



Guidance for Private Landlords



**South
Staffordshire
Council**

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GOOD PRACTICE GUIDE

1. Introduction

South Staffordshire Council recognises the vital role that landlords operating in the private rented sector play in helping to meet housing need across the district and therefore is keen to develop a stronger working relationship. We are looking to equip landlords with the knowledge needed to be a successful landlord. We intend to do this through our Private Landlords Forum, Private Landlords Newsletter, and through various guides such as this one.

This guide looks at ways of finding tenants and running and managing properties. It also looks at some of the legal aspects in connection with the different types of tenancies, what can be included in a tenancy agreement and the procedures to be followed when you wish the tenancy to come to an end.

Disclaimer

This guide is not designed to be a definitive interpretation of all housing legislation – for independent legal advice you should always consult your solicitor. Every effort has been made to ensure that the information is accurate, but no responsibility can be accepted for any errors or omissions.

2. Prior to renting my property

Do I need permission to rent my property?

If you have a mortgage you will probably need permission from your lender before renting the whole property or letting a room in it.

Long leaseholders may also need permission from the freeholder before renting. If you are unclear you should contact a solicitor.

Insurance companies will also need to be consulted as renting may affect the cover that they provide.

New lettings

It is advisable to seek professional help before letting a property, especially if you're not going to use a letting or managing agent. The letting of a property in return for rent creates a tenancy, even if there is no written agreement.

Advertising your property

You could advertise your property in shop windows and in-store notice boards, local estate and letting agents, local newspapers and there are a number of websites for advertising rented property.

Your advert should specify:

- Whether the property is suitable for a single person, a couple or a family
- Whether the property is suitable for smokers
- The rent and if this includes any bills
- Whether the property is furnished or unfurnished
- Whether tenants share any facilities
- Whether there is a garden, parking, etc
- Whether pets are allowed
- How near the property is to local amenities

Do I have to give my details to tenants?

It is a good practice to provide tenants with written details of how to contact you. Some landlords give their home or business address in the tenancy agreement as well as a telephone number so the tenant can contact them in an emergency.

Letting and Managing Agents

You may consider using an agent to deal with the property on a day-to-day basis. This may be worth considering if the property you intend to let is some distance from where you live or if you are often away for long periods at a time, or if you don't have the time or skills to deal with such matters.

Agents provide a number of services including:

- Finding tenants
- Taking up references
- Collecting and managing deposits
- Preparing inventories and contracts
- Collecting rents
- Monitor and chase rent arrears
- Deal with emergency repairs
- Manage the property and its maintenance
- Inspect the property from time to time
- Deal with the legal aspects of asking tenants to leave and return deposits etc

Agents charge a fee for providing their services; this will depend on the level of service provided. Fees are usually around 15% of the rent.

3. Setting up tenancies

Can I change the type of tenancy?

If you buy or inherit a property that is already occupied, it may not be possible to change the tenancy or tenancy agreement. The occupier may have a regulated tenancy, which gives the tenant greater security and which is subject to rent control. It is vital that you know what type of tenancy you are dealing with. Therefore, if in doubt it is recommended that you contact a solicitor to advise you.

Must I provide a written agreement?

You do not need to provide a written agreement unless the tenancy is for a fixed term of more than three years. However, it is strongly advised that you have a written tenancy agreement setting down the terms and conditions of the tenancy. A written agreement is advisable when letting to new tenants for the following reasons:

- Both parties know what is expected of them and what their obligations are.
- You cannot use the accelerated possession procedure unless you provide a written tenancy agreement.

When creating a tenancy, you should take care to ensure that it is of the correct type to suit your future plans for the property.

Types of Tenancy

What is the difference between an assured and shorthold tenancy?

If you let on a shorthold tenancy, you can regain possession of your property 6 months after the beginning of the tenancy, provided that you give two months notice that you require possession.

If you let on an assured tenancy, your tenant has the right to remain in the property unless you can prove to the court that you have grounds for possession.

The following list of tenancies or agreements cannot be assured or shorthold tenancies:

- a tenancy which began, or which was agreed, before 15 January 1989 (i.e. a regulated tenancy);
- a tenancy for which the rent is more than £25,000 a year;
- a tenancy which is rent free or for which the rent is £250 or less a year ;
- a tenancy granted to a student by an educational body such as a university or college;
- a holiday let;
- a letting by a resident landlord.

The following tenancies can be assured but not shorthold tenancies:

- a tenancy replacing an earlier assured tenancy with the same tenant which has come to an end, or a statutory periodic tenancy arising automatically when the fixed term on an assured tenancy ends;
- an assured tenancy which the tenant has succeeded to on the death of the previous (pre -1989) tenant;
- an assured tenancy following a secure tenancy as a result of the transfer of the tenancy from a public sector landlord to a private landlord.

Shorthold tenancies

Under the 1996 Housing Act, all new private sector tenancies are automatically shorthold unless the landlord has made special arrangements to set up an assured tenancy. Therefore most tenancies created after 28 February 1997 are shorthold tenancies. Tenancies that started or were agreed before 28 February 1997 were automatically assured tenancies unless a special procedure was followed to set up a special form (a Section 20 notice).

To set up an assured tenancy you must either give the tenant a notice that says that the tenancy is not a shorthold tenancy before the beginning of the tenancy, or include a simple declaration in the tenancy agreement to this effect.

Fixed term or periodic tenancy?

An assured or shorthold tenancy may either:

- be a fixed term tenancy lasting a fixed number of weeks, months or years, or;
- run indefinitely from one rent period to the next – known as a contractual periodic tenancy.

If you agree a shorthold tenancy on a periodic basis, you can seek possession at any time after the first 6 months provided that you have given 2 months notice that you require possession.

You may agree a fixed term for less than six months if the tenant agrees. However, the tenant has a right to stay in the property for a minimum of 6 months.

With a fixed term agreement, the tenant agrees to take the property for a specific period of time and is obliged to pay rent for the full term of the tenancy. If the tenant leaves before the fixed term has expired you may claim lost rent, although you will be expected to mitigate your losses by taking all reasonable steps to re-let the property at the same or a higher rent.

4. References, Inventories, Deposits and Disputes

References

It is very important that you interview tenants carefully. First impressions can be useful, although you can lessen the risk by taking up references from perspective tenant's current or previous landlord, employer and bank.

You may also consider using a tenant referencing service, which will make these and additional checks for you. Details can be found on the internet or at local estate/letting and management agents. Tenants are likely to be charged for obtaining a reference.

Ask new tenants for contact details of a close family member or friend whom you may contact in an emergency.

Inventories

You are strongly advised to make a list of all the equipment and furniture in the property, and to take details of its condition when the tenant first moves in. Any existing damage should be noted and agreed with the tenant. It is advised that both you and the tenant sign the completed inventory and that a copy is then given to the tenant.

It may also be useful to take digital photographs of the inside of the property, in order to keep an accurate record of the condition of the property at the beginning and the end of the tenancy.

Inventory forms and how to create them can be found on the internet.

Deposits

A deposit will act as security in case the tenant owes rent or has caused damage to the property. A sum equivalent to 4 weeks rent is usual. If you charge more than the equivalent of 2 months rent, it could be regarded as a premium, which may give the tenant a right to give the tenancy to someone else or to sub-let. It is good practice to give a receipt for the deposit.

You should clearly state in the tenancy agreement the circumstances under which part, or all of the deposit may be withheld at the end of the tenancy.

From April 2007 all deposits are required to be held in a government approved Tenancy Deposit Scheme. This applies to any landlord or agent who takes a monetary deposit.

There are two types of schemes available to landlords:

Custodial Scheme

The Deposit Protection Service (DPS) is the only custodial scheme and is free to use to all landlords and letting agents. All funds are ring fenced in accordance with client money regulations. An independent and free Alternative Dispute Resolution (ADR) service will aim to resolve any disputes quickly and without the need for court action. For more information visit www.depositprotection.com or call 0870 7071 707.

Insurance Based Schemes

Tenancy Deposit Solutions Ltd (TDSL) and the Tenancy Deposit Scheme (TDS) are the two government approved insurance based schemes. In both cases you have to pay a fee to the scheme which enables you to keep your deposit. If there is a dispute over how much of the deposit should be returned at the end of the tenancy, then an impartial dispute resolution service will intervene.

For more information on TDSL visit www.mydeposit.co.uk. For more information on TDS visit www.tds.gb.com or call 0845 226 7837.

Deposits and low incomes

Many tenants on low incomes find it difficult to pay lump sums, however may be able to turn to a rent deposit guarantee scheme for help. These are locally administered schemes that offer a written guarantee in place of a cash deposit. All tenants accepted onto the scheme will have been vetted by the council. If a landlord chooses to participate in a Rent Deposit Guarantee Scheme they will given a written guarantee from the council and therefore will not be required to protect their deposit through a national tenancy deposit scheme.

South Staffordshire Council has recently introduced it own Rent Deposit Guarantee Scheme. For further information contact our Private Sector Housing Development Officer on 01902 696401.

Disputes

If you do find yourself in a dispute with your tenant it is advised that you seek legal advice. Advice can be from a solicitor, Citizens Advice, Shelter or the National Landlord Association (NLA).

5. Rents and Changing the Tenancy Terms

How much rent should you charge

The amount of rent you negotiate with your tenant at the start of the tenancy should be on terms which are fair and reasonable. You can find out about local rents from the Rent Service, letting and managing agents in the local area and by checking advertisements in the press. If you have tenants that are in receipt of Housing Benefits then you can check the Local Housing Allowance (LHA) rates for the month for the different Broad Rental Market Areas (BRMA) with the Rent Service, and then set the rent accordingly.

Can rents be increased?

You should agree with the tenant the rent and the agreements for paying it and, if you wish, arrangements for reviewing it, before the tenancy begins and include details in the tenancy agreement.

If the tenancy is for a fixed term, the agreement should say either that the rent will be fixed for the length of the term or that it will be reviewed at regular intervals, as well as how it will be reviewed. If the agreement does not say when the rent will go up you can only put the rent up if the tenant agrees. If he or she does not agree you will have to wait until the fixed term ends before you can raise the rent.

If the tenancy is a contractual periodic tenancy, the tenancy agreement should say how often the rent will be reviewed and how it will be reviewed. You should agree any rent increase with the tenant in writing.

When the fixed term tenancy ends and the tenancy lapses into a statutory periodic tenancy you can agree a rent increase with the tenant. Alternatively you can use a formal procedure in the 1988 Housing Act to propose a rent increase to be payable as soon as the statutory tenancy starts, you can then propose further increases at yearly intervals after the first increase. The formal procedure for proposing a rent increase for contractual or statutory periodic tenancies, where this is not covered by a tenancy agreement is for you to notify the tenant of the proposed increase on a special form called 'Landlords notice proposing a new rent under an Assured Periodic Tenancy of premises'. If the tenant does not agree with the proposed increase, he or she must apply to the Residential Property Tribunal Service (RPTS, www.rpts.gov.uk), which provide an independent, fair and accessible tribunal service in England for settling disputes involving private rented and leasehold property.

You can get more information on this from the Rent Service, or a solicitor.

Rent Arrears

A landlord can give a tenant notice (a Section 8 notice) that he/she will seek possession through the court if that tenant is at least 8 weeks behind with the rent. If this is still owed at the time of the court hearing the

judge will grant the landlord a possession order. It is vital that the correct procedures are followed; therefore it is advisable to contact a solicitor or landlord association for advice.

Rent books

You are only legally obliged to provide a rent book if the rent is paid on a weekly basis. You can obtain standard rent books from some stationers and from the internet.

Receipt books

It is strongly recommended that you purchase a receipt book in order to keep a record of rent payments. Unless you keep track of rent payments you will not be able to prove your case in a court if the tenant owes you rent.

When a shorthold tenancy comes to an end of the fixed term, any replacement tenancy you agree will automatically be on shorthold terms unless you choose to set up a replacement tenancy on an assured basis. If you do nothing, the tenancy will automatically run from one period to the next on the same terms as the preceding fixed term shorthold tenancy, called a statutory periodic tenancy. The tenancy will continue to be run on this basis until you replace it, the tenant leaves or you seek possession from the tenant.

6. Office of Fair Trading – Guidance on unfair terms in tenancy agreements.

The Office of Fair Trading Guidance, which is backed up by legislation, says that the landlords and agents should deal fairly and equitably with tenants, respecting their legitimate interests and should deal with them in good faith. A copy of the guidance can be ordered (free of charge) from EC Logistics. Swallowfield Way, Hayes, Middlesex, UB3 1DQ Tel: 0800 3892158 or can be downloaded from the Office of Fair Trading's website at www.offt.gov.uk.

Analysis of unfair terms

These are the unfair terms that the OFT consider may be unfair, some have more relevance to tenancy agreements than others. All groups are detailed below and those most relevant to the lettings industry have further notes.

1. Exclusion of liability for death or personal injury

2. Exclusion of liability

- (a) For state of the property or furnishings.
- (b) For exclusion of liability for poor service.
- (c) For call out charges to complete a landlord's repairing obligations.
- (d) For unreasonably short reporting times for repairs.
- (e) For excluding a tenants right to set off.
- (f) For excessive delay in carrying out repairs.
- (g) Excessive rights of entry by the landlord should not be provided.

3. Binding consumers (i.e. the tenant) while allowing the supplier to provide no service

4. Retention of prepayments on consumer cancellation

A term which rules out the refund of a substantial payment is likely to be unfair. Where cancellation is the fault of the tenant, the landlord is entitled to hold back from a prepayment either the net costs or the net loss of profit.

5. Financial Penalties

A term to pay unreasonable interest or arrears of rent, unless there are special circumstances, is likely to be unfair.

A term in a fixed term tenancy which requires a tenant who leaves early without the landlord's agreement, to pay rent for the remainder of the period in full is likely to be unfair.

A term may be unfair if it allows the landlord's surveyor sole discretion to set the amount to be deducted from the rent deposit to cover damage caused by the tenant.

6. Cancellation Causes

A term instating or implying that the tenant could be evicted at the landlord's discretion would be seriously misleading.

7. Suppliers (i.e. landlords) right to cancel without refund

A term is likely to be unfair if it makes a substantial payment non refundable on a serious breach by the tenant, regardless of whether the landlord has suffered any loss. However, it could be fair for the landlord to keep as much of the prepayment as is reasonably required to cover his legitimate expenses.

8. Supplier's right to cancel without notice

9. Excessive notice periods for consumer cancellation

An unreasonably long notice period for termination of an assured periodic tenancy agreement can lead to tenants paying for accommodation they no longer want or need.

10. Binding consumers to hidden terms

It is a basic requirement of contractual fairness that tenants should always have an opportunity to read and understand terms before becoming bound by them. Tenants need to be effectively alerted to important terms.

11. Suppliers right to vary terms generally

12. Right to change what is supplied

A term that allowed the landlord discretion to alter the building or remove or change furniture, during the currency agreement is likely to be unfair.

13. Price variation clauses

Rent variation clauses are more likely to be fair where the amount and timing of any increases are specified and terms that permit increases are linked to a relevant published price index.

Also likely to be regarded as fair are rent review clauses which allow for an increase in rent to be determined in the light of objective factors by a person who is independent of the landlord.

14. Suppliers right of final decision

15. Entire agreement and formality clauses

Good faith requires that the parties be bound by their unwritten statements and those of their representatives. A term excluding liability for such statements could give considerable scope for misleading tenants regarding their rights and may as a result be considered unfair.

A tenancy agreement may contain a statement warning that it is a binding document. Such a warning needs to be sufficiently highlighted in some way in order to draw it to the tenant's attention.

16. Formality requirements

A term that makes renewal of a tenancy conditional on compliance with excessive costs or formality may be open to suggestion.

17. Binding consumers where the supplier defaults

18. Supplier's right to assign without consent

19. Restricting the consumer's remedies

Analysis of other terms considered potentially unfair.

There are 8 in this group of potentially unfair terms:

1. Allowing the landlord to impose unfair financial burdens

Vague charges are likely to be unfair. A requirement to pay for cleaning at the end of the tenancy may be unfair if it is vague about the basis on which the money will be demanded or the extent of the cleaning involved.

2. Transferring inappropriate risks to tenants

A risk lies more appropriately with the landlord if it's within his control, or if it is a risk of which the tenant cannot be expected to be aware of, or the landlord can insure against it more cheaply than the tenant.

Terms under which the landlord must be 'indemnified' for costs, which could arise through no fault of the tenant, are open to objection.

3. Unfair Enforcement Powers

The law recognises that landlords may expressly reserve the right to forfeit in the tenancy agreement. However, terms that appear to reserve a right of forfeiture or re-entry for any breach of covenant (however minor) could potentially mislead the uninformed tenant. The fact that such terms have long been excessively used does not make them fair.

4. Excluding the tenant's right to assign or sublet

Terms that restrict a tenant's right to assign or sub-let may be considered unfair. The OFT considers that in fixed term tenancies an absolute ban on both assignments and sub lettings may be considered unfair. Expressly allowing a tenant to assign or sublet by consent that is not to be unreasonably withheld is considered a fair balance. A prohibition on subletting may be acceptable if a tenant who leaves the property early is free to assign.

5. Tenant declarations

The OFT is likely to object to any standard declaration that appears to indicate that the tenant has been dealt with fairly and properly. For example in the establishment of the tenancy agreement, and to declarations that the tenant has received or seen documents stating that the landlord has discharged health and safety responsibilities. General

declarations of understanding by the tenant are to be avoided, but clear and prominent warnings that the tenant should read and understand the terms before signing them are more likely to be acceptable.

6. Exclusions and reservations of special rights

Any term, which could deprive tenants of normal protection under the law, may be considered unfair. Tenants should not be required to contract out of protection offered by legislation.

7. Landlord's discretion in relation to obligations

A term giving complete freedom to make arrangements to carry out repairs or maintenance allows the tenant's needs to be disregarded, and can have the same effect as an exclusion of liability, for causing loss and inconvenience. Any term may be unfair if it gives the landlord, or his agent, excessive power to decide whether his tenant should be penalised, or obliged to make reparation, or deprived of any benefit under the tenancy agreement.

8. Unreasonable ancillary obligations and restrictions

Terms that put tenants at risk of incurring contractual penalties that are more severe than is necessary to protect the landlord's real interest in safeguarding his property generally will be considered unfair. Terms restricting a tenants use of a property should be reasonable in relation to the type and location of property. Other examples of unreasonable prohibitions include terms against keeping pets.

Regulation 7 – Plain and Intelligible Language

Regulation 7 provides

- (1) a seller or supplier shall ensure that any written term of a contract is explained in plain intelligible language.
- (2) If there is doubt about the meaning of a written term, the interpretation which is most favourable to the consumer shall prevail.

Documents should avoid legal jargon. Whilst recognising that clarity in the agreements is desirable in itself, the regulations go further.

Their purpose is to protect tenants from one sided agreements where the tenant is not given an opportunity to examine all the terms. The regulations therefore, demand 'transparency' in the full sense.

Terms must be intelligible to tenants. The OFT objects to legal jargon in all its forms so, for example the use of the term 'indemnity' is frowned on. Ordinary words should be used as far as possible.

Sentences should be short and the text should be divided into easily understood sub-headings covering recognisably similar issues.

Whilst it is not required that the tenant understands every word used, they must be given a chance to learn by the time that the contract is binding about the terms which may disadvantage them. This can be achieved in a number of ways including, highlighting explanatory material or brochures.

7. What to do when the tenancy ends?

When a shorthold tenancy comes to the end of the fixed term, any replacement that you agree will automatically be a shorthold tenancy unless you choose to set up a replacement tenancy on an assured basis. If you do nothing the tenancy will automatically run from one rent period to the next on the same terms as the preceding fixed term shorthold tenancy, and is called a statutory periodic tenancy. The tenancy will continue to run on this basis until you replace it, the tenant leaves or you seek possession from the tenant.

When a shorthold tenancy ends you can:

- i. agree a replacement fixed term shorthold tenancy;
- ii. agree a replacement assured tenancy on a periodic basis;
- iii. agree a replacement assured tenancy, provided that you give written notice or state clearly in the tenancy agreement that the tenancy will not be a shorthold tenancy;
- iv. do nothing and allow the shorthold tenancy to run on with the same rent and terms called a statutory periodic tenancy.
- v. end the tenancy but you must have given at least 2 months notice that you require possession.

When an assured tenancy comes to an end of a fixed term any replacement tenancy you agree with an existing assured tenant will automatically be on assured terms whatever the tenancy agreement says. However, to avoid any misunderstanding with the tenant, it is helpful to state in the replacement tenancy agreement that the tenancy is not a shorthold tenancy. If you do nothing, the tenancy will automatically run on from one rent period to the next on the same terms as the preceding fixed term assured tenancy. This tenancy is called a statutory periodic tenancy. It will continue to run on this basis until you replace it, the tenant leaves or you seek possession from the tenant on one of the grounds of possession.

When an assured tenancy ends you can:

- i. agree a replacement fixed term shorthold tenancy.
- ii. agree a replacement assured tenancy on a periodic basis called a contractual periodic tenancy;
- iii. Do nothing and allow the assured tenancy to run on with the same rent and terms called a statutory periodic tenancy

How to end a Tenancy

If the tenancy started on or after 28 February 1997 you have a right to regain possession without giving any grounds for possession, at any time after any fixed term which you agreed with the tenant comes to an end or at any stage during a contractual or statutory periodic tenancy, provided it is at least 6 months since the start of the original tenancy.

To obtain possession of your property when the fixed term of a shorthold tenancy has ended, you must first give the tenant at least 2 months notice that you require possession.

If you give notice that you require possession, the notice must be in writing. If the tenant refuses to leave, you cannot evict him or her without a possession order from the court. You can apply to the court to start possession proceedings as soon as the notice requiring possession expires. You will not have to give any grounds for possession.

Accelerated Possessions

The accelerated possession procedure is an inexpensive procedure for getting possession of your property without a court hearing. The court will make its decision by looking at the documents that you and the tenant provide, unless it considers that a hearing is required. You can only use this procedure if you have a written assured shorthold tenancy agreement (or, if the tenancy has lapsed into a statutory periodic tenancy and there was a written agreement for the original tenancy) and you have given the tenant required notice in writing that you are seeking possession (a Section 21 notice).

The tenant is required to leave the property on the date specified in the court order. However, if the tenant still refuses to leave, you cannot evict him or her yourself. You must apply for a warrant for eviction from the court that will then arrange for bailiffs to evict the tenant.

During the fixed term of an assured or shorthold tenancy you can only seek possession if one of the following grounds for possession applies - grounds 2, 8, 10 to 15 or 17 - and the terms of the tenancy make provision for it to be ended on any of these grounds. When the fixed term of an assured tenancy ends, you can seek possession on any of the grounds. When the fixed term of a shorthold tenancy ends, you do not have to give any grounds for possession.

Of the following, grounds 1 to 5 are called 'prior notice grounds' which means that you must have notified the tenant in writing before the tenancy started that you intended one day to ask for the property back on one of these grounds.

Mandatory grounds on which the court must order possession

Ground 1: You used to live in the property as your only or main home. Or, so long as you or someone before you did not buy the property after the tenancy started, you or your wife require it to live in as your main home. At least two months notice required.

Ground 2: The property is subject to a mortgage which was granted before the tenancy started and the lender, usually a bank or building

society, wants to sell it, normally to pay off mortgage arrears. At least two months notice required.

Ground 3: The tenancy is for a fixed term of not more than 8 months and at some time during the 12 months before the tenancy started, the property was let for a holiday. At least two weeks notice required.

Ground 4: The tenancy is for a fixed term of not more than 12 months and at some point during the 12 months before the tenancy started, the property was let to students by an educational establishment such as a university or college. At least two weeks notice required.

Ground 5: The property is held for use by a minister of religion and is now needed for that purpose. At least two months notice required.

Ground 6: You intend to substantially redevelop the property and cannot do so with the tenant there. This ground cannot be used where you, or someone before you, bought the property with an existing tenant, or where the work could be carried out without the tenant having to move. The tenants removal expenses will have to be paid. At least two months notice required.

Ground 7: The former tenant who must have had a contractual periodic tenancy or statutory periodic tenancy, has died in the 12 months before possession proceedings started and there is no-one living there who has a right to succeed the tenancy. At least two months notice required.

Ground 8: The tenant owes at least 2 months' rent if the tenancy is on a monthly basis or 8 weeks' rent if it is on a weekly basis, both when you gave notice seeking possession and at the date of the court hearing. At least two weeks notice required.

Discretionary grounds on which the court may order possession

Ground 9: Suitable alternative accommodation is available for the tenant, or will be when the court order takes effect. The tenant's removal expenses will have to be paid. At least two months notice required.

Ground 10: The tenant was behind with his rent both when you served notice seeking possession and when you began court proceedings. At least two weeks notice required.

Ground 11: Even if the tenant was not behind with his rent when you started possession proceedings, he has been persistently late in paying his rent. At least two weeks notice required.

Ground 12: The tenant has broken one or more of the terms of the tenancy agreement, except the obligation to pay rent. At least two weeks notice required.

Ground 13: The condition of the property has got worse because of the behaviour of the tenant or any other person living there. At least two weeks notice required.

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. With this ground you can start possession proceedings as soon as you have served notice on the tenant.

Ground 15: The condition of the furniture in the property has got worse because it has been ill treated by the tenant or any other person living there. At least two weeks notice required.

Ground 16: The tenancy was granted because the tenant was employed by you or a former landlord, but he is no longer employed by you. At least two months notice required.

Ground 17: you were 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 discretion. At least two weeks notice required.

What if the tenant abandons my property?

If the tenant leaves without warning it is important to make sure that he or she has definitely surrendered the property before you repossess the property and re-let it. You need to be absolutely sure that the tenant has abandoned the property as if the tenant turns up later they could allege that you have illegally evicted them.

Take the following steps to protect yourself:

- when letting your property make sure that you get the name and address and telephone number of a friend or family member of the tenant;
- try to contact the tenant – hand deliver a letter to the property stating that you believe that the tenant has left and asking the tenant to contact you within 14 days otherwise you will repossess the property;
- if the tenant has left any belongings behind, get a court possession order.

Always seek legal advice before repossessing a property unless the tenant has surrendered the tenancy in writing.

8. Harassment and unlawful eviction

Under the Protection from Eviction Act 1977, harassment and illegal eviction of a residential occupier is a criminal and civil offence.

Harassments

Harassment can be defined as any acts which are likely to interfere with the peace or comfort of the residential occupier or members of his/her household or to persistently withdraw or withhold services reasonably required for occupation.

Some examples of this include:

- Threats of illegal eviction, repeated visits
- Repeated visits at unreasonable times
- Disconnection of services – hot water or heating, for example
- Disruptive repair works
- Interfering with mail

Unlawful eviction

This is defined as unlawfully depriving a residential occupier of premises, or any part of premises, or making an attempt to do so.

This might include:

- Forcible removal of the tenant from the property without a Court Order;
- Changing the locks while the tenant is out;
- Locking toilet or bathroom facilities;
- Blocking access to parts of the accommodation;
- Locking external access doors.

Under civil proceedings a tenant may:

- Obtain an injunction to be reinstated in the residence in the case of eviction;
- Obtain an injunction for non-molestation in case of harassment or eviction;
- Pursue a claim for damages to cover quantifiable loss, damage, distress caused.

A tenant also has the right to peruse criminal proceedings.

You should always consult a solicitor if you are unsure of the correct procedure to follow if you wish a tenant to leave the property. If you fail to follow the legal procedure in bringing a tenancy to an end, and a tenant is forced to leave against their will, you may be liable under the Protection from Eviction Act 1977.

Letting a property – rights and responsibilities

Every landlord has the right:

- To charge a market rent (on lettings since January 1989);
- To fix terms of the agreement before the tenancy begins;
- To receive rent as and when it falls due;
- To be advised of any necessary repairs;
- To be given proper notice by a tenant if he or she wishes to leave;
- To inspect the property by appointment – unless the matter is urgent.

9. Financial Matters

Tax liability

The income a landlord receives from letting a house may be taxable. You should therefore notify HM Inspector of Taxes of such income received on your tax return. It may be possible to deduct expenses incurred – for example insurance, repair costs – when assessing your taxable income.

If you are letting a room in your own home to a lodger a proportion of income can be tax free. This would depend on the level of income received. You should include the income you received from rent in your tax return. You can get more detailed advice from an accountant or your local tax office.

You can declare all your letting income and claim expenses and, where appropriate, capital allowances in the normal way. Check with your tax office for more details or visit the Inland Revenue website at www.hmrc.gov.uk.

If you sell a home that has not been used as your principle home, you may be liable to pay Capital Gains Tax. This would not apply if you have been living in the property. The Inland Revenue or a specialist financial advisor can provide more information.

Mortgage interest can be set against rental income for tax purposes. This makes it possible for all the mortgage interest to be tax deductible, reducing the effective cost of borrowing by the tax rate payable. Other expenses may also be tax deductible, reducing the tax laws have changed to allow £1500 tax relief, per property.

Some landlords who are limited companies will need to pay Corporation Tax. It is advisable to get specialist advice on this area.

The rules which apply to rental income are complicated and you are strongly advised to consult your accountant or solicitor for professional advice. Heavy fines and penalties can be imposed for failing to complete tax returns within the necessary timescales.

VAT

If you are a VAT registered UK business firm you can complete your calculations for VAT returns from your own records or provide a bookkeeping service to enable the VAT returns to be completed efficiently.

If you are approaching the registration threshold it is advisable to get specialist advice as there are some special VAT schemes and methods to minimise your liabilities.

Holiday Homes

The tax situation with regard to holiday homes is complex. Certain rules apply according to how often the property is let, who to, and whether it is a buy to let investment or a holiday lets business.

Tax concessions for Repair and Improvement works

Tax rules can vary according to whether work is a repair or an improvement. Unless you can argue that there is a significant repair aspect to the work that you undertake on your rented properties, i.e. replacing or repairing the existing fabric of the building, then the Inland Revenue are likely to argue that large expenditures deducted as repairs should be disallowed as a deduction from your rents. Even if this is the case, the cost of the works can be considered when you calculate any capital gain on the eventual sale of the building. It is important to get specialist advice to minimise any tax liability.

Record Keeping

There are three main reasons for needing accurate records of your income and expenses:

- To discharge your statutory obligations to the Inland Revenue and HM Customs and Excise;
- To control your finances, and help you manage your business;
- To enable you to produce your final accounts more efficiently resulting in a saving in accountancy bills.

Good records will also be invaluable for providing information about your business to financial institutions for example for mortgage applications, and for the annual accounts that will form the tax return.

There is a requirement to keep tax records for at least 10 years. VAT records should be kept for 6 years, along with any payroll records and contracts and action for debt.

Accountancy records such as cash books, invoices etc should be kept for a minimum of 3 years for a private firm and 6 years for a public firm. If there is any public liability or employers liability insurance, records of this should be kept indefinitely.

The record keeping requirements apply to information that is stored on computer as well as any paper copies.

Ability to pay rent

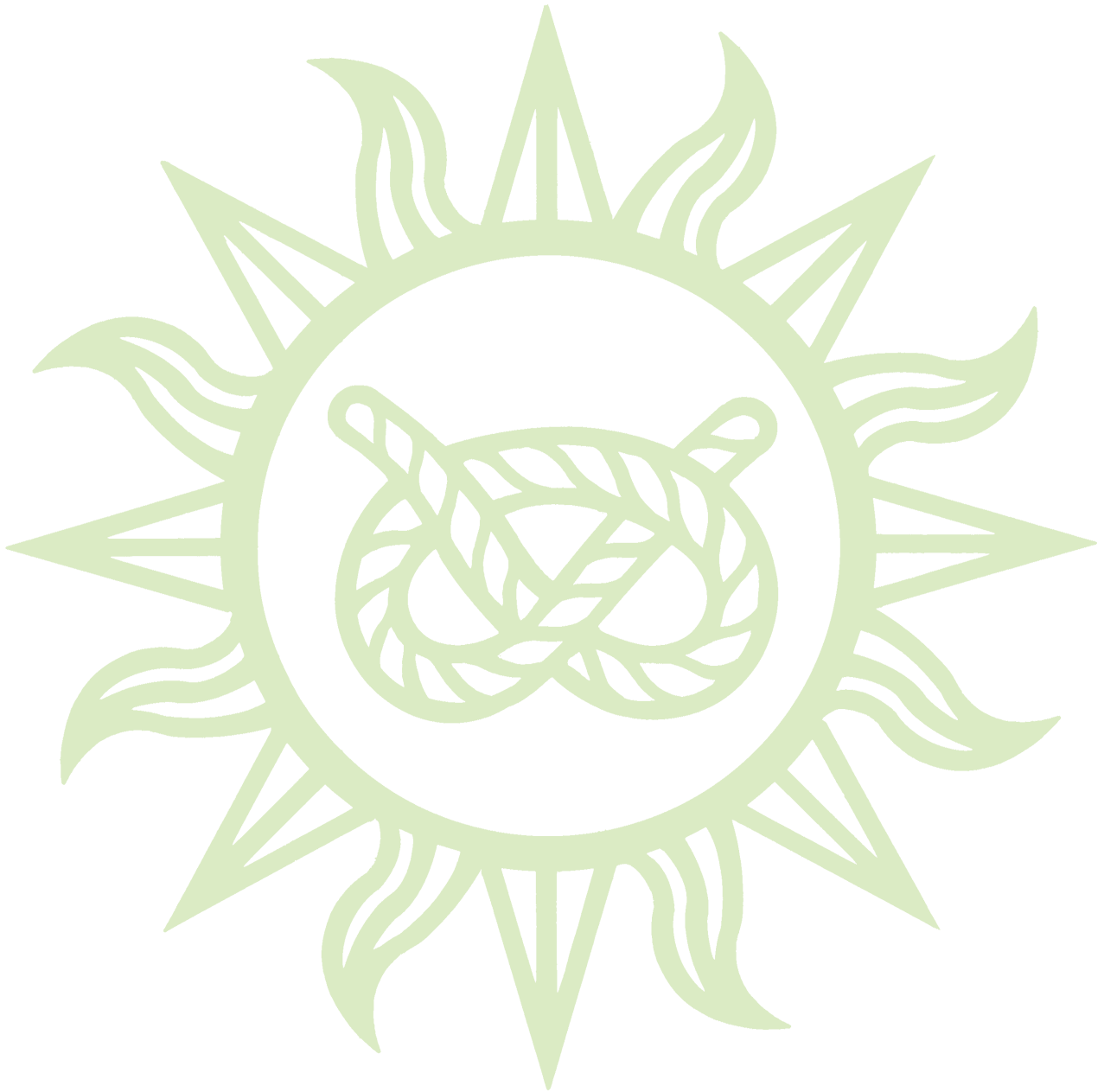
Non payment of rent is a major worry for landlords/agents. When taking on new tenant there are a few simple measures that you can take to investigate whether a prospective tenant is going to be able to afford the rent. References and credit checks may help with this, but it may be necessary to get consent from the tenant in order to alleviate some of the data protection issues.

Letting and managing agents may be able to carry out credit checks on your behalf. If however, you are not using an agent, there are a few basic questions that you should consider to give you an idea of as to whether the tenant is likely to be able to keep up to date with the rent payments.

Find out where the tenant is currently living, how much they currently pay, and their reason for leaving. Questions about family status, student debts, and profession may also help you make an informed decision. Employment history is also another area to explore, determining if they are permanent, temporary and how long they have been in employment.

If a person is self employed, you may want to make inquiries into how long they have been in the business, as the early years can be the most financially difficult. Before you contact any employers or make inquiries you should always obtain the perspective tenants consent.

If written consent is given there is also the facility of using a credit reference agency, as found in the yellow pages and on the internet.



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