HOUSING STRATEGY & SERVICES SOCIAL WORK

living in the private rented sector

Private Tenants



PRIVATE TENANTS LIVING IN THE PRIVATE RENTED SECTOR

This leaflet provides information on your rights and responsibilities

SHELTER (Scotland)

Shelter are a national homelessness charity, and can provide free, confidential and independent advice for people with housing problems.

You can access advice on the following areas:

- Tenancy agreements
- Eviction
- Rent arrears
- Homelessness
- Benefits
- Dampness and disrepair
- Overcrowding
- Landlord / tenant disputes

Advice Line: 0808 800 4444 (Now free from all six of the main UK mobile networks)

Advice line hours: Monday to Friday: 9am 5pm

WHAT IS A TENANCY AGREEMENT?

A tenancy agreement is a contract between you and your landlord. It sets out the rights and responsibilities you and your landlord have while you are renting the property.

DOES A TENANCY AGREEMENT HAVE TO BE IN WRITING?

When you move into rented accommodation, your landlord should give you a written tenancy agreement. However, you don't need to have a written tenancy agreement to have rights. If the landlord has given you permission to live in the property and accepts rent from you, a contract can be said to exist between you. It's important to remember that if your tenancy agreement isn't in writing, you still have rights.

WHAT SHOULD A TENANCY AGREEMENT CONTAIN?

A tenancy agreement should list the terms and conditions you and your landlord need to adhere to while you're renting the property.

It should contain information about:

- the name and address of your landlord
- the address of the property you're renting
- how much rent you will pay
- how long you can live in the property for.

WHAT ELSE CAN A TENANCY AGREEMENT INCLUDE?

A tenancy agreement could include the following:

- when the rent is due and how it should be paid (for example, by cheque, by standing order, etc)
- what the rent covers. Does it include bills and/or council tax? Are there any extra charges, for example for cleaning or gardening?
- whether you have to pay a deposit, and if so, what it covers and what circumstances will mean you won t be able to get it back
- how the tenancy can be brought to an end, for example whether you will be able to leave before the end of the tenancy period
- what furniture, if any, will be provided
- what responsibilities you have for internal decorations (your landlord will be responsible for external and structural repairs)
- whether you will be able to sub let
- whether you will be able to have lodgers
- whether you will be able to pass the tenancy on to anyone else
- any other relevant information or house rules, for example about pets, guests or smoking.

HOW CAN I MAKE SURE MY TENANCY AGREEMENT IS FAIR?

Your tenancy agreement should be written in straightforward language that you can easily understand. It shouldn t contain any unfair terms.

Examples of unfair terms might be:

- a clause stating that your landlord can change the terms of the tenancy agreement whenever they like and that you will have to accept the new terms
- a clause saying that you have to pay for repairs that should be your landlord s responsibility
- a clause saying that your landlord can enter the property whenever they like, without giving you notice.

Unfair terms are not legally binding. If you suspect your tenancy agreement may include unfair terms or if your landlord is holding you to something you don't think is fair, you can ask someone to have a look at the agreement for you.

The Consumer Direct website <u>www.consumerdirect.gov.uk</u> has more information on unfair terms and how to complain about them. The Scottish Borders Housing Advice Project and Citizens Advice Bureau can also give you further advice.

WHAT IF I SHARE MY RENTED ACCOMMODATION?

If you share a flat or house, you will have one of the following:

- Joint tenancy this means that everyone in the flat or house is on the same tenancy agreement and you are all responsible for paying the rent and bills. If one of you doesn't pay the rent, the others will have to pay it.
- Sole tenancy this means that one person in the flat has signed the tenancy agreement with the landlord and is responsible for paying the rent and bills. Everyone else in the flat will still have to pay their share, but if someone doesn't pay, the person on the tenancy agreement is ultimately responsible for coming up with the money.
- Separate tenancies this means that everyone in the flat or house has a separate tenancy agreement with the landlord and is responsible for paying the amount of rent that's written in their agreement.

WHAT IS A SHORT ASSURED TENANCY?

If you rent your home from a private Landlord or a Letting agent then you will probably have a short assured tenancy if:

- your tenancy started after 2 January 1989, and
- the place where you live is rented as a home, and
- it is your only or main home, and
- you received a special notice (an AT5 form) before the tenancy started telling you that it is a short assured tenancy, and
- your tenancy is for at least six months.

If you have not received an AT5 notice stating that you have a short assured tenancy or your tenancy is for less than six months, you will probably have an assured tenancy.

WHAT IS AN ASSURED TENANCY?

If you rent your home from a private Landlord or a Letting agent then you will probably have an assured tenancy if:

- your tenancy started after 2 January 1989, and
- before the tenancy commenced, you were not given a notice (an AT5 form) stating that it was to be a short assured tenancy, and
- the place where you live is rented as a home, and
- it is your only or main home.

WHAT IS AN AT5?

An AT5 is the special notice that your landlord must give you if they want your tenancy to be short assured rather than assured. You must be given an AT5 before you move into the property or it will not be a short assured tenancy. The form should be properly completed or it will not be official.

If there is more than one tenant on the tenancy agreement, each tenant must receive a copy of the AT5.

WHAT ARE MY RIGHTS?

You have the right to a written tenancy agreement. It should:

- state the length of time the property is being let for
- state the amount of rent due and when it should be paid
- tell you if the rent can be increased and how it will be calculated
- say who is responsible for decoration and repairs to the inside and outside of the property
- state if there are any conditions or restrictions to the use of the property
- state that you have the right to have a market rent determined by the Private Rented Housing Panel (PRHP).

In addition to these rights, you also have responsibilities. If you don't fulfill these you may face eviction.

THE REPAIRING STANDARD

Under Section 13(1) Housing (Scotland) Act 2006, your landlord must make sure that your home reaches a basic standard of repair at all times during your tenancy. This is called the 'Repairing Standard'.

In order to meet the Repairing Standard:

- the property must be wind and watertight
- the property must be fit for you to live in (see 'what is the tolerable standard')
- the structure and exterior of the property (for example, the walls and roof) must be in a reasonable condition
- the installations for the supply of water, gas, electricity, and for sanitation, space heating and heating water must be in a reasonable state of repair and in proper working order (these include external installations such as drains)
- any fixtures, fittings or appliances provided by the landlord (such as carpets, light fittings, white goods and household equipment) must be in a reasonable state of repair and in proper working order

any furnishings provided by the landlord must be capable of being used safely for the purpose for which they are designed the property must have suitable smoke detectors there should be at least one smoke detector on each floor of the property, and if the alarms are installed after September 2007, they should be mains powered rather than battery powered.

If your home doesn't reach the Repairing Standard and your landlord refuses to carry out the necessary work, you can report them to the Private Rented Housing Panel (PRHP).

THE PRIVATE RENTED HOUSING PANEL (PRHP)

As a tenant you can apply to the Private Rented Housing Panel (PRHP) if your landlord is refusing to carry out essential repairs and maintenance. The PRHP will consider whether cases can be resolved by the tenant and landlord, including the possibility of mediation. Cases accepted by the PRHP will be heard by Private Rented Housing Committees, which have powers to instruct landlords to carry out work and repairs by issuing a Repairing Standard Enforcement Order. It will be a criminal offence if a landlord fails to comply with a Repairing Standard Enforcement Order without reasonable excuse.

Information about the PRHP is available at <u>internet perceil and a vulk</u> or from:

PRIVATE RENTED HOUSING PANEL 3rd Floor | 140 West Campbell Street | GLASGOW | G2 4TZ tel: 0141 242 0142 | fax: 0141 572 1171

<u>admin@prhpscotland.gov.uk</u>

TOLERABLE STANDARD

The tolerable standard is a very basic level of repair that your home must meet if it's to be fit for you to live in.

Your home may not be fit to live in if:

- it has a bad problem with rising or penetrating damp
- it is not structurally stable, for example it's subsiding
- it doesn't have adequate ventilation, natural and artificial light or heating
- it doesn't have adequate thermal insulation
- it doesn't have an adequate supply of fresh water
- it doesn't have a sink with hot and cold water
- it doesn't have an indoor toilet
- it doesn't have a fixed bath or shower and wash basin with hot and cold water
- it doesn't have a good drainage and sewerage system
- if there is a electric supply and it doesn't meet the relevant safety regulations
- there are no satisfactory cooking facilities (this doesn't mean your landlord has to provide you with a cooker, but there must be somewhere suitable for you to install your own cooking facilities)
- it doesn't have a proper entrance.

If your rented property does have any of these issues please call the Council's Environmental Health department on 0300 100 1800.

STRUCTURE AND EXTERIOR

Your landlord must make sure that the property is wind and watertight when you move in, and that it continues to be so while you re living there. This means that they are responsible for repairing damage to any part of the structure which might let in wind or rain, including:

- the roof
- chimneys
- gutters and external pipes
- walls (such as brick and plasterwork)
- windows and doors
- drains.

In addition, the property should be adequately insulated, so that you can keep your home warm without running up unreasonably large heating bills. As a guide, you shouldn t have to spend more than 10% of your family income on heating. With a good heating system, you should spend much less than this.

ENERGY PERFORMANCE

From 5 January 2009, the landlord must have an Energy Performance Certificate for the property you rent. The Certificate gives the property an energy efficiency rating. The higher the rating, the more energy efficient the home is, and the lower the fuel bills are likely to be. The certificate looks at features such as how well insulated the home is, and how it is heated.

Having problems with your gas and electric suppliers? Are your bills expensive? Please contact the Council s Home Energy Advisor on 01896 661 392 for further advice.

DAMPNESS

If dampness in your home is caused by a structural defect (such as a lack of damp-proof course, poor ventilation, an inadequate heating system or a hole in the roof) your landlord will probably be responsible for putting this right.

It's also up to your landlord to ensure that the property has a heating system that will enable you to keep your home free of damp and condensation without running up huge gas or electricity bills.

However, dampness can also be caused by condensation produced by drying clothes indoors or the heating system not being used effectively, in which case your landlord will claim this is your fault.

PIPES, DRAINS, GAS, ELECTRICITY AND HEATING

Your landlord should also be responsible for fixing installations.

Installations are:

- appliances for space heating (for example, a central heating system or gas fire) or heating water (for example, a boiler)
- water and gas pipes
- flues and ventilation
- electrical wiring
- basins, sinks, toilets and baths.

This doesn't include fixtures, fittings and appliances for using the water, gas or electricity, such as cookers. Check your tenancy agreement to find out who is responsible for these.

Remember, it's up to you to take care of the installations. For example, your landlord may want you to empty the water tank and turn off the water in winter if you are going away, to prevent the pipes from freezing and bursting.

APPLIANCES

Your landlord is responsible for making sure that any fixtures, fittings and appliances **they provide** are in a reasonable state of repair and in proper working order.

These include:

- light fittings
- carpets
- kitchen fittings (for example, cupboards and drawers)
- electrical appliances such as the cooker, fridge or washing machine.

Your landlord is also responsible for the safety of any gas appliances provided and must provide you with a Gas Safety Certificate.

COMMON AREAS

Repairs to areas that are shared with other people, such as hallways, stairs, or lifts, are the responsibility of the landlord. They must ensure that common areas can be used and are safe. If there are other flats in the building that your landlord doesn t own, the responsibility for common areas may be shared by your landlord with other owners.

GARDENS

Your tenancy agreement should say who has responsibility for the upkeep of your garden. It is often the tenant s responsibility, although this doesn t mean that you will have to improve the garden if it is in a mess. If you don t have a tenancy agreement or your tenancy agreement doesn t mention the garden, your landlord is likely to be responsible unless you agree otherwise.

FIRE SAFETY

By law, your landlord is responsible for providing fire detection equipment for your home, such as a smoke alarm.

GAS AND ELECTRICAL SAFETY

Your landlord is legally required to have a gas safety check carried out every 12 months by a Gas Safe registered engineer. You must be provided with a copy of the Gas Safety Certificate. It is recommended by the Electrical Safety Council (ESC) that landlords use a registered Electrician to carry out a Periodic Inspection in their rental property at least every five years. These inspections test the safety of the electrics in the property.

FURNITURE AND EQUIPMENT

Your landlord is legally responsible for replacing or repairing fixtures, fittings, appliances and furnishings they have provided that become unusable or dangerous due to normal wear and tear. This includes:

- light fittings
- carpets
- kitchen fittings (for example, cupboards and drawers)
- electrical appliances such as the cooker, microwave, fridge, washing machine or vacuum cleaner.

In addition, any furniture your landlord supplies should be fire resistant and comply with the Furnishing (Fire) Safety Regulations 1988. This applies to sofas, chairs, and mattresses, basically anything that has been upholstered.

INTERNAL DECORATIONS

Tenants are usually responsible for minor repairs to the internal decorations.

This applies unless the disrepair is:

- caused by disrepair or dampness that is the landlord's responsibility
- due to normal wear and tear
- caused by repair work your landlord has carried out.

Your tenancy agreement should state who is responsible for decorating the home and maintaining the internal decoration. If you want to redecorate your accommodation, you normally have to get your landlord's permission, and you may not be able to do exactly what you want. Your tenancy agreement may say something about redecorating. You should not have to redecorate before you leave unless your tenancy agreement says so or you have damaged the decoration.

RIGHTS TO REPAIR

Your landlord is responsible for keeping the property wind and watertight and in a condition that is safe and comfortable to live in, and for ensuring that the Repairing Standard is met. This is a basic level of repair that is required by law. Your landlord **must** also provide you with information about the Repairing Standard and what you can do if your home is not up to standard.

If you wish to carry out work on your home, such as redecorating or installing a second phone line, you must get permission from your landlord first. Some tenancy agreements will include a clause telling you if you can carry out any work.

ADAPTING YOUR HOME TO SUIT YOUR NEEDS

If you rent from a landlord and your home doesn t meet your needs this doesn t mean you have to move. Under the Housing (Scotland) Act 2006 you have the right to adapt your home. The Council have mandatory grants available to assist with alternations to meet the needs of disabled persons. Please read the Council leaflet Scheme of Assistance for further information or call the Private Sector Housing Grants Team on 01896 661 393.

RIGHTS TO INFORMATION

If you rent from a letting agency or an agent, you have a right to know who your landlord is. If you want to know who your landlord is, you should request this in writing. All private landlords and their rental property are required by law to be registered with the Council under the Landlord Registration Scheme.

WHAT ARE MY RESPONSIBILITIES?

PAYING YOUR RENT

Rent is money paid by the tenant to the landlord in return for living in their property. It is normally paid weekly or monthly. Usually you and your landlord will agree on the amount of rent you will pay before your tenancy starts.

Your tenancy agreement should state:

- how much your rent is
- when it is due (weekly, monthly, etc)
- on which day it should be paid (for example, every Friday, or the first of the month)
- how it should be paid (for example, by standing order, direct debit, cheque or cash)
- what it covers (for example, does it include council tax or gas, electricity or phone bills?)

If you pay weekly rent, your landlord must give you a rent book. If you don't have a rent book, keep records of your rent payments (by getting receipts or keeping bank statements and cheque stubs) in case there is any dispute.

KEEP UP TO DATE WITH THE RENT

It is very important that you pay your rent on time. If you do not, your landlord may try to evict you. Remember, if you are renting from a private landlord, they may be relying on your rent to pay the mortgage.

WHAT IF I CAN'T AFFORD THE RENT?

If you are having problems paying the rent, get advice straight away. This could help you avoid losing your home. It is usually advisable to inform your landlord of any problems you re having. Your landlord might agree to you paying off rent arrears bit by bit. There might be things you can do to stop rent arrears building up, such as claiming benefits. If you are experiencing any problems with paying your rent please contact the Council s Welfare Benefits department on 01896 661394.

CAN I GET HELP TO PAY THE RENT?

If you are on benefits or a low income, you may be entitled to Local Housing Allowance (LHA) to help pay your rent. You can find out more information on LHA by visiting one of the Council's Contact Centres or calling the Council on 0300 100 1800. There are also LHA rates on the Council's website provide sector decempend.

WHAT HAPPENS IF I DON'T PAY THE RENT?

If you don t pay your rent, you will build up a debt to your landlord known as rent arrears. There are several ways of dealing with arrears. However, your landlord could also choose to evict you. Landlords have to follow specific legal procedures to evict tenants and must get a court order before they can force you to leave.

CAN I WITHHOLD RENT?

Occasionally it might be possible for you to withhold rent:

- to recoup losses you suffered which were the fault of your landlord, for example if you had to carry out and pay for repairs that were your landlord s responsibility
- to force your landlord to carry out repairs or improve services.

However, this can be a risky strategy. **Please take advice before you consider withholding your rent**. The Shelter Helpline will be able to advise you further, (0808 800 4444).

WHAT IF MY LANDLORD WANTS TO PUT THE RENT UP?

Depending on the kind of tenancy you have, your landlord will probably have to follow certain procedures before they can put your rent up. If your landlord does want to increase your rent, call the Shelter Helpline.

KEEP THE HOUSE IN GOOD REPAIR

You, anyone in your household, or your guests, must not cause any deliberate damage to the property. If you damage the property or notice that something is faulty, you should report it to your landlord immediately to prevent it getting worse. If you caused the damage, you will be responsible for repairing it. Don't try to repair anything yourself unless you know what you are doing. If you go away during winter make sure you take measures to stop your pipes from freezing.

TAKING GOOD CARE OF THE PROPERTY

It's up to you to look after the property and avoid causing any damage wherever possible.

This involves:

- keeping your home reasonably clean
- keeping the fittings, appliances and furniture in good condition (allowing for normal wear and tear)
- carrying out minor maintenance (for example, checking smoke alarm batteries and changing light bulbs)
- making sure your home is kept reasonably well heated (in winter, it's particularly important that you don't let the pipes freeze up and burst).

If you do cause any damage to the property or the furniture, either accidentally or on purpose, your landlord is entitled to make you pay for the damage, even if it is their responsibility to fix it. In some cases, your landlord may ask you to carry out the repair work yourself. If you have contents insurance, it may cover the cost.

WHAT IS CONTENTS INSURANCE?

Contents insurance covers you if your belongings are stolen or damaged by fire, flood, subsidence or other accidents that aren t your fault. You can also extend the cover for items you take out of the home, such as a laptop computer or a bicycle.

REPORTING REPAIRS

You are responsible for letting your landlord know about any repair work that needs done. Your landlord can t be responsible for putting right problems they don t know exist. If you notice anything wrong with the property, for example, a damp patch on the wall or a crack in the ceiling, it s important you report the problem to your landlord as soon as possible, even if you re not that bothered about getting it fixed. Don t wait until the problem has become really bad this could end up costing your landlord more to put right.

Remember to keep a copy of any letters or emails you send your landlord it s important that you can prove you told your landlord about the problem because your landlord isn t responsible for repairs until they have been reported.

ALLOWING YOUR LANDLORD ACCESS

You must also allow your landlord access to the property to assess and carry out repairs. Your landlord should give you reasonable notice (usually at least 24 hours) before coming round. Bear in mind that your landlord only has the right to access the parts of your home that need repair work done. For example, if your landlord needs to fix the kitchen sink, this should not be used as an excuse to look round the rest of your home.

Although your landlord should arrange for repairs to be done, they will probably expect you to be at home to let in any contractors. This is something you II need to sort out between you. If you want repairs done, you must be helpful in allowing access for work to be carried out.

Your landlord doesn't have an automatic right to access the property to carry out improvements, unless this is specifically stated in your tenancy agreement. They will have to get your permission before entering your home for this reason - although if they want to make your home nicer, it's probably in your best interests to agree!

BE NICE TO YOUR NEIGHBOURS

You, anyone living with you and anyone visiting you, should take care to behave in a way that will not cause nuisance or annoyance to your neighbours.

This includes:

- not having the stereo or TV on too loud
- entering and leaving your house quietly
- disposing of rubbish carefully and in the proper bins provided.
- not using your house for illegal purposes.

If you behave in a way that is antisocial, your landlord may have grounds to evict you.

GIVE PROPER NOTICE IF YOU WANT TO LEAVE

If you want to leave, you must give the proper amount of notice to your landlord. If you don't, you could end up with rent arrears and paying any legal costs that your landlord ends up with.

SEEKING PERMISSION FROM THE LANDLORD

You should seek permission from the Landlord if you want to:

- sub-let your home or take in a lodger
- pass your tenancy on to someone else
- do any decorating.
- Keep any pet in the property

WHAT HAPPENS WHEN MY TENANCY RUNS OUT?

Your tenancy agreement will say how long you have rented the property for, for example, six months or a year. At the end of that time, your tenancy will automatically renew itself unless:

- you give the landlord written notice that you want to leave at the end of the tenancy, or
- your landlord gives you written notice that they want you to leave the property.

If neither you nor your landlord has given notice, your tenancy will renew itself. This will be for the same length of time, unless your tenancy agreement says that it will be for a different period.

For example, your tenancy agreement might say the property is let for a period of six months and then monthly thereafter. This would mean that your tenancy agreement would be for six months and that it could renew itself one month at a time after that. If the tenancy was for more than a year, it can only renew itself for a year. There is no need for a new AT5 each time the tenancy renews itself.

WHAT IF I WANT TO LEAVE?

Before you can leave, you must give your landlord written notice. If you want to leave before your tenancy has run out or you are in a period when it has renewed itself, you will need to check if you can arrange to leave before the end of the tenancy. It should state on your tenancy agreement whether you can do this and if so, how much notice you have to give.

Even if this is not mentioned on the tenancy agreement, you may be able to come to an arrangement with your landlord. If you cannot reach an arrangement with your landlord, you will have to give notice stating that you wish to leave when the tenancy runs out.

The minimum notice you have to give is:

- 40 days if your tenancy is for six months or longer
- 28 days if your tenancy is continuing on a month to month basis after the original period has expired.

If you leave the property without giving notice or before your notice has run out, you will still be responsible for the property and for any rent that you are due to pay. If your landlord has to take any legal action, you could also be responsible for any costs that they have to pay.

CAN MY LANDLORD COME INTO MY HOME WITHOUT WARNING?

Your landlord can only come into your home at times that have been agreed on your tenancy agreement, or by giving reasonable notice.

There are special rules if your landlord needs to come in to do repairs or to inspect the condition of the property. They or someone acting on their behalf must give you at least 24 hours notice in writing that they intend to come round.

If your landlord comes into your home without permission, this may constitute harassment.

WHAT IF I HAVE A COMPLAINT?

If you have a complaint about your landlord, try talking or writing to them first. If this doesn't work, you may want to get advice from the Shelter Scotland, Citizens Advice Bureau, or the Council's Housing Strategy Team who operate the Landlord Registration Scheme.

FURTHER INFORMATION

For further information, advice and assistance on any of the areas in this leaflet please contact the Council on:

HOUSING STRATEGY TEAM Galashiels Area Office | Paton Street | GALASHIELS | TD1 3AS tel: 01896 661392 | email housingenouires@scollorders.gov.uk

ENVIRONMENTAL HEALTH tel: 0300 100 1800

PRIVATE SECTOR HOUSING GRANTS tel: 01896 661393

CONSUMER DIRECT tel: 08454 04 05 06 | vowe consume clitere upov ukc

PRIVATE RENTED HOUSING PANEL tel: 0141 242 0142 | enclu comunicationscotland.co.uk

SHELTER Scotland advice line: 0808 800 4444 | versus sheller or us

Advice line hours: Monday to Friday 9am 5pm

CITIZENS ADVICE BUREAU

DUNS | Southfield Community Centre | tel: 01361 883340 EYEMOUTH | Community Centre, Albert Road | tel: 01890 750500 GALASHIELS | 111 High Street | tel: 01896 753889 HAWICK | 1 Towerdykeside | tel: 01450 374266 KELSO | 20 Shedden Park Road | tel: 01573 223516 PEEBLES | 42 Old Town | tel: 01721 721722

<u>www.cas.org.uk</u>

Alternative Format Language

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HOUSING STRATEGY TEAM

Galashiels Area Office | Paton Street | GALASHIELS | TD1 3AS tel: 01896 661392 | <u>email: housingenquiries@scotborders.gov.uk</u> <u>www.scotborders.gov.uk</u>

You can get this document on tape, in large print, and various other formats by contacting us at the address below. In addition, contact the address below for information on language translations, additional copies, or to arrange for an officer to meet with you to explain any areas of the publication that you would like clarified.

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