

# Huntingdonshire Landlords Forum Newsletter

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## Welcome

to the latest edition of Huntingdonshire Landlords Forum Newsletter. You have received a copy because you elected to join the landlords forum. I would encourage you to make use of our services by attending meetings, advertising properties on our web pages and communicating with us regarding issues you would like to be discussed. There is no charge for this all we ask in return is that you work with us to improve the

quality and management of private rented accommodation in the district. Please note however, we cannot take on the management of your property but what we can do is give you accurate and timely information and offer advice and support to prevent problems arising. And help you to deal with any problems or situations as they occur in connection to your rented property.

For more information go to our website or even better come along to our next landlords forum to be held in Huntingdon on 20th

September 2017. There you will meet other landlords to discuss issues and listen to presentations. We will always do our best to answer any questions and research information for you which can then be shared with all landlords registered with the forum.

**[www.huntingdonshire.gov.uk/housing/advice-for-landlords](http://www.huntingdonshire.gov.uk/housing/advice-for-landlords)**

I very much look forward to seeing you all next on the 20th September 2017. In the meantime I hope you have time for a summer break and enjoy some pleasant weather.

The next Landlords Forum will be on **20 September 2017** at **Pathfinder House**

# After the General Election 2017

A BBC report (12/6/17) reported that two-thirds of UK tenants still expect to be living in the rented sector in three years' time, with affordability their biggest concern, a survey says. Estate agency Knight Frank estimated that 5.79 million households would rent from a private landlord by 2021, up from five million now.

That increase would include pensioners, as well as young adults, it suggested.

While many are saving for a deposit on a house, a third of the 10,000 tenants asked said they rented through choice. Of these, the flexibility of renting and the reduced responsibility were popular. A fifth said they chose to be tenants as it allowed them to live in an area where owning a home was unaffordable.

"The number of people renting out of choice rather than due to affordability of ownership constraints is an interesting indicator of how the private rented sector market will continue to thrive in

terms of tenant demand," said Tim Hyatt, head of residential lettings at Knight Frank.

The estate agency expects big investors to move further into the rental property sector, replacing some buy-to-let landlords who have been hit by recent tax rises.

The new Government is being urged to reverse tax policies affecting private landlords in order to increase much needed housing supply in the rental market by giving existing and prospective buy-to-let investors more reason to invest in the PRS.

It is claimed that the policies adopted by the government has had an adverse impact on private landlords, especially the smaller players, over the last 18 months, deterring some from investing further in the industry, as reflected by a sharp fall in buy-to-let valuation activity.

The latest report from Connells Survey & Valuation shows that the proportion of buy-to-let valuations

in April was 6% below the five-year average for the month.

The percentage of valuation activity undertaken in the buy-to-let sector fell from 11% in April 2016 to just 7% in April 2017, following the reduction in mortgage tax relief.

Since 6 April - the start of the existing financial tax year - landlords are now only permitted to offset 75% of mortgage interest payments against rental income, down from 100% in the previous tax year.

Mortgage interest relief for residential landlords will be restricted to the basic rate of income tax, the annual 'wear and tear' allowance has been scrapped (that allowed 10% of rental profits to be written off for notional wear and tear) and a 3% stamp duty surcharge introduced for those acquiring an additional home, including a buy-to-let property.

The new government should look to help the rental sector as a key component in housing supply.

# Are you up-to-date with recent legislative changes?

## Right to Rent

You must check the immigration status of all adults living in the property, regardless of whether they are named on the tenancy agreement and regardless of nationality. If an adult is living in your property as their only or main home, their right to rent must be checked.

The scheme only applies to new tenancies – if you already had tenants in your property before 1st February (when the scheme was introduced in England), you don't need to check your tenants' immigration status. Additionally, if you renew a tenancy that started before this date, you don't need to conduct the checks.

You may not always know who is living in your property, but you should make reasonable enquiries about who is living there.

## Section 21 notices

A section 21 notice broadly allows a landlord to terminate an assured shorthold tenancy (AST) by giving at least two months' notice to a tenant at the end of a tenancy.

To prevent against the practice of retaliatory eviction, a landlord will be unable to serve or rely on a section 21 notice if a local housing authority serves a statutory notice on that landlord (requiring certain health and safety issues to be remedied) following a tenant's complaint about the condition of a property.

- A landlord cannot serve a section 21 notice within the first four months of a tenancy.
- A landlord may not begin a claim for possession more than six months after service of a section 21 notice.
- A new prescribed form of section 21 notice must be used.

- A tenant has a statutory right to claim back rent paid in advance for a period falling after a section 21 notice brings a tenancy to an end.
- A landlord cannot serve a section 21 notice if a tenant has not been given an energy performance certificate (EPC), a gas safety certificate and a copy of the Government booklet about the respective rights and responsibilities of landlords and tenants under an AST.

These changes only apply for now to ASTs entered into in England on or after 1 October 2015. However, from 1 October 2018, they will apply to all (English) ASTs in existence at that time.

## Tenancy Deposit Scheme (TDS)

Since 6 April 2007, where a deposit is paid by a tenant at the start of a tenancy, a landlord must join a TDS on the creation of a new AST in England or Wales.

If a landlord took a deposit in respect of a fixed term AST created before 6 April 2007 which then became a statutory periodic tenancy (at the end of the fixed term) on or after 6 April 2007, the full rigours of the tenancy deposit regime now apply, including the penalties for non-compliance.

If a landlord took a deposit in respect of a fixed term AST created on or after 6 April 2007 which it duly protected in a TDS, that will suffice as well for any statutory periodic tenancy that arose (or arises) at the end of the fixed term AST.

If a landlord took a deposit in respect of an AST created before 6 April 2007, the deposit must still be protected in a TDS (or returned to a

tenant) before a section 21 notice can be given (although there is no financial penalty for failing to protect the deposit).

## Smoke and carbon monoxide alarms

A smoke alarm must be installed on each storey of premises that are wholly or partly used as living accommodation.

**A carbon monoxide alarm must be installed in any room that is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. (We would however, also recommend installing carbon monoxide alarm in premises with gas appliances).**

All smoke and carbon monoxide alarms must be in proper working order at the start of any new tenancy. The relevant regulations came into force on 1 October 2015 and broadly apply to all leases or licences of residential premises in England (including those already in existence at that date).

## Minimum energy efficiency standards - April 2018

Tenants are already able to request consent from their landlords to carry out energy efficiency improvements on their rental properties. Landlords are not able to unreasonably refuse consent.

However, from 1st April 2018, rental properties entering into new lets or renewals will be required to have an Energy Performance Certificate (EPC) rating of E or above. A penalty of up to £4,000 will be imposed for breaches. The regulations will affect all existing tenancies from 1st April 2020 onwards.

# Fire safety regulations

At the last landlords forum (March 2017) **Giles Grainger, Community Fire Safety Group**, outlined how landlords need to comply with fire safety regulations by conducting a fire risk assessment on rented residential accommodation. The purpose of the fire risk assessment is to identify fire hazards and implement any measures to remove or reduce those hazards.

'Responsible person' means "the person who has control of the premises in connection with the carrying on of a trade, business or other undertaking". In practice this will usually be the landlord, but in the case of absentee landlords where the "carrying on of the business" is undertaken by a managing agent, it may be the managing agent.

## **Why do we need to carry out a fire risk assessment?**

There are various pieces of legislation covering the provision of fire safety measures in residential accommodation. The Housing Act 2004 places a duty on local authorities to assess fire safety matters under the housing health and safety rating system (HHSRS), while the Regulatory Reform (Fire Safety) Order 2005 which is enforced by the fire authority, places a duty on the "responsible person" to carry out a fire risk assessment. Also the Health and Safety at Work Act 1974, places a general duty on the responsible person to carry out a risk assessment.

The Fire Safety Order and Housing Act have placed a duty on two statutory authorities to enforce fire safety provisions in certain types of housing, this has led to a dual enforcement role.

The Regulatory Reform (Fire Safety) Order 2005 (FSO) applies to virtually all 'non domestic premises' including the common parts of blocks of flats and Houses in Multiple Occupation. This definition would generally include any 'place' but more specifically, workplaces, vehicles, vessels, installations and the common parts and external areas, of flats and certain Houses in Multiple Occupation.

The Fire Safety Order gives power to the fire authority to inspect premises to ensure compliance with the Fire Safety Order. The Fire Authority will require evidence that you have carried out a suitable fire risk assessment and acted upon any "significant findings" of the assessment.

A written record of the significant findings of the fire risk assessment will be required to be kept if you employ more than 5 persons or the premises to which it relates requires a licence. The Fire Authority may, as part of their enforcement role, require you to produce a copy of this written record.

Where it applies, the FSO places a duty on the 'responsible person' to take general fire precautions to ensure, as far as is reasonably practicable, the safety of the people on the premises and in the immediate vicinity. The responsible person must carry out a fire risk assessment for the purpose of identifying the general fire precautions and other measures needed to comply with the FSO. Although under the FSO this requirement only applies to the common parts of premises, in practice the responsible person will need to take into account the entire premises – including, to some extent, the units of accommodation themselves.

## **General**

Having identified the general fire precautions that are necessary and having implemented them, the responsible person must put in place a suitable system of maintenance and appoint competent persons to implement any procedures that have been adopted. This could, for example, be a premises manager or agent, who need not necessarily be permanently on the premises but would ensure that the responsible person's duties were observed.

## **What is a fire risk assessment?**

A fire risk assessment is an organised and methodical look at the premises, the activities carried on there and the likelihood that a fire could start and cause harm to those in and around the premises. Most premises covered by this guide will be relatively small and will have a straightforward and simple layout, and little fire safety expertise is likely to be required to carry out the risk assessment. In larger buildings or where the building contains different uses (for example, residential accommodation alongside or above a separate commercial use) then more specialist advice may be required.

## **The aims of the fire risk assessment are:**

- to identify the fire hazards;

- to reduce the risk of those hazards causing harm to as low as reasonably practicable; and
- to decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.

The terms 'hazard' and 'risk'

- Hazard: anything that has the potential to cause harm
- Risk: the chance of that harm occurring.

### **Suggested method for carrying out a risk assessment**

The guidance is to follow the general methodology contained in HM Government; Fire Safety Risk Assessment - Sleeping Accommodation Guide, but it is stressed that alternative approaches may be equally acceptable.

The fire risk assessment should be carried out in a practical and systematic way and enough time must be allocated to the exercise. In some larger premises and those with mixed uses, it may be helpful to divide the building into rooms or a series of assessment areas using natural boundaries (for example kitchens, offices and stores; and corridors, stairways and external routes).

A written record of the fire risk assessment must be recorded if:

- The responsible person (i.e. landlord) employs 5 or more persons in total.
- The property has a licence (i.e. HMO licence).

Although not always required, it is good practice to keep a written record of the significant findings of any fire risk assessment in all cases. Even if you may not be legally obliged to do so.

A fire risk assessment that is recorded must include the significant findings of the assessment, the actions to be taken as a result with details of anyone especially at risk.

The process can be broken down into five steps:

1. Identify fire hazards.
2. Identify people at risk.
3. Evaluate, remove or reduce risk and protect against remaining risk.
4. Record, plan and inform or train.
5. Review.

Further advice including advice relating to high rise properties can be found on the Cambridgeshire Fire and Rescue website. [www.cambsfire.gov.uk](http://www.cambsfire.gov.uk)

## Recovering abandoned premises

The Housing and Planning Act 2016 (part 3) includes a new statutory code enabling landlord to recover property if the assured short-hold tenant has abandoned it, without the need to serve a section 21 notice or obtain a possession order.

- Tenant must owe more than two months' consecutive rent and must, of course, have left the property.
- Landlord must give at least three warning notices on the tenant and two of those must be sent to the tenant and others too, including a deposit payer.
- The first notice can only be served if the rent is at least one month in arrears and the second notice must be served between two and four weeks after that notice, but the arrears must by then be two months.
- The third notice must be affixed to the property like the front door- at least 5 days before the landlord repossesses.
- Landlord must give at least eight weeks for the tenant to respond to the notices.
- Only if none of these notices are responded to saying the property is not abandoned and/ or no rent at all is paid can the landlord repossess the property.

# Restricting finance cost relief for individual landlords

## Who is likely to be affected

Individuals that receive rental income on residential property in the UK or elsewhere and incur finance costs (such as mortgage interest), excluding where the property meets all the criteria to be a furnished holiday letting.

## General description of the measure

This measure will restrict relief for finance costs on residential properties to the basic rate of Income Tax. This will be introduced gradually from 6 April 2017.

Finance costs includes mortgage interest, interest on loans to buy furnishings and fees incurred when taking out or repaying mortgages or loans. No relief is available for capital repayments of a mortgage or loan.

Landlords will no longer be able to deduct all of their finance costs from their property income to arrive at their property profits. They will instead receive a basic rate reduction from their income tax liability for their finance costs.

Landlords will be able to obtain relief as follows:

- in 2017 to 2018 the deduction from property income (as is currently allowed) will be restricted to 75% of finance costs, with the remaining 25% being available as a basic rate tax reduction
- in 2018 to 2019, 50% finance costs deduction and 50% given as a basic rate tax reduction
- in 2019 to 2020, 25% finance costs deduction and 75% given as a basic rate tax reduction
- from 2020 to 2021 all financing costs incurred by a landlord will be given as a basic rate tax reduction

## Policy objective

To make the tax system fairer, the government will restrict the amount of Income Tax relief landlords can get on residential property finance costs (such as mortgage interest) to the basic rate of tax. This will ensure that landlords with higher incomes no longer receive the most generous tax treatment. To give landlords time to adjust the government will introduce this change gradually from April 2017 over 4 years.

## Background to the measure

This measure was announced in Summer Budget 2015.

Detailed proposal

Operative date

This measure will have effect for finance costs incurred on or after 6 April 2017.

## Current law

Current law on how to calculate the profits of a property business is included in Chapter 3 of Part 3 Income Tax (Trading and Other Income) Act 2005.

## Proposed revisions

Legislation published in Summer Finance Bill 2015 to restrict deductions from property income for finance costs for residential properties for individuals and to introduce a tax reduction at the basic rate of Income Tax. Deductions from property income will be restricted to:

- 75% for 2017 to 2018
- 50% for 2018 to 2019
- 25% for 2019 to 2020
- 0% for 2020 to 2021 and beyond

Individuals will be able to claim a basic rate tax reduction from their Income Tax liability on the portion of finance costs not deducted in calculating the profit. In practice this tax reduction will be calculated as 20% of the lower of the:

- finance costs not deducted from income in the tax year (25% for 2017 to 2018, 50% for 2018 to 2019, 75% for 2019 to 2020 and 100% thereafter)
- profits of the property business in the tax year
- total income (excluding savings income and dividend income) that exceeds the personal allowance and blind person's allowance in the tax year

Any excess finance costs may be carried forward to following years if the tax reduction has been limited to 20% of the profits of the property business in the tax year.

### • Impact on individuals, households and families

It is expected that 1 in 5 individual landlords will receive less relief as a result of this measure. Administratively this measure will affect individuals (including partners in partnerships) with income from residential property that incur finance costs. It is also expected that both the one-off and on-going administrative burdens for these individuals will be negligible as the majority will still only need to complete one box for finance costs on the self-assessment return and the new tax calculation will be automated for those filing online. For those filing a paper return, we expect a tax calculator to be available. There will be an additional administrative burden for individuals with rental income from both commercial and residential properties as they will need to complete an additional box as a result of the measure.

The measure is not expected to impact on family formation, stability or breakdown.

## Database of Rogue Landlords and Letting Agents to be Introduced on 1st October

### **The Housing and Planning Bill - Clause 24: Power to include person convicted of banning order offence**

This clause enables a local housing authority to enter a person in the database if that person has been convicted of a banning order offence and was a residential landlord or letting agent at the time at which the offence was committed. A local authority might, for example, decide to enter a person in the database rather than apply for a banning order in a case where a person's offences are slightly less serious and the local authority considers that monitoring of that person through the database is more appropriate than seeking a banning order at this stage. An entry in the database is required to be maintained for the period set out in the local authority's decision notice (as described in clause 25 below) and then removed at the end of that period. The Secretary of State is also required to publish guidance setting out criteria to which local housing authorities must have regard when deciding whether to include a person in the database and how long their entry must be maintained for.

### **Clause 25: Procedure for inclusion under section 24**

This clause sets out that if a local housing authority decides to include a person in the database of rogue landlords and letting agents (as described in clause 24), it must give the person a decision notice before the entry is made. The decision notice must explain that the authority has decided to include the person in the database after the end of a 21 day notice period and must specify the period for which the person's database entry will be maintained, which must be at least 2 years from the date on which the entry is made. The notice must also summarise the person's appeal rights. The authority is required to wait until the notice period has ended before entering the person in the database. If a person appeals, the authority must not enter the person in the database until the appeal has been determined or withdrawn and there is no possibility of any further appeal. A decision notice must be given within 6 months of the date of conviction for the offence to which it relates.

Housing and Planning Bill as introduced in the House of Commons on 13 October 2015 (Bill 75).

## Client Money Protection

This report is about something that is key to every family - their home - and for landlords, it is about something equally important - their investment and often their main asset. This is what this report is about: safeguarding private sector rents when tenants pay these via a letting agent. The problem has been that this money, whilst in the custody of the agent, although belonging to the tenant or the landlord, is unprotected. So if the agent makes off with it, or if the agent goes insolvent, the money disappears. If it was stolen by the agent, it's literally gone. If the agent is insolvent, other creditors seize the money. Either way, the landlord or tenant loses.

Letting agents are already required to belong to a redress scheme, but this may not help a client if, when awarded redress, the agent has gone insolvent and there's no one to pay the compensation.

To increase the range and quality of homes in the private rented sector requires confidence by landlords that there is no risk of money going astray, either because deposits have not been protected (despite the law) or rents have disappeared. Given how this sector increasingly houses older people, and families with children, their security is too important to be left to chance. This report strongly recommends that all letting and managing agents who handle client money must protect it via a Client Money Protection (CMP) Scheme.

Most agents already have this in place. However, some (mostly small) letting agents do not. There have been some quite heart-rending stories from both tenants and landlords of the losses they incurred. With tenants, they then don't have the deposit for their next home. For landlords, they have lost a large part of the income on which they rely. Too often the actions of the agent (whether through negligence or lack of experience going bust, or straight criminality) only come to light after the money has gone. CMP offers protection when problems occur.

The Government share the view of the desirability of agents having CMP. Indeed, in the Consumer Rights Act 2015 they added a requirement for agents to publicise whether they have this, as a way of increasing take-up. The problem with relying only on transparency is that landlords are unaware of CMP or its importance, and tenants can't shop around as it's not them who select an agent. Hence the recommendation to use the reserve power put into the Housing and Planning Act 2016 by the Government to mandate CMP.

# Useful Links

[www.huntingdonshire.gov.uk/advertiseyourproperty](http://www.huntingdonshire.gov.uk/advertiseyourproperty)  
[www.gov.uk/government/publications/how-to-rent](http://www.gov.uk/government/publications/how-to-rent)  
[www.publications.parliament.uk](http://www.publications.parliament.uk)  
[www.depositprotection.com](http://www.depositprotection.com)  
[www.mydeposits.co.uk](http://www.mydeposits.co.uk)  
[www.tenancydepositscheme.com](http://www.tenancydepositscheme.com)  
[www.huntingdonshire.gov.uk/housing/advice-for-landlords](http://www.huntingdonshire.gov.uk/housing/advice-for-landlords)  
[www.energysavingtrust.org.uk/?gclid=COXO1ZC3uc0CFdYV0wodk0MNVWg](http://www.energysavingtrust.org.uk/?gclid=COXO1ZC3uc0CFdYV0wodk0MNVWg)  
[www.landlords.org.uk](http://www.landlords.org.uk)  
[www.easternlandlords.org.uk](http://www.easternlandlords.org.uk)

# Useful Contact Numbers

Keith Tayler, Private Sector Housing, HDC	01480 388 237
Sue Questier, Housing Environmental Health Officer, HDC	01480 388 286
Julia Blackwell, Energy & Efficiency Officer, HDC	01480 388 288
Association of Residential Letting Agents (ARLA)	0845 345 5752
National Landlords Association (NLA)	020 7840 8937
Eastern Landlords Association (ELA)	01603 767 101
Tenancy Deposit Protection Team	0207 944 4400
Energy Saving Advice Service	0300 123 1234
Valuation Office Agency	03000 501 501
Ground Floor Ferrers House, Castle Meadow Road, Nottingham, NG2 1AB	

The Next Landlords Forum will be held  
**20 September 2017** at Pathfinder House, Huntingdon  
6.30pm - 8pm

If you wish to have an item included onto the agenda please contact me on the number above. The opinions and views expressed in the landlord's newsletter are not necessarily those of the Huntingdonshire District Council. All information is accepted in good faith at the time of going to press. The opinions and views expressed in the landlord's newsletter are not necessarily those of the Huntingdonshire District Council and all information is accepted in good faith at the time of writing.

The Landlords Forum is organised and delivered by the Council's Private Housing Section which is a division of Planning and Strategic Housing Services. The section may be contacted by private landlords and tenants seeking general advice on landlord and tenant law. The opinions and views expressed in the landlord's newsletter are not necessarily those of the Huntingdonshire District Council and all information is accepted in good faith at the time of going to press.

Advice is also available online at:

[www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk)

The Huntingdonshire Landlords' Forum is a central part of the housing service the Council provides to private sector landlords. The Forum exists so that landlords can meet Officers and other landlords to share their experiences. The Council is there to arrange the meetings, invite along guest speakers, listen to what landlords have to say and, where it is needed, offer support and advice.

What do we get in return? We get good feedback about what landlords think of the services the Council provides and landlords use: Housing Benefits; Environmental Health Services, Landlord and Tenant Advice and Housing Grants. We also get good information about how an important group of local housing providers run their businesses. All this helps us to plan services to the private sector that are rooted in an understanding of what the key issues are for landlords,

their tenants and prospective private tenants. Hopefully this will help us to raise our standards and in so doing help raise standards across the local lettings industry.

The Forum is not a Council-sponsored talking shop. Landlords' views are canvassed and considered when we came to reviewing and producing our policies and we can sometimes introduce suggested changes.

If you are a landlord or a prospective landlord the Forum is for you. Join our mailing list by phoning **01480 388237** or email [keith.tayler@huntingdonshire.gov.uk](mailto:keith.tayler@huntingdonshire.gov.uk)

We will let you know about our programme of meetings and send you a copy of our free newsletter. If you are new to the industry we will also send you a copy of our landlord pack which is full of the information you will need to help you make a success of your business.

This department may also be contacted for information about;

- Landlord and Tenant Law
- Tenancy Agreements
- Finding a suitable tenant for your accommodation
- Advertising available property for rent
- Registered Rents and Local Housing Allowance
- Tenancy Deposit scheme
- How to end a tenancy

For information or advice please contact; **Keith Tayler**, Private Sector Housing Officer - Telephone: **01480 388237**