

Your guide to Renting out your property

The key to peace of mind

Renting out your property may seem like an easy source of income, but it can be a legal minefield. Also you may have to pay tax on the income you earn. If there are disagreements between you and your tenants, it can quickly become a drain on your time and resources. The best way to avoid this is to take the right legal advice from the start.

Solicitors can deal with all areas of landlord and tenant law and are skilled in settling disagreements. But prevention is better than cure. Before you even look for a tenant, a solicitor can help you decide what the terms of the tenancy will be and can build these terms into a written 'tenancy agreement' tailored to your needs.

Tenancy agreements

A tenancy agreement is a contract between you and your tenant. This contract can be written or verbal. In England and Wales there is no law to say that landlords have to provide a written tenancy agreement, but it is a good idea to do so. Otherwise, if you have a dispute with your tenant about the terms of the agreement, it is your word against theirs as to what was agreed.

The main advantage of having a written tenancy agreement is that it sets out your rights and responsibilities as a landlord in a way that is legally enforceable. This keeps disagreements to a minimum because both sides know where they stand.

There are several types of tenancy agreement. Of these, the two most common types are the 'assured shorthold' tenancy and the 'assured' tenancy.

Assured shorthold tenancy

This is normally for at least six months and the tenant has fewer rights to stay at the end of the tenancy period agreed.

Assured tenancy

This is used mostly by housing associations and registered social landlords but occasionally by private landlords too. It sets out in what circumstances you can end the tenancy and gives the tenant far greater rights to stay on at the end of the tenancy period agreed.

Getting advice

Ideally, you should contact your solicitor as soon as you start thinking about renting your property out. This will give you a clear idea of the terms to offer to any tenant you are considering.

A solicitor can:

- explain the different types of tenancy agreement and identify the most suitable for you;
- draw up or check a tenancy agreement for you;
- highlight the essential requirements and terms of your tenancy agreement;
- explain any related legal issues;
- warn you of any pitfalls, including advice on how to end an agreement; and
- give you advice on the type of tenant references to ask for.

Finding a solicitor

If you don't already have a solicitor, you can find one on our website at www.lawsociety.org.uk/findasolicitor Search under 'Landlord and Tenant-Residential'. Or you can call **020 7320 5650**.

Drawing up your agreement

Once you have appointed a solicitor, they will explain your rights and responsibilities as a landlord. You then have the opportunity to explain your specific needs and concerns. This will help the solicitor to draw up a tenancy agreement that is tailor-made to your needs. During this process, your solicitor will cover the following issues with you.

Length and type of tenancy

What type of tenancy do you want? How many tenants will live in the property? What notice will you or your tenant need to give to end the tenancy? How long will the tenancy last?

Restrictions

What restrictions do you want to place on your tenants about keeping pets or playing loud music?

Rent

How much rent can you charge? When must the tenant pay the rent? What penalties are there for paying late? When can you increase the rent? Are Council Tax and fuel included in the rent?

Deposits

What deposit must the tenant pay? Is the property furnished? If so, will the agreement include a list of furnishings and fittings? When should you return the deposit and in what circumstances can you keep it?

All deposits taken by landlords must be held in one of three government-approved tenancy deposit schemes. These schemes make it easier to resolve disputes over deposits.

You must tell the tenant in writing which scheme the deposit is being held in within 30 days of receiving their deposit. If you do not do this, you can be taken to court and fined. Your solicitor can tell you more about tenancy deposit schemes.

Service charges and repairs

Will you provide any services such as laundry, maintenance or meals? Will you be making separate service charges for these? What are your duties to make repairs?

Access

What are your rights to enter the property?

It is a good idea to give all these issues some thought before you visit your solicitor, and to take along any documents which may be relevant.

Using the agreement

Once you have an agreement, make sure that both you and your tenants sign it at the start of the tenancy. You must give your tenants a copy of the agreement if they ask for it.

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Energy performance certificates

Landlords must provide tenants with an energy performance certificate (EPC) for the rental property. You cannot charge your tenant/s for the EPC. The EPC lasts for ten years. It contains a rating for the energy performance of the property and recommendations for improving it.

Related matters

Your solicitor can also give you advice on some of the broader issues involved in being a landlord, such as tax liability and what to do if the property you want to rent out is mortgaged.

Disagreements

If you do have a disagreement with your tenants, there are several ways your solicitor can help. Whether it's a simple case of checking your legal rights, or something more complicated such as adapting your tenancy agreement, negotiating a solution or even going to court, your solicitor has the knowledge and experience to support you.

Costs

Charges can vary between solicitors and depend upon the type and complexity of the tenancy agreement you want. Before you decide who to use, check with a few solicitors to compare their charges. Remember that you may have to pay more for a more experienced solicitor.

We can make the information in this leaflet available in other formats and languages on request.

Contact us on 020 7320 5832 or email accessibility@lawsociety.org.uk

More information

This is one of a series of free leaflets covering the most common types of legal services that solicitors provide. Other leaflets in the series are listed below.

You can get them from your solicitor or from www.lawsociety.org.uk/commonlegalproblems

- Your guide to finding expert legal help
- Your guide to buying a home
- Your guide to making a will
- Your guide to getting a divorce
- Your guide to problems at work
- Your guide to setting up a business
- Your guide to making a personal injury claim
- Your guide to financial matters for older people
- Your guide to renting a home
- Your guide to using a solicitor
- Your guide to probate
- Your guide to claiming asylum
- Your guide to setting up home with your partner

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Designed by dmlmarketing.co.uk Version 4, 2012 LSeproperty