
ARE YOU A PRIVATE LANDLORD?

WHAT YOU SHOULD KNOW



East Cambridgeshire District Council

www.eastcambs.gov.uk

Large Print, CD and other formats are available on request	If you need this leaflet to be translated in your language, please contact us on: 01353 665555
Polish	Jeżeli potrzebują Państwo tę ulotkę w języku polskim, prosimy o kontakt
Portuguese	se você precisa este folheto a ser traduzida na sua língua, por favor entre em contato conosco

What are your responsibilities as a landlord?

You are a landlord if you rent out your property. This means you have responsibilities, including:

- keeping your rented properties safe and free from health hazards
- making sure all gas and electrical equipment you supply is safely installed and maintained
- following fire safety regulations
- providing an Energy Performance Certificate for the property
- protecting your tenant's deposit in a government-approved scheme

Health and safety inspections

The Housing Health and Safety Rating System (HHSRS) is used by your local council to make sure that properties in its area are safe for the people who live there. This involves inspecting your property for possible hazards - for example, uneven stairs leading to increased risk of falls.

If you own a property and rent it out, the council may decide to do an HHSRS inspection because:

- your tenants have asked for an inspection
- the council has done a survey of local properties and thinks your property might be hazardous

HHSRS hazard ratings

Inspectors look at 29 health and safety areas and score each hazard they find as category 1 or 2, according to its seriousness.

You must take action to fix category 1 faults - the most serious hazards - if your council serves an enforcement notice. In certain circumstances, the council can do the works themselves and claim the costs back from you. You may also be asked to remove the less serious category 2 hazards.

Protecting your tenant's deposit

You must put your tenant's deposit in a government-backed tenancy deposit scheme (TDP) if the property is an assured shorthold tenancy that started after 6 April 2007.

The deposit can be registered with:

- Deposit Protection Service (Custodial and Insured)
- MYDeposits
- Tenancy Deposit Scheme

You must put the tenant's deposit in the scheme within 30 days of getting it.

Once you have received the deposit, you have 30 days to tell tenant:

- The address of the rented property
- How much deposit tenants have paid
- How the deposit is protected
- The name and the contact details of the tenancy deposit protection (TDP) scheme and its dispute resolution service
- Your name and contact details
- The name and contact details of any third party that's paid the deposit
- Why you would keep some or all of the deposit
- How to apply to get the deposit back
- What to do if tenant can't get hold of the landlord at the end of the tenancy

You must return the tenant's deposit within 10 days of you both agreeing how much you'll get back.

If you're in a dispute with your tenant, then the deposit will be protected in the TDP scheme until the issues is sorted out.

Financial responsibilities

You will have to pay Income Tax on your rental income, minus your day-to-day running expenses.

If you have a mortgage on the property you want to rent out, you must get permission from your mortgage lender.

Making repairs

You must keep your property in good condition, and any gas or electrical systems must meet specified safety standards.

When you can enter the property?

You have a legal right to enter your property to inspect it or carry out repairs. You must give your tenants at least 24 hours' notice, although immediate access may be possible in emergencies. Your tenants have the right to stay in the property during the repairs.

You are normally responsible for repairs to:

- the structure of your property
- basins, sinks, baths and other sanitary fittings
- heating and hot water systems
- any damage you cause through attempting repairs

If your property is seriously damaged by a fire, flood or other similar incident, you don't have to rebuild or renovate it. However, if you do, you can't charge your tenants for any repairs made.

Common areas

If you own a block of flats, you will usually be responsible for repairing common areas, like staircases. Councils can ask landlords to fix problems in common areas, or to repair a tenant's flat that has been damaged by another tenant.

What happens if repairs aren't done properly?

If you refuse to carry out repairs, tenant can:

- start a claim in the small claims court for repairs under £5,000
- in some circumstances, carry out the repairs themselves and deduct the cost from their rent.

If you don't make repairs to remove hazards, your tenants can ask the local council to inspect the property under the Housing Health and Safety Rating System and to take any action that is necessary.

If the council finds serious hazards, it must take enforcement action to make sure the hazard is removed.

If the property is temporarily unfit to live in

You can ask the tenant to move out during major repairs. Before this happens, you should agree in writing:

- how long the works will last
- the tenants' right to return
- details of any alternative accommodation

You can't repossess a property to do repairs. However, if you're planning substantial works, or want to redevelop the property, you can apply to the courts for an order for your tenants to leave. The courts are more likely to grant this if you provide alternative accommodation.

Repairs and charging rent

If the repairs are very disruptive, your tenant may be able to claim a reduction on their rent known as a 'rent

abatement'. This will depend on how much of the property is unusable.

You may have the right to increase the rent after carrying out repairs and improvements, depending on the tenancy agreement.

Rent increases

The tenancy agreement should include how and when you will review the rent.

When you can increase rent

For a periodic tenancy (rolling on a week-by-week or month-by-month basis) you can't normally increase the rent more than once a year without your tenants' agreement.

For a fixed-term tenancy (running for a set period) you can only increase the rent if your tenants agree. If they don't agree, you can only increase the rent when the fixed-term ends.

General rules around rent increases

For any tenancy you must get your tenants' permission if you want to increase the rent by more than previously agreed.

The rent increase must be fair and realistic (ie in line with average local rents).

How you can increase the rent

If the tenancy agreement says how the rent can be increased, you must stick to this. Otherwise, you can:

- renew the tenancy agreement at the end of the fixed term, but with an increased rent
- agree a rent increase with your tenants and produce a written record of the agreement that you both sign
- use a 'Landlord's notice proposing a new rent' form, which increases the rent after the fixed term has ended

You must give your tenant a minimum of one month's notice (if they pay rent weekly or monthly). If they have a yearly tenancy, you must give 6 months' notice.

Rent assessment committee

If your tenants think the rent increase is unfair, they can ask a rent assessment committee to decide the rent amount.

General rules around the end of the tenancy contract

You must follow strict procedures if you want your tenants to leave your property, depending on the type of tenancy agreement and the terms of it.

If you don't you may be guilty of illegal eviction or harassment.

- If the tenancy is a periodic Assured Shorthold Tenancy (AST), you must usually give tenant 'notice to quit'. If tenant doesn't leave at the end of the notice period, you must apply to the court for a possession order, which gives you the right to evict tenant and take possession of your property.
- If the tenancy is fixed-term AST, you must give tenant notice in a certain way.

General rules around notice to quit

The notice must:

- be in writing
- the notice must comply with anything the agreement says.
- bring the tenancy to an end at the end of a complete period of the tenancy (for example at the end of a month, if the tenancy is by the month)
- have to be longer than two full months notice:
 - If fixed term tenancy, the notice can be given at any time but not expire before the end of the fixed term.
 - If periodic tenancy, two full months notice must be given and the notice must expire the day before the rent is due.
- include the following information:
 - If the tenant does not leave the dwelling, the landlord must get an order for possession from the court before the tenant can lawfully be evicted.

In the case of a Rent Act tenancy or a Rent (Agriculture) Act tenancy, when the notice to quit runs out, the tenancy comes to an end. In most cases, however, the tenant will have rights to stay on in the property under the Rent Act 1977 or the Rent (Agriculture) Act 1976.

A notice to quit does not bring an assured tenancy or an assured agricultural occupancy under the Housing Act 1988 to an end.

The tenant doesn't have to leave when a notice to quit or notice runs out.

The tenant cannot be lawfully evicted unless the landlord has obtained an order from the court. Under the Protection from Eviction Act 1977 as amended by the Housing Act 1988 it is not lawful for a landlord to enforce his or her right to recover possession of his or her property from a tenant other than through the courts.

Eviction during the fixed term

During the fixed term, you can only evict the tenant for certain reasons – for example:

- Tenant hasn't paid the rent
- Tenant is engaged in antisocial behaviour
- There's a 'break clause' in the contract – this allows you to take back the property before the end of the fixed term

Eviction at the end of the fixed term

At the end of the fixed term, you don't need a reason to evict the tenant. As long as you give correct notice, you can apply to the court for a possession order.

If the court gives you a possession order and tenant still doesn't leave, you must apply for a warrant for eviction – this means bailiffs can remove tenant from the property.

Accelerated possession

You can sometimes evict tenants using 'accelerated possession'. This is quicker than a normal eviction and doesn't usually need a court hearing.

You can only do this if:

- It is an assured shorthold tenancy or a statutory periodic tenancy
- You have a written tenancy agreement
- You have given tenant the required written notice (a minimum of 2 months) in the right form
- You haven't asked tenant to leave before the end of a fixed-term tenancy

The tenant can stop accelerated possession if they can prove that you haven't followed the rules listed above.

How it works

If you apply to the court for accelerated possession, the court will send the tenant a copy of the application. If the

tenant wants to challenge the application, they must do it within 14 days of receiving it.

A judge will decide whether to:

- Issue a possession order, giving you the rights to evict tenant and take possession of the property (this is normally the case)
- Have a court hearing (this usually only happens if the paperwork isn't in order or the tenant has raised an important issue)

Even if there's a hearing, the court can still decide to issue a possession order

If the judge issues a possession order

If the judge makes a possession order, the tenant will normally have 14 or 28 days to leave the property. If this will cause tenant exceptional hardship, the judge may give the tenant up to 42 days to leave.

If the tenant doesn't leave at this point, you can use bailiffs to evict them.

Eviction court hearings

Before the hearing

Your tenant should receive court papers, including:

- copies of 'claim for possession' forms
- a defense form
- a date for your court hearing

If the tenant doesn't attend your court hearing, it's very likely the judge will decide they will lose their home.

Possession hearings

The judge's decision

If the judge decides that a hearing is required, at the hearing they could:

- dismiss the court case - no order will be made and the hearing is finished
- adjourn the hearing - the hearing will be delayed until later, as the judge feels a decision can't be made on the day
- make an 'order' - the judge will make a legal decision on what will happen

The judge will dismiss the case if there's no reason tenant should be evicted. This might happen if:

- you as a landlord hasn't followed the correct procedure
- you or your representative doesn't attend the hearing
- tenant has paid any rent arrears

If the judge dismisses the case, the tenant can stay in their home. If you want to evict the tenant, you'll have to restart the court process from the beginning.

Types of possession order

There are several different kinds of orders a judge can make.

Order for possession (or 'outright possession order')

This means the tenant must leave the property before the date given in the order.

The date will be either 14 or 28 days after the court hearing. If tenant is in an exceptionally difficult situation, they may be able to convince the judge to delay this for up to 6 weeks.

If the tenant doesn't leave your property by the date given, you can ask the court to evict them by asking for a 'warrant for possession'. If the court gives a warrant, the tenant will be sent an eviction notice that gives a date when they must leave the property.

Suspended Order for possession

This means if your tenant makes the payments, or obey the conditions, set out in the order, they can stay in their home. If the tenant doesn't make the payments, you can ask the court to evict them.

Money Order

This means the tenant has to pay you the amount set out in the order. If they don't make the payments, action

could be taken by the courts to recover the money, including:

- deducting money from their wages or bank account
- sending bailiffs to take away things they own

If the tenant gets into rent arrears after a money order has been made, you can go to court again and ask for a possession order.

Possession Orders with a money judgement

A judge can add a money judgment to any of the possession orders. This means tenants owe a specific amount of money, usually made up of:

- rent arrears
- court fees
- your legal costs

The money judgment won't apply if tenants pay their arrears and the amount set out in a suspended possession order.

However, the money judgment will apply if tenants don't pay the amount set out in the suspended possession order that's linked to the judgment. If they don't pay, you as a landlord may ask the court to carry out the instructions in the order and the judgment.

Eviction notices

If the tenant doesn't leave the property by the date given in an outright possession order, you can ask the court for a 'warrant for possession'.

If the court gives a warrant, tenants will be sent an eviction notice that gives a date when they must leave their home.

If tenants don't go, bailiffs can evict them. The costs of doing this will be added to the money they owe.

Delaying eviction

Tenants can ask a judge to suspend the warrant for possession at a new hearing. This means they'll delay the eviction or let tenants stay in their home if they can make payments again.

The judge won't automatically agree to suspend the possession warrant.

Apply to suspend a warrant

To apply for a suspension of a possession warrant, tenants must fill out an application notice and either send or deliver it to the court.

They must tell the court they need a hearing at short notice (before your eviction date).

If the tenant's circumstances change, they can ask a judge at a new hearing to change what they pay. To do this, they must fill out an application notice.

Appealing against the decision

Tenants can only appeal if they can show the judge made mistakes in the original possession hearing. They will need to ask the judge for permission to appeal at the end of the original hearing.

If they get permission to appeal, they have to apply for an appeal hearing very soon afterwards. They will have to pay a court fee.

Harassment and illegal evictions

It's a crime for you to harass your tenants or try to force them out of a property without using proper procedures. If this happens, tenants may have a right to claim damages through the court.

What is harassment?

Harassment can be anything you as a landlord do, or fail to do, that makes tenants feel unsafe in the property or forces them to leave.

Harassment can include:

- stopping services, like electricity
- withholding keys – e.g. there are 2 tenants in a property but you will only give 1 key
- refusing to carry out repairs
- anti-social behaviour - e.g. a friend of yours moves in next door and causes problems
- threats and physical violence

Illegal eviction and tenants' rights

You may be guilty of illegal eviction if:

- tenants aren't given the correct period notice to leave the property
- tenants find the locks have been changed
- tenants are evicted without a court order

Even if your property is repossessed by your mortgage lender, the lender must give tenants a notice period so they can find other accommodation.

Settling Disputes

You can often sort out disputes with your tenants without going to court:

- Speak to your tenants about your concerns.
- If this doesn't work, write a formal letter setting out the problem.
- Use a mediation service, which is usually cheaper and quicker than going to court.
- As a last resort, you can take your tenants to court.

Going to Court

If you take legal action, the case may go to a small claims court. Small claims cases are those worth less than £5,000 (or £1,000 if the case is about repairs to a property).

The courts provide a free mediation service for small claims cases, which can take place over the phone.

If you want to get your property back because your tenants owe you rent money, you can make a possession claim online.

Free Advice for Disputes

You can get free advice about disputes or housing problems from Citizens Advice or Shelter.

A solicitor can also help you, but they might charge a fee.

If you have to go to court, you can get advice on the day of the hearing from the housing duty desk at the court.

Houses in Multiple Occupations (HMO)

If you let your property to several tenants who aren't members of the same family, it may be a 'House in Multiple Occupation' (HMO).

Your property is an HMO if both of the following apply:

- at least 3 tenants live there, forming more than 1 household
- toilet, bathroom or kitchen facilities are shared

A household consists of either a single person or members of the same family who live together. It includes people who are married or living together and people in same-sex relationships.

Licences

An HMO must have a licence if it is both:

- 3 or more storeys high
- occupied by 5 or more people

A local council can also include other types of HMOs for licensing.

Find out if you need an HMO licence from your local council.

Risk assessment

The local council has to carry out a Housing Health and Safety Rating System (HHSRS) risk assessment on your HMO within 5 years of receiving a licence application. If the inspector finds any unacceptable risks during the assessment, you must carry out work to eliminate them.

Reporting changes

You must tell the local council if:

- you plan to make changes to an HMO
- your tenants make changes
- your tenants' circumstances change (eg they have a child).

Paying tax

When you start renting out property, you must tell HM Revenue and Customs (HMRC) and you may have to pay tax. If you don't, you could be charged a penalty.

Property you personally own

You must report income from property rental of more than £2,500 a year on a Self Assessment tax return.

If it's less than £2,500 a year, call the Self Assessment Helpline and ask for form P810.

Property owned by a company

Count the rental income the same way as any other business income.

Costs you can claim to reduce tax

There are different tax rules for:

- residential properties
- furnished holiday lettings
- commercial properties

Residential properties

You or your company must pay tax on the profit you make from renting out the property, after deductions for 'allowable expenses'.

Allowable expenses are things you need to spend money on in the day-to-day running of the property, like:

- letting agents' fees
- legal fees for lets of a year or less, or for renewing a lease for less than 50 years
- accountants' fees

- buildings and contents insurance
- interest on property loans
- maintenance and repairs to the property (but not improvements)
- utility bills, like gas, water and electricity
- rent, ground rent, service charges
- Council Tax
- services you pay for, like cleaning or gardening
- other direct costs of letting the property, like phone calls, stationery and advertising

Allowable expenses don't include 'capital expenditure' - like buying a property or renovating it beyond repairs to wear and tear.

Furnished residential lettings

You can claim 10% of the net rent as a 'wear and tear allowance' for furniture and equipment you provide with a furnished residential letting. Net rent is the rent received, less any costs you pay that a tenant would usually pay (e.g. Council Tax).

Furnished holiday lettings

For furnished holiday homes, you may be able to claim:

- plant and machinery capital allowances on furniture, furnishings, etc in the let property, as well as on equipment used outside the property (like vans and tools)
- Capital Gains Tax reliefs - Business Asset Rollover Relief, Entrepreneurs' Relief, relief for

gifts of business assets and relief for loans to traders

You can only claim these if all the following apply:

- the property is offered to let for at least 210 days a year
- it's let for more than 105 days a year
- no single let is more than 31 days
- you charge the going rate for similar properties in the area ('market value')

Commercial properties

You can claim plant and machinery capital allowances on some items if you rent out a commercial property - like a shop, garage or lock-up.

Working out your profit

You work out the net profit or loss for all your property lettings (except furnished holiday lettings) as if it's a single business. To do this, you:

- add together all your rental income
- add together all your allowable expenses
- take the expenses away from the income

Work out the profit or loss from furnished holiday lettings separately from any other rental business to make sure you only claim these tax advantages for eligible properties.

Losses

If you make a loss on renting, you can carry it forward to a later year and offset it against future profits. You can only offset losses against future profits in the same business.

Who to contact for further advice

ECDC Housing Options

You can contact us in any of the following ways:

East Cambridgeshire District Council

The Grange Nutholt Lane

Ely

CB7 4E

- *By phone*
01353 665555
- *By email*
Housingmail@eastcambhs.gov.uk
- *By writing to us*
Housing Services
East Cambridgeshire District Council
The Grange Nutholt Lane
Ely
CB7 4EE

In emergencies

If you need to contact us outside of office hours in an emergency, please call: 07710978900

Complaint

If you need to complain, please use our separate “complaints” leaflet. You can get a copy from our office.

Advice from other sources

Citizens Advice Bureau information

70 Market Street

Ely

CB7 4LS

0844 2451 292 (from landline)

0300300650 (from mobile)

Shelter

88 Old Street

London

EC1V 9HU

Free helpline: 0808 800 4444

HMRC Self Assessment Helpline

Telephone: 0300 200 3310 (there are call charges for this helpline).



Housing Act 1988

Section 21 (4) (a)

Assured Shorthold Tenancy: Notice Requiring Possession:
Periodic Tenancy

(Note 1)

(1) Name and To (1)

address of

tenant. of

(2) Name and From (2)

address of

landlord.

(note 2 of

overleaf)

What you need to do

(3) Address I give you notice that I require possession of the dwelling known as (3)

of dwelling.

(4) Date of after (4) or, if later, the day on which a

expiry (note complete period of your tenancy expires next after the end of two months

3 overleaf) from the service of this notice.

(5) Note 3 Dated(5)

overleaf

Landlord

(6) Name and [Landlord's agent] (6)

address.

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