

Safer Renting's How to Rent Guide

Introduction

- This Guide for renters explains some important things about your rights in England. (Wales, Scotland, and Northern Ireland have their own regional laws that can be significantly different in those countries.)
- This information is to help you to know when you should get legal advice. It should not be used as a legal reference as housing law is extremely complicated and frequently changes; court judgements are also unpredictable.

Things to check before signing up for a property

Please note, it is common for criminal landlords to claim their tenant is a 'lodger' on the contract when it is **not** true. They do this because lodgers have fewer rights than tenants.

Am I a lodger or a tenant?

- You are only a lodger if:
 - Your landlord lives in the same house as you **and**
 - You share facilities with your landlord. This means toilet, kitchen, and living room (so not just a corridor or front door) **and**
 - Your landlord was living in the property on the first day of your tenancy (and continues to do so).
- If you do not fulfil **all three** of these requirements, you are **not** a lodger, and you are most likely a tenant. Get advice on your status and rights.
- To protect your rights as a tenant, it helps to have a written agreement that includes:
 - The name and address of your landlord
 - What space and facilities are included in the letting
 - How much rent you pay
 - The date you started renting the property **and** how long you will be letting the property for

Is my landlord allowed to let this property to me?

- Avoid renting property without checking who is your landlord or agent. Landlords and agents usually ask you for a landlord reference, but tenants don't usually check that a landlord or agent is who they claim to be.
- There are several checks you are recommended to do before you sign any agreement or move in. You should check who your landlord is and whether or not they have the right to let the property to you.

Does the landlord own the property or have permission to let it?

- Your landlord may not be the actual owner. But if your prospective landlord is not the legal owner, ask for proof that they have permission from the owner to let it out: you could have trouble in the future if they do not have permission.
- You can find out the name of the owner from the government's Land Registry website, where for a small fee, currently £3, you can find out who owns the property. When you log on, look for "Office copies of the register". These will tell you who owns the freehold property. If there is also a leaseholder on the register, this is who controls whether or not it can be let out, not the freeholder.

Does the property need a licence and if so, does it have one?

- Many rental properties, but not all, need to be licensed with their local authority. If a property is required to have a license but does not, it is unlawful for a landlord to rent it out.
- Licensing rules are specific to each local authority and their websites list their licensing requirements and the addresses in their area that have a license.
- Make sure you check to see if the property you are looking at needs a license and if it does need one, that it has one.
- If the property needs a license but doesn't have one, then decide whether you can trust the landlord or agent.

Has your landlord been breaking the law?

- **The GLA Rogue Landlord Checker**
 - For renters in London, the Greater London Authority has a website created by the London Mayor, which allows renters to search whether their landlord, agent, or property has been prosecuted, fined, or banned for breaking housing law. Avoid renting from a known offender.
 - Here you can also report rogue landlord and agent activity for investigation by the local authority.
 - <https://www.london.gov.uk/rogue-landlord-checker>
- **London Fire Brigade checks**

The LFB keeps a record of all properties where they have taken legal action against a landlord for breaching fire safety requirements. Searches are by property address and are free of charge.
- **Company searches**
 - If your landlord or agent is a limited company, you can find the names of the company's directors and whether their company is still trading or not.
 - You can get this information from the Companies House website <https://www.gov.uk/get-information-about-a-company> (We also use 'Open Corporates', because this also includes companies registered outside of the UK).

- Be incredibly careful if the landlord is a director of multiple closed companies or there have been lots of name changes for the Directors; they may be trying to hide past wrongdoing.
- **“All Agents”**
This is a TripAdvisor-style web service, where people comment about experiences with their agents, including landlords: <https://www.allagents.co.uk/>. **Be careful though** - as with all rating websites, reviews can be misleading because some companies post their own favourable reports while rival companies may have written bad comments.
- **Agent redress schemes**
 - All letting agents must be members of one of two redress schemes:
 - The Property Redress Scheme <https://www.theprs.co.uk/>, or
 - The Property Ombudsman <https://www.tpos.co.uk/>
 - It is illegal for an agent not to be a member of either of these schemes.
 - You can check their websites to see if the agent is registered or if they have been expelled.

Essential things to know about tenancy rights

Deposit protection requirements

- If you are an assured shorthold tenant (this is the most common form of tenancy today) and you paid a deposit the landlord must do two things:
 - i) Protect your deposit in one of three independent schemes:
 - Deposit Protection Service (DPS)
 - My Deposits
 - Tenancy Deposit Service (TDS)
 - ii) They must also give you what is called the “Prescribed Information” form the scheme used, which is written information on how to raise a dispute over the money.
- They must do both of these things within 30 days of taking your money. If they don't then you can sue your landlord for the return of your deposit and a penalty of up to three times the amount of the deposit. You have up to 6 years after you paid the deposit to make a claim.

Who is responsible for Repairs?

- A landlord is responsible for all repairs to the structure of the building. Walls, doors, windows, roof, etc as well as for the maintenance of wiring, plumbing, central heating, etc. This is a legal responsibility that a landlord cannot pass on to the renter.
- If your landlord does not carry out necessary repairs, contact the landlord in writing to ask for the repairs to be completed.
- If the landlord still does not do the repairs, contact your local council and report the problem to the private sector housing team or environmental health (they have various names, depending on the council).

- If you damage the property, the landlord still has to fix it, but they are entitled to ask you to pay for the repair. In these circumstances, it is best to come to an agreement with your landlord.

Your responsibility to pay your rent

- You are required by law to pay your rent, regardless of the condition of your accommodation or any actions by the landlord.
- If the landlord is not carrying out repairs, do not withhold your rent as a way to make them do the work, because the law doesn't accept this as justification. Your landlord can serve a Section 8 Notice for Possession if you are in arrears, you can be evicted. If you owe more than 8 weeks' rent, the court has no option but to grant the landlord permission to evict.
- If your landlord is not doing repairs, then get advice on how to claim damages for disrepair and try to settle the dispute out of court if at all possible.

Your right to refuse to let your landlord (and anybody else) into your home

- Whatever it is that you occupy that is exclusive to you (and your family if they live with you) whether it is a house, a flat, or just a room in a shared house, you have the right to exclude anyone from your accommodation, including the landlord. Your landlord would be trespassing if they let themselves into your space without your permission. The only exceptions to this are if there is an emergency, for example, if it is on fire, or there is a flood, which is a justification for a landlord entering without your agreement.
- You should be reasonable in agreeing when your landlord can come into your property if it is necessary, for example, to do repairs or to check on the condition, but the landlord needs to ask permission in advance. Within reason, you can say when that is convenient for you.
- If you rent just a room in a house, you generally cannot stop the landlord from going into rooms you share with your housemates, such as the kitchen, hall, bathroom, etc., but you may stop them from entering your room.

Harassment

- If landlords or agents interfere in how you live, for example, threatening you, being physically violent, disconnecting your gas, electricity, or water, or persistently calling you - it could be 'harassment'.
- If it is serious enough this could be a criminal offence for which your local council has the power to prosecute them.

Is my eviction legal or is it illegal?

- Illegal eviction is when a tenant is deprived of either the whole of their accommodation or just part of it, where the landlord did not first get a possession order and a bailiff's warrant.
- The most common way a landlord illegally evicts a tenant is when, without a court order, they, or somebody acting for them, changes the lock when you are out, sometimes putting your possessions on the street.

- However it is done, evicting a tenant without a court order and a warrant executed by a bailiff, is illegal even if it happens after your end of tenancy date.
- Usually, if a landlord wants to end your tenancy, they must get a possession order from the court. But remember, if you are a lodger, the landlord only has to give you reasonable notice and they do not need to get a court order (for more information on what makes you a lodger, see '**Am I a lodger or a tenant?**' on page 1 above).

Who to contact for help or advice

Your local authority has many powers to educate landlords about their duties and to penalise those who break the law. It isn't always clear which team in your council is responsible for which problem because each council organises their services differently.

Harassment and illegal eviction.

- **Preventing an illegal eviction**

The police also have powers to intervene to stop an illegal eviction by warning the perpetrator or arresting and questioning them if they persist. Sadly, all too often the police are under pressure and do not manage to attend in time to prevent an illegal eviction.

- **When an illegal eviction has taken place**

As far as possible, gather and keep evidence of illegal eviction including threatening letters, texts, photographic or video evidence, and names of any witnesses.

The local authority is responsible for prosecuting landlords under the Prevention from Eviction Act 1977, but it can be exceedingly difficult to know which department deals with these kinds of problems.

Some councils have a designated "Tenancy Relations Officer" who specialises in this work, but in other councils, it could be dealt with by property licensing or environmental health teams. Call the main council number and ask to speak to the team responsible for dealing with harassment and illegal eviction.

- **Problems with property conditions and overcrowding**

If your rental needs repairs (for example, it is damp or has condensation and is generally in poor condition) this is normally dealt with by Environmental Health Officers in your local council. The name of this team and their job titles vary from one council to another, but they have the power to serve legal notices on the landlord that have to be complied with.

- **Pest infestations**

If you have a problem with mice, rats, or cockroaches, etc., the local authority also has a team responsible. If they think the problem is serious enough, they can also serve notices on the landlord requiring the landlord to sort it out.

Some councils will deal with rats free of charge because they are a threat to public health. Responsibility for getting rid of mice, bed bugs, and cockroaches are sometimes judged to be the responsibility of the landlord, whereas other times the tenant is held responsible for

the infestation. If you as the tenant have encouraged the infestation by your lifestyle, then you may be charged for eliminating these pests.

If the infestation happened because the building was not repaired (for example, mice came in through broken drains or walls) then this may be the responsibility of the landlord.

Unfortunately, misunderstandings and disputes are common, and the local authority will not always help settle the matter. You may need an expert opinion to settle the matter.

Solicitors and Law Centres

Your local council cannot do everything you might want them to: if so, you could approach a law firm or Law Centre but bear in mind the following points:

- Qualified legal representation is expensive and may be beyond what you could afford to pay.
- Legal aid to pay for a solicitor can be available (especially if you are under threat of losing your home) but you may not personally be eligible for it.
- Due to cuts in legal aid fewer solicitors accept legal aid funded work; those that are left may be too busy to help you.

MPs and Councillors

Elected members are there to help people in your area. They can be especially useful in raising questions with the relevant authorities about your complaints.

Protect your legal rights

Contact Safer Renting

Our Safer Renting team is here to protect you by providing specialist advice, advocacy, and support:

- Email us at SaferRenting@ch1889.org
- See our tenancy advice guides at <https://ch1889.org/safer-renting>



Additional contacts that you may find helpful

If you think your rights are not being respected, you can get more information and support from:

- Your local council's private sector housing enforcement team
- <https://england.shelter.org.uk/> for more detailed online information
- <https://www.london.gov.uk/rogue-landlord-checker> to check if your landlord is known for breaking the law and to report them