 10 days as follows:

- **For the custodial scheme** within 10 days of the company who is administering the scheme being notified of the agreement between Landlord and tenant OR notified of an Alternative Dispute Resolution/Court decision.
- **For the insurance-based scheme**, within 10 days of the tenant requesting that the Landlord return the deposit.
- **In the case of a dispute** within 10 days of the company who is administering the scheme being notified of the Alternative Dispute Resolution service's or court's decision.

Ten days is the maximum time to repay a deposit, however, it would be good practice to return a deposit more quickly. In the case of the insurance-based scheme only, a Landlord could with the consent of the tenant, return the agreed amount on the last day of the tenancy.

## **If a tenancy has not been protected by either scheme**

Currently a landlord can obtain an order for possession on an Assured Shorthold Tenancy at any point after the first six months of the tenancy, providing any fixed term has expired and the landlord gives the tenant at least two months notice (under Section 21 of the Housing Act 1998). This is known as **Notice only**.

However, under Tenancy Deposit Protection, the landlord is unable to regain possession of the property using the usual 'Notice only grounds', if the deposit has not been safeguarded and the prescribed information has not been passed on to the tenant within 14 days of receipt.

A landlord would therefore be required to seek possession using either Mandatory or Discretionary Grounds (see section No. 4 for details). Tenants can apply for a Court order requiring the deposit to be safeguarded.

Where the Court believes the landlord has failed to comply with these requirements or the deposit is not being held in an authorised scheme, the Court must either order the Landlord, within 14 days of making the order, to repay the deposit or order the landlord to pay the deposit to the custodial scheme administrator. **The Court must also order the Landlord to pay the tenant a fine of three times the deposit amount within 14 days of making the order.**

**The above will only apply to tenancies entered into on or after 6 April 2007 where deposits are paid.**

## **If an existing tenancy is renewed**

On or after 6 April 2007, how the deposit is treated will depend on how the tenancy is continued.

If the tenancy continues with no new Agreement (Assured Shorthold Periodic tenancy) then the Tenancy Deposit Protection **will not apply**.

If a new tenancy is created between the same landlord and tenant for the same property on substantially the same terms, **the Tenancy Deposit Protection will apply to the original deposit that was paid before 6 April 2007.**

If in doubt - **SEEK ADVICE.**

The Government has awarded contracts to three companies to provide the Tenancy Deposit Scheme as follows:-

### **Custodial deposit scheme**

Computershare Investor Services PLC, with the Chartered Institute of Arbitrators provides the Alternative Dispute Resolution (ADR) service. For more information see [www.computershare.com](http://www.computershare.com)

This scheme will be free of charge to both landlord and tenant. The scheme will be funded by the surplus from the interest generated on the pool of deposits with interest divided between the landlord and tenant and will be allocated on a pro-rata basis.

### **Insurance based deposit scheme**

The Dispute Services Ltd will run this scheme, primarily directed at letting agents. It will also run the scheme's Alternative Dispute Resolution service. For more information see [www.tds.gb.com](http://www.tds.gb.com)

Tenancy Deposit Solutions Ltd, sponsored by the National Landlords Association and administered by Hamilton Fraser Insurance, which will be directed primarily at landlords. The Chartered Institute of Arbitrators will be the principal provider of Alternative Dispute Resolution to the scheme. See [www.mydeposits.co.uk](http://www.mydeposits.co.uk)

These schemes will be funded through a fee paid by landlords or their agents. This service will be free to tenants.

There is, however, a third alternative to the custodial and insurance schemes and that is the rental deposit scheme called:-

### **The Bond Board Limited**

The Bolton Bond Board has been set up to provide a non-cash, paperless deposit scheme to the landlord, allowing homeless or threatened with homelessness Singles, Couples and Families to rent affordable property in the private sector.

The Bond Board provides a very positive alternative to the custodial and insurance schemes. By accepting the Bond Board, landlords avoid having to deposit their rental bonds into the custodial scheme or pay a premium to an insurance scheme; there is also the peace of mind of having a mediation channel between the landlord and the tenant if any disputes arise regarding the deposit at the end of the tenancy.

The Bond Board inspect properties on behalf of landlords if there is a dispute over damage caused in the property. As the Bond Board has a close working relationship with both landlord and tenant client groups, any case for retaining part or full deposit can be resolved efficiently, without having to present a case to an unfamiliar body, with whom there is no regular dealing.

The staff members are experienced in private sector housing issues and offer housing advice and assistance with good management practices, such as standard letters and tenancy information.

For further information on the Bond Scheme, please contact The Bond Board on 01024 366328.

## **Rent arrears**

Some tenants may not pay the due rent. It may be good practice to investigate the reasons behind the non-payment before making the assumption that the tenant is withholding the rent.

It may be that the tenants have lost their job and not claimed Housing Benefit or that there are problems with the existing Housing Benefit claim which could be sorted out. If you require further advice contact the Housing Advice Services.

After discovering the reason for non-payment and hopefully re-establishing regular payments, your next priority must be getting the outstanding arrears paid. It is good practice to consider the tenant's resources, before deciding how the arrears should be paid.

It is normally unrealistic to demand payment in a lump sum. It is better to work out how much the tenant will be able to afford weekly, as a realistic sum is far more likely to be paid regularly and the tenant is more likely to stay and repay their debt to you.

Obviously, if there are serious problems with rent arrears you may need to consider taking legal action. Details of this can be found in section 04.

## **Increasing the rent**

There are normally two ways you can increase the rent which are by agreement or by the Statutory Scheme.

### **By agreement**

If you wish to increase the rent on your property you must do so according to the law. You can include a term in the tenancy agreement which states a date on which the rent will rise.

You can also agree a rent rise with the tenant at any time, whether or not there is a rent increase term in the tenancy agreement. If the tenant does not agree to a rent increase you must use the statutory scheme.

### **Statutory scheme**

You can only increase the rent under the statutory scheme if the fixed term of any tenancy has expired or, if it is a periodic tenancy, without a rent increase or review clause in the tenancy agreement.

You must serve a notice on the tenant in the prescribed form and there are rules governing the earliest date a new rent can be effective from, depending on the sort of tenancy you have provided. Notices in the prescribed form can be obtained from legal stationers. See section 07 for details.

The new rent will take effect on this date unless a different rent is agreed between the landlord and tenant or the tenant refers it to the Rent Assessment Committee

The Rent Assessment Committee will fix a market rent for the property, which will usually be effective from the date in the landlord's notice.

If the tenant is receiving Housing Benefit, they should inform the Housing Benefit office immediately they receive the notice, as Housing Benefit will

only cover the increased rent from the date on the notice if the office has been informed of the increase at the time.

It is good practise to ask your tenant if they have done this to prevent them from falling into arrears. Further advice on this can be sought from the Housing Advice Services or your own solicitor.

**This is not an exhaustive guide to the law, nor does it cover every situation that may arise. For detailed interpretation you should seek legal advice.**

## **Landlord's rights and obligations**

- Types of tenancies
- Stamp Duty
- Other rights & obligations

## **Landlord's rights and obligations**

This section covers situations where:

- A tenant has exclusive possession of accommodation (that is the accommodation is not shared with the landlord or any member of the landlord's family)
- A rent has been agreed between the landlord and tenant
- An agreement has been entered into either in writing or verbally

## **Tenancies**

The most common types of tenancies are Assured and Assured Shorthold. However, different rules apply depending on when the tenancy commenced.

Tenancies commencing from 15 January 1989 to 27 February 1997 are governed by the Housing Act 1988.

## **Assured tenancies**

For assured tenancies created between 15 January 1989 and 27 February 1997 it was not necessary to have a written contract.

Assured tenants have long term security of tenure and do not have to leave unless they wish to do so or, the landlord has Grounds for regaining possession which can be proved in Court. See section 04 for more details.

## **Assured Shorthold tenancies**

For shorthold tenancies created between 15 January 1989 and 27 February 1997 the landlord must have served a 'Notice of Shorthold' (Section 20 Notice) before the tenancy agreement was entered into.

The tenancy must be for a minimum period of six months.

Tenancies commencing after 28 February 1997 are governed by the Housing Act 1988 as amended by the Housing Act 1996.

## **Assured tenancies**

From 28 February 1997, to create an Assured Tenancy the landlord must give notice that the tenancy is not an Assured Shorthold Tenancy. A special form is not required. However, you need to make a clear statement to this effect.

The security of tenure remains the same.

It should be noted that certain grounds for possession require a 'Prior Notice', using a prescribed form, to be served before the tenancy begins. This applies regardless of the date the tenancy started i.e. pre or post 28 February 1997). The 'Prior Notice' grounds are listed in section 04.

## **Assured Shorthold tenancies**

From 28 February 1997 all new tenancies are automatically Shortholds unless otherwise stated. A 'Notice of Shorthold' (Section 20 Notice) is no longer required.

The landlord does not have to give an initial fixed term of 6 months. However shorthold tenants have the right to remain in the property for a period of 6 months, as the landlord cannot give notice ending before the initial 6 months.

The Housing Act 1996 requires that, if requested by the tenant in writing, the landlord must provide the tenant with a written Statement of Terms. These terms are as follow:

- The date on which the tenancy started
- The amount of rent and when it is due

- Any term providing for review of rent
- The length of the fixed term

The landlord must provide this information within 28 days of receiving the request. Failure to do so, without good reason, will result in liability to a fine.

It is good practice to have a written tenancy agreement as this helps avoid any disputes. It is also necessary if you wish to use the Accelerated Possession Proceedings see section 04.

## **Additional terms and conditions**

As well as the legal rights and obligations which granting a tenancy confers, there is scope for a landlord to include additional terms and conditions in the contract

Any additional conditions must be reasonable.

If they are broken and the landlord wants the tenant to leave as a result, the landlord will have to go to Court and obtain a Possession Order. A judge is unlikely to grant this if they consider the original condition to be unfair or not serious enough to warrant eviction.

## **Stamp Duty**

This is a complex area which may require more in depth advice. However, as a general guide, the rates which apply to agreements dated on or after 28 March 2000 are as follows:

If the tenancy is for less than 7 years and has an annual rent of less than £5,000, no Stamp Duty is payable.

If the term is less than one year and the rent for that period is less than £5,000, no Stamp Duty is payable.

If it is a year, then the monthly rent should be £416.67 or more, if it is for 6 months the rent must be £833.34 per month or more before you start paying duty.

Having a document stamped protects your rights to the property. You can not present a document in court if it has not been stamped. You may also

need to register it with the Land Registry and they will only accept stamped documents.

**For more detailed information you can contact the Stamp Office helpline on Tel: 0845 603 0135 website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk)**

## **Other rights and obligations**

Tenants have a right to 'quiet enjoyment'. This means that the tenant has the right to use the premises peacefully, undisturbed and without interference from the landlord.

Once the tenancy has commenced the landlord has no right of access and should only enter the property with the consent of the tenant.

A tenant should give the landlord reasonable access when they are fulfilling their repairing obligations

A landlord should give the tenant 24 hours notice before entering the property to carry out or inspect repairs.

It would be good practice to agree to a mutually convenient time.

A landlord must provide the tenant with their name and address.

Certain properties may require a licence from the local authority to operate legally. Such properties may include those that are subject to mandatory HMO licensing or additional or selective licensing, where they have been introduced.

This is not an exhaustive guide to the law, nor does it cover every situation that may arise. For a detailed interpretation you should seek legal advice.

# If you want your tenant to leave

## Contents

- Ending a tenancy
- Notices
- Ground for possession
- Possession procedures
- Harassment and illegal eviction
- Resolving disputes
- Abandonment

## Ending a tenancy

These notes provide only a brief summary of the procedure that the landlord needs to follow if they are to regain possession and comply with the law. They are not intended as a complete and authoritative statement of the law.

## Get advice

Anyone considering possession action should obtain advice as soon as possible. The Housing Advice Services, Solicitors and the Citizens Advice Bureau can provide you with advice. It is important to follow the correct legal procedure when asking a tenant to leave, as this will prevent problems arising later. Tenancies can be either Assured or Assured Shorthold (see section 03 for details). The procedure for ending the tenancy will depend on the type of tenancy that has been created.

The first step to obtaining possession of the property is to serve a valid notice under the requirements laid out in the Housing Act 1988 (as amended by the Housing Act 1996).

## Notices

In order to serve the correct notice it is important to know what kind of tenancy has been created (see section 03).

## Notice to end an assured tenancy

The notice must be on a prescribed form (available from legal stationers - see section 07).

It must state grounds for possession under the Housing Act 1988 - see Grounds for possession on the next page.

The length of the notice will depend on which grounds are being sought for possession.

## Notice to end an Assured Shorthold tenancy

Notice can be given in the same format as Assured tenancies if the landlord seeks possession on any of the grounds in the Housing Act OR Notice can be given under Section 21 of the Housing Act 1988 and to do this the notice must:

- Be in writing (but not necessarily on a prescribed form)
- Be at least 2 months from the date when the notice is issued
- State that possession is required under section 21 of the Housing Act 1988 (as amended by the Housing Act 1996)
- The notice must end on the last day of the tenancy or the last day the tenancy period (not before the end of the fixed term).

**PLEASE NOTE:** For tenancies entered into on or after 6 April 2007 where deposits are paid. If a Tenancy has **not been protected** by a Tenancy Deposit Protection Scheme (see section 02 for details), a Landlord is unable to regain possession of the property using the usual 'Notice only grounds' as in bullet point No. 3 above, but will be required to seek possession using either Mandatory or Discretionary Grounds as follows:-

## Grounds for possession

The Grounds for Possession Proceedings can be either:

- **Mandatory** - which means that, if the Ground is proved, the Court must award the landlord possession

OR

- **Discretionary** - where the Court will award possession if it is reasonable to do so

## Mandatory grounds

The first five grounds are Prior Notice grounds. The tenant must be advised of these before the start of the tenancy in writing.

**Ground 1:** A Prior Notice Ground that the landlord, or one of the joint landlords, used to live there as their only or main home. Or, provided the property was not bought after the tenancy began, they intend to live in it as their only or main home.

**Ground 2:** A Prior Notice Ground that the property is subject to a mortgage and the mortgagee wants to sell it, for example, to pay off mortgage arrears.

**Ground 3:** A Prior Notice Ground that at some time during the twelve months before the tenancy started the property was let or licensed for a holiday let. The tenancy must be a fixed term tenancy and for not more than eight months.

**Ground 4:** A Prior Notice Ground that at some time in the twelve months before the tenancy started, the property was let by a specified educational establishment to students. The tenancy must be a fixed term for not more than twelve months.

**Ground 5:** A Prior Notice Ground that the property is held for use by a Minister of Religion and is now needed for that purpose.

The following Grounds do not need to be notified prior to the start of the tenancy:

**Ground 6:** The landlord intends to re-develop the property and cannot do so with a tenant in residence.

**NOTE:** if the landlord bought the property with a Sitting Tenant, or can do the work with the tenant there, this ground cannot be used. The tenant's removal expenses will have to be paid.

**Ground 7:** The former tenant was a Periodic tenant and has died in the twelve months before proceedings were started. Where a person is living there with the Right to Succeed, this ground cannot apply.

**Ground 8:** The tenant owed at least 8 weeks rent, if paid weekly, or two months rent, if paid monthly, when you served a Notice Seeking Possession and at the date of the Court Hearing.

## **Discretionary grounds**

**Ground 9:** Suitable alternative accommodation is, or will be, available for the tenant when the Court Order takes effect. The tenant's removal expenses will have to be paid.

**Ground 10:** The tenant was behind with their rent when Notice Seeking Possession was served and when Court proceedings began.

**Ground 11:** The tenant has been persistently behind with their rent, even if they were not behind with the rent when Court proceedings began.

**Ground 12:** The tenant has broken one or more of their obligations under the tenancy agreement, excluding the obligation to pay rent.

**Ground 13:** The condition of the property has got worse because of the behaviour of the tenant or any other person living there.

**Ground 14:** The tenant, or someone living in or visiting the property: Has caused, or is likely to cause, a nuisance or annoyance to someone living in or visiting the locality.

OR

Has been convicted of using the property, or allowing it to be used, for immoral or illegal purposes, or an arrestable offence committed in the property or in the locality.

**Ground 15:** The condition of the furniture has got worse because it has been ill-treated by the tenant or another person living there.

**Ground 16:** The tenancy was granted because the tenant was employed by the landlord, or previous landlord, and is no longer employed by them.

**Ground 17:** The landlord was persuaded to grant the tenancy on the basis of a false statement knowingly or recklessly made by the tenant, or a person acting at the tenant's instigation.

**NOTE: The wording used above is not the precise wording in the Housing Act 1988, as amended by the Housing Act 1996. If you are**

relying on grounds, the notice must contain the precise wording from the Housing Act.

## Notice needed

A Notice Seeking Possession should be served on the tenant before Court proceedings are commenced.

At least **two weeks'** notice should be given if using Grounds 3, 4, 8, 10, 11, 12, 13, 15 or 17.

At least **two months'** notice should be given if using Grounds 1, 2, 5, 6, 7, 9 or 16. For Ground 14, Court proceedings can commence immediately Notice has been served.

## On expiry of the notice

If your tenant has not left after the expiry of the notice period you will have to apply to the County Court for a possession order.

## Possession procedure

There are two different ways in which an application can be made to the court for possession of property:

- The standard possession procedure
- The accelerated possession procedure

## Standard possession procedure

- Hearing may be required
- Need to state grounds for possession in claim
- Can include claim for rent arrears
- Can be used during the fixed term on specified grounds
- Can be used if there is no written agreement

## **Accelerated possession procedure**

- Hearing is not always necessary
- Quicker procedure
- Written tenancy agreement must have been served
- Need to prove Section 21 Notice has been served and has expired
- Cannot include claim for rent arrears

## **Accelerated possession - Assured Shorthold tenancies**

You can use Accelerated Possession Procedure during the fixed term where grounds 1, 3, 4 or 5 are being relied upon after having served the requisite notice.

OR

After the fixed term has expired where a valid Section 21 Notice has been served and has expired and a written agreement is in place at the start of the tenancy.

## **Accelerated possession - Assured tenancies**

The Accelerated Possession Procedure can only be used when relying on grounds 1, 3, 4 or 5 which are prior notice grounds.

**NOTE:** Please make sure that you have a copy of all the documents used to create the original Tenancy Agreement and that you can prove that notice has been served and has expired prior to issuing the accelerated possession claim at Court.

## **What happens when the notice expires?**

When the notice period has expired, you can apply to the County Court for a possession order. The tenant will then have 14 days in which to contest your application.

If the tenant does not reply (or does not contest your application), the Court will grant a possession order.

If the tenant contests your application and replies within 14 days, the Court will consider the application and the reply before deciding whether to grant a possession order or set a date for a hearing.

## **Possession has been granted**

**Although possession has been awarded you are still unable to evict the tenant.**

If the tenant (s) is refusing to leave you must then apply to the County Court for a Warrant of Eviction.

The Court will then serve the warrant on the tenant(s) notifying them of the date of the eviction. The court bailiffs then carry out the eviction.

## **Court costs**

The Court will decide who will be responsible for paying the costs of the proceedings.

If a Possession Order is granted, the court may order that the tenant should pay all or part of the costs.

If the claim fails you may be ordered to meet the tenants' legal costs. It is important to remember that a tenant who is unable or unwilling to pay their rent is unlikely to be able to pay your court costs.

## **What if I don't follow the correct procedure?**

Failure to comply with the correct legal procedure can result in:

- Possession case being thrown out which could result in court costs being ordered against you
- The possibility of committing a criminal offence of harassment
- The tenant may also bring a claim for damages

## Harassment and illegal eviction

Harassment and Illegal Eviction are both criminal offences under the Protection from Eviction Act 1977.

### Harassment

Any actions by the landlord or their representative which are likely to make the tenant leave the property could be construed as harassment, which is a criminal offence.

This could include:

- Failure to carry out repairs
- Cutting off gas and electricity supplies
- Entering the tenant's home without notice or invitation
- Verbal harassment.

### Illegal eviction

It is a criminal offence for a landlord or their representative to evict or attempt to evict a tenant without following the correct notice procedure.

It may result in:

- Prosecution by the Local Authority
- A criminal record, if found guilty
- A large fine
- The risk of imprisonment
- Being taken to Court by the tenant in a Civil action with the possibility of substantial damages awarded against the landlord

### Resolving disputes

Sometimes it is inevitable that the landlord will want the tenant to leave. The landlord may want to return to live in the property, or sell it without a sitting tenant.

At other times, the tenant may be asked to leave because of problems, such as rent arrears, or behaviour which is not felt to be acceptable.

Obtaining an eviction order through the Court is not guaranteed.

It may be good practice to:

- Try to sort the problem out amicably between the landlord and tenant
- Seek independent advice or arbitration
- Ask the tenant to visit the Housing Advice Services to see if the problem can be sorted out without legal action
- It is always better to seek independent advice before any action is taken

**This is not an exhaustive guide to the law, nor does it cover every situation that may arise. For detailed interpretation you should seek legal advice.**

## **Abandonment**

If you suspect the tenant is no longer living in the property and has not given the correct notice, the landlord will need to establish whether or not the tenant has abandoned the property. This will involve careful inquiries.

If a landlord relets the property and the original tenant returns, the landlord could be charged with illegal eviction.

In order to prevent any confusion in this situation, it would be good practice to include a clause in the Tenancy Agreement that states the tenant must inform the landlord if they are going to be absent from the property for 4 weeks or more and that failure to do so would result in commencement of possession proceedings.

If this clause is included in the agreement and the tenant then breaches it, the landlord would be required to serve the appropriate notice and then commence possession proceedings through the Courts.

**If the agreement does not include this clause (and even if it does) it would be advisable to carry out the following procedure:**

- Serve a Notice to Quit (in the presence of a reliable witness), stating

your intent to regain possession of the property and asking for details of the tenant's whereabouts. **NOTE:** there are rules about time and contents of Notices

- Take reasonable steps to contact the tenant e.g. ring family, friends, place of work (if known), taking care not to act in a way which can be classed as harassment (see section 06)
- Ask neighbours if they have seen the tenant recently or have any further information
- Check if the Housing Benefit payments have been cancelled
- Check if the tenant has left any personal possession in the property (this could be checked by looking through the windows)

**The landlord should not enter the property, or change the locks until the Notice to Quit has expired.**

Once the Notice to Quit expires, any personal possessions left in the property should be stored for a reasonable period e.g. 3 months. If appropriate list the items being stored. Take photographs, return any passports etc., to appropriate authority. It would be good practice to include a clause about disposal of goods in the Tenancy Agreement.

**If personal possessions are disposed of improperly, the tenant could sue the landlord for damages.**

If in doubt - **GET ADVICE**

# General Repair Obligations

## Contents

- General repair obligations
- Action for non-repairs
- Houses in multiple occupation
- Renovation

## General repair obligations

Under the Landlord and Tenant Act 1985, the landlord has a legal obligation to keep the structure and exterior of the dwelling house, and any installations for the supply of water, gas, electricity, sanitation and water heating, in good repair.

The Housing Act 1988 extended the obligations for tenancies granted on or after 15 January 1989. The landlord must remedy faults or problems in the common parts of the dwelling or in other flats, if they are affecting another tenant.

The repairing obligations apply, even if the tenancy agreement does not include or exclude them. Additional obligations, such as decorations, can be included, stating who is responsible for them.

It is good practice to:

- Ensure that the property is in a good state of repair prior to the tenant moving in
- Provide an emergency contact telephone number
- Deal with requests for repairs promptly
- Inform the tenant of the proposed date of the repair, preferably in writing
- Get advice before refusing to carry out repairs
- Ensure there is adequate ventilation, especially if central heating is provided. This will reduce problems such as condensation.

## Action for non - repair

The legislation surrounding repairs is very complex. The same defect or problem can be dealt with by different legislation.

Generally, if the landlord is in breach of repairing obligations, a tenant can bring an action for damages in the County Court, with or without an injunction to force the landlord to do the work.

The local authority has powers to require works to be carried out at a property, when hazards are identified that are considered to pose a significant risk to the tenants.

If there is a nuisance which is prejudicial to health, the Housing & Public Health Unit can serve an Abatement Notice and can prosecute the landlord if this is not complied with.

**NOTE:** Accumulated rubbish, damp or infestation would be considered nuisances which are prejudicial to health.

If a landlord rents out a property in which hazards posing a significant risk are identified, then the local authority can serve a legal notice requiring the works to be carried out. In extreme cases the Local Authority can carry out emergency remedial action.

If the landlord does not comply with the requirements of a notice, the local authority can carry out this work itself, recovering the costs from the landlord. The local authority can also prosecute, but the landlord would still have to do the work.

Where disrepair is very serious, the Environmental Health Officer can make a Closing or Demolition Order.

## Access for repairs

A landlord has the right to inspect the property for repairs. The tenant must allow access if 24 hours notice is given, but it would be good practise to arrange this amicably.

## **Houses In Multiple Occupation (HMO)**

Houses which have been converted into bedsits, including shared student houses and certain self contained flats are HMOs. The Housing Health and Safety Rating System, introduced under the Housing Act 2004 and Bolton's HMO Standards require a certain level of provision in relation to amenities, room sizes and fire precautions.

If these requirements are not met, the Environmental Health Officer has powers to serve notice to rectify the defects.

Certain types of HMO must be licensed by the local authority.

## **Improvement work grants**

All Grants are at the discretion of the local authority.

The policy of Bolton is to target specific areas.

If the property is within a targeted area, you may be eligible for a Grant.

Please contact the Regeneration Division on (01204) 335858.

## **Vacant possession for renovation**

If vacant possession is needed in order to reconstruct or carry out substantial works, the tenant can be served with notice, if they have an Assured tenancy, but the Court will need proof of the intention to undertake the work.

Alternatively, the tenant could move into other accommodation provided by the landlord. This must be provided on the same type of tenancy as the tenant already has. It would be good practice to put all the details of the accommodation, and the basis of leaving and returning to the property, in writing.

This is not an exhaustive guide to the law, nor does it cover every situation that may arise. For detailed interpretation you should seek legal advice.



## Property Standards

### Contents

- Housing Health & Safety Rating System
- Houses in multiple occupation (HMO)
- Licensing

## Housing Health & Safety Rating System (HHSRS)

The Housing Act 2004 introduced a new way in which Councils assess housing conditions in England and Wales. It uses a risk assessment approach called the Housing Health and Safety Rating System (HHSRS); the aim is to provide a system (not a standard) to enable risks from hazards to health and safety in dwellings to be assessed and therefore removed or minimised.

The HHSRS addresses all the key issues that affect health and safety, it provides an analysis of just how hazardous a property is and includes evidence and statistical information to assist inspectors in making their judgments. The scoring of hazards found during an inspection must be carried out in accordance with the method set out in the HHSRS Regulations.

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

The system takes account of 29 hazards, which are summarised below:

### Physiological requirements

Damp and mould growth, excess cold, excess heat, asbestos, biocides, carbon monoxide and fuel combustion products, lead, radiation, uncombusted fuel, gas, volatile organic compounds.

## **Protection against accidents**

Falls associated with baths etc., falls on level surfaces etc., falling on stairs etc., falling between levels, electrical hazards, fire, flames, hot surfaces etc., collisions and entrapment, explosions, position and operability of amenities etc., structural collapse and falling elements.

## **Protection against infection**

Domestic hygiene, pests and refuse, food safety, personal hygiene, sanitation and drainage, water supply.

## **Psychological requirements**

Crowding and space, entry by intruders, lighting, noise.

Using the Housing Health & Safety Rating System, the Council can require landlords to make improvements to a property in order to reduce or eliminate certain hazards.

There are a number of options available once a hazard is found to exist. However, in the first instance the Council will always try to work with the landlord and reach agreement on the works required and an appropriate timescale.

If the matter cannot be resolved informally, the Council has the power to take formal action which could include the service of an Improvement Notice or Prohibition Notice. Such notices will require action to be taken within a defined period of time or prevent the use of a property or certain parts of it.

In some cases where a serious hazard is identified, the Council may take immediate remedial action themselves to reduce the risk posed from a particular hazard and recover any reasonable costs they incur from the landlord.

## **Houses in Multiple Occupation (HMOs)**

### **Do I own or manage a HMO?**

Under the Housing Act 2004, if you let a property which is one of the following types, it is a House in Multiple Occupation:

- An entire house or flat which is let to 3 or more tenants who form 2 or more households and who share a kitchen, bathroom or toilet (this includes shared houses).
- A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to 3 or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not wholly self contained (ie the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by 3 or more tenants who form two or more households.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies.

In order to be a HMO the property must be used as the tenants' only or main residence and it should be used solely or mainly to house tenants.

Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties which are used as domestic refuges.

## **Houses in Multiple Occupation (HMOs)**

HMOs within Bolton will be inspected and assessed under the Housing Health and Safety Rating System, introduced by the Housing Act 2004. HMOs will also be subject to additional legislation and standards in relation to room sizes, number of amenities (e.g. toilets, showers, washhand basins, cooking facilities, fire precautions etc).

## Further information

For further information and advice in relation to both private rented properties and HMOs contact the Housing & Public Health Unit on Tel: 01204 336500.

## Licensing

The Housing Act 2004 places a new duty on local authorities to operate a licensing scheme. This legislation introduces the mandatory licensing of HMOs and will include all properties that are:

- Three or more storeys high **and**
- Have five or more people in more than one household **and**
- Share amenities such as bathrooms, toilets and cooking facilities.

Anyone who owns or manages a HMO that must be licensed has to apply to the Housing & Public Health Unit for a licence.

The aims of the licensing regime are to ensure that HMOs are suitably equipped with amenities and facilities for the number of occupants residing in them, and are effectively managed by 'fit and proper persons'.

## Useful Addresses

Housing and Public Health Unit  
Weston House, Weston Street, Bolton, BL3 2AR  
Tel: (01204) 336500  
Email: [housingandpublichealth@bolt on.gov.uk](mailto:housingandpublichealth@bolt on.gov.uk)

Residential Property Tribunal  
1st Floor, 26 York Street, Manchester, M1 4JB  
Tel: 0845 100 2614  
Fax: 0161 237 3656/9491  
Email: [northern.rap@communities.gsi.gov.uk](mailto:northern.rap@communities.gsi.gov.uk)

The TDP Team (Tenancy Deposit Protection Team)  
Housing Markets Division  
Communities and Local Government  
Zone 2/J10, Eland House, Bressenden Place , London SW1 5DU  
Tel: 0207 944 4400  
Email: [tenancy.deposits@communities.gsi.gov.uk](mailto:tenancy.deposits@communities.gsi.gov.uk)

Rent Officer  
Rent Assessment Panel  
Unit 2, Tustin Court, Port Way, Preston, Lancashire PR2 2YQ  
Tel: 01772 554600  
[www.therentservice.gov.uk](http://www.therentservice.gov.uk)

OFGEM (Office of Gas & Electricity Market)  
Enquiries to Energywatch  
National telephone helpline  
Tel: 0845 906 0708  
[www.energywatch.org.uk/contactus](http://www.energywatch.org.uk/contactus)

Stamp Duty Helpline  
Tel: 0845 603 0135  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

County Court (Bolton)  
Blackhorse Street, Bolton, BL1 1RV  
Tel: 01204 392881  
Monday - Friday 10am-4pm

Housing Benefits Office  
Finance Department  
Bolton Council, Town Hall, Bolton, BL1 1YZ  
Tel: 01204 331576/331590

OFWAT (Office of Water Services)  
Centre City Tower, 7 Hill Street, Birmingham, B5 4UA  
Tel: 0121 625 1300/1373  
[www.ofwat.gov.uk](http://www.ofwat.gov.uk)

Bolton Bond Board  
14 Mawdsley Street, Bolton, BL1 1LN  
Tel: 01204 366328

Welfare Rights Service  
Tel: 01204 380460  
Monday - Friday 10am-12pm

North West Landlords Association  
113 Tonge Moor Road, Bolton, BL2 2HR  
Tel: 0845 345 1386  
Monday - Friday 10am-1pm  
Email: [admin@nwla.co.uk](mailto:admin@nwla.co.uk)

Residential Landlords Association  
1 Roebuck Lane, Sale, Manchester, M33 7SY  
Tel: 0845 666 5000  
[www.rla.org.uk](http://www.rla.org.uk)

Inland Revenue  
Salford, Manchester  
Tel: 0845 302 1477  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

