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## Challenges & Opportunities Conference and Award Ceremony Join us on Friday 29 March 2019

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# Welcome to the latest edition of the PReSs

The need to keep up to date with the changes in the private rented sector is getting even more essential as the plethora of new rules, amended documents, court decisions and the never-ending stream of Government proposals increases. The changes to the rules surrounding the Mandatory Licensing of larger HMOs has been well publicised in the sectors' press, but recent important court decisions which will affect many more landlords have not been so well circulated.

To recap on the law change- from 1 October 2018 all privately rented premises occupied by 5 or more persons in 2 or more households (equating basically to families) must apply for a Licence from their local council. The requirement that the premises must be 3 or more storeys has been removed. Any landlord affected and not having applied by 1 October for a licence is committing an offence. Contrary to initial indications, the Government decided not to provide any leeway. In addition, for all HMO licences, minimum room sizes for bedrooms were introduced with an additional requirement that adequate provision must be made for refuse disposal.

The Court decisions upheld this year which affect all housing licences, include The Court of Appeal Case *Brown v Hyndburn BC* 2018, which concerned the provision of CO alarm and the requirement for an electrical installation inspection report. It was held that discretionary Terms and Conditions must only cover "management" issues related to maintaining existing facilities & services etc. and the provision of new works, services etc. Any "improvements" requirement must be dealt with under the HHSRS or other provisions. The Supreme Court in *Nottingham City Council v Parr and another* (2018) held that a licence condition can specify the type of tenant who can occupy licensed property e.g. students only.

The High Court in *R (Gaskin) v Richmond upon Thames LBC* 2018 placed limitation on Fees for Licensing & Information which can be required from Applicant. The Council's HMO Licence fee was made up of charges for running the HMO scheme and a payment for processing the application. The Court held that where a premises is managed & let by the owner, (*EU Directive 2006/123/EC (Services Directive)*) fees should apply only for the application processing but NOT the element covering payment towards the general running of the Council's schemes. The landlord was entitled to a refund of the scheme's running fees element. The Court also held that Councils could not demand information from applicant to renew issued licences, other than the information contained in "Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

The Government have just published their inaugural newsletter for the PRS (see <https://bit.ly/2J1xfz7>) in which they provide basic key headline updates on "their ambitions" which include longer term tenancies, electrical inspections, tenants' fees etc.

I hope you enjoy this issue of The PReSs.

**Dave Princep (Chair of LLAS & ATLAS)**

## **NEW Online CPD Courses**

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# Challenges & Opportunities in PRS Conference & Award Ceremony on Friday 29 March 2019

At: The Radisson Blu Portman Hotel, 22 Portman Square, W1H 7BG.

Time: 6pm- champagne reception

**You are invited** to join us for what promises to be an informative and fun evening to celebrate the scheme's successes and reward the excellence of our members. The event will bring together over 500 landlords, agents, property investors, housing professionals, local partners and VIP guests.

The event will include a champagne reception and 3 course dinner and focus on inspiring, informing and awarding those landlords and agents who have over the years helped to provide and improve some of the capital's vital private sector housing stock. It's important to highlight that the event will be marketed to local and national press by our communications team alongside an ambitious online coverage strategy across our social media channels and as per previous events, the media will be invited to cover the event on the day.

And we will hear from some of our industry leaders who will map out some key themes and trends for you to adapt, change, thrive & survive in 2019 & beyond

- **Challenges:** How are landlords responding to the substantial changes they are facing in financing, regulation and taxation? What impact will Brexit have on the sales and lettings market long term and what of the government's plan
- **Opportunities:** What next for the property market? Where will the next opportunities be, How to get yourself ready and prepared for the market opportunity which lies ahead.

## How to get your tickets

- You can pay by credit/debit cards online at this [BOOK HERE](#)
- Phone LLAS/ATLAS staff on **0207 974 2839** & pay over the phone
- Send a cheque via post to LLAS, Private Sector Housing Team, Camden Town Hall, London WC1H 9JE (*all Cheques are made payable to the London Borough of Camden*)

**Ticket Fees** **£95** for a regular ticket /**£85.00** for accredited landlords/agents (*early bird to end of Nov.2018*) from *1<sup>st</sup> of December 2018* regular ticket **£120.00** /**£99.00** for accredited

# This is your chance to shine

The 2018/2019 LLAS & ATLAS Awards are Open for entries

[Click Here](#) to enter

The LLAS & ATLAS awards are the biggest and best awards in the Private Rented Sector housing and give you the chance to showcase the outstanding work you and your staff are doing. Don't miss out on the chance to have your professionalism acknowledged and awarded. Either nominate yourself or ask your clients, colleagues, agents or landlords etc. to nominate you. **They are free and simple to enter.**

## Compelling reasons why you should enter the award

- Showcase your work in the most prestigious awards in the housing sector
- Get deserved recognition for you and your staff
- Demonstrate why you are a winning business to your clients
- Demonstrate your excellence to your clients, communities and other partners
- It's free! You have nothing to lose and everything to gain!

There will be **12 awards** handed out on the day and the list of awards is below. There is no cost for nominating yourself or a colleague or your service for an award, don't delay to send in your nominations now at this link

### [Nominate](#)

- Best Landlord Service Provider
- Best Buy to Let Mortgage Provider
- Best Portfolio Landlord (20 plus properties)
- Best Landlord of the Year for Student Housing
- Best Landlord Legal Services Provider
- Overall Best Landlord of the Year
- Best Small Landlord (1 to 20 properties)
- Overall Best Letting Agent of the Year
- Green Landlord of the Year
- Empowering Tenants Award
- Best Landlord Insurance Provider
- Make a Difference Award

### Good Luck

The closing date for all entries is **Monday 31 December 2018**. Please note that any entries after this time will not be accepted.

- All category finalists will receive a LLAS award finalist logo to be used on their headed papers, all communications including websites
- All category winners will receive a 'winner's logo' to be used on their headed paper and communications, advertising, etc.
- The winners' photos will be included in the post event newsletter and on the LLAS/ATLAS website.

**We look forward to receiving your ticket bookings and Award Nominations**

[www.londonlandlords.org.uk](http://www.londonlandlords.org.uk)

## Do you want to gain exposure to your local landlord and property market?

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Don't miss the opportunity to be a sponsor of our highly successful Conference & Award Ceremony event. Your company will, as well as gain access to a database of over 35000 landlords and property investors, will also gain recognition, brand awareness and exposure to the London and Southeast local landlords and property market and new members joining LLAS & ATLAS on a daily basis.

For further information and to discuss the packages available, please call us on **0207 974 1970** or **0207 974 2774** or email [llas@camden.gov.uk](mailto:llas@camden.gov.uk) or visit: [www.londonlandlords.org.uk](http://www.londonlandlords.org.uk)

# Still worried about Section 24?

As a Landlord facing the removal of financing costs as a legitimate business expense, apart from putting up rents and compounding the tax problem, you have four options: -

## Option 1 - Sell Up

Take the CGT hit and mortgage penalties, and either spend the lot or invest the money elsewhere.

## Option 2 - Do Nothing

Accept the changes and put up with less cash in your pocket.

## Option 3 - Incorporate

Jump on the band wagon and incorporate, ending your section 24 concerns, but opening up further difficulties as laid out in our guide: [LT4L.UK/guide](http://LT4L.UK/guide)

## Option 4 - Run a Highly Tax-Efficient Professional Property Business

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- No loss of mortgage interest relief or wear & tear allowances
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- No need to remortgage
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- Peace of mind and more money in your pocket!

Now is the time to chose, but whatever you do,  
don't simply bury your head in the sand!  
Visit [LT4L.UK/LLAS](http://LT4L.UK/LLAS) to request a free assessment.

# Specialist landlord & tenant lawyer -Tessa Shepperson answers landlords' FAQ: The top six problems with claims on landlords insurance?

If you are a landlord, a time will probably come when you will need to make a claim under your insurance. Hopefully, things will go well and your claim will be covered. However, this is not always the case. Here are six issues that can arise

## 1. Failing to give the insurer proper information

Insurers are not going to pay out unless they have full details of your claim. So although there is no harm in just notifying them that you are likely to be making a claim, be aware that your insurer will not be able to give you any feedback about your claim unless you tell them what it is! For example, it may be to do with water damage – but was that due to water ingress through a damaged roof, maybe due to a storm, or was it due to the tenants leaving the taps running? Those two situations will get a very different response from your insurers and if the claim is down to the tenants having left the taps running it may not be covered at all. It depends on the type of policy you have. Which leads us on to point 2:

## 2. Not knowing what your policy covers

Not everything will be covered by a 'landlords insurance'. You need to check it when you take it out. Most people don't want to do that as, on the whole, insurance policy terms and condition are not an easy read. But if you don't read it, don't be surprised if you find when making a claim, that your claim is not covered.

For example, landlord insurance policies will normally not cover:

- Vermin damage
- Damage done to another property (e.g. where a water leak damages the flat below), or
- Tenants own contents. Tenants need to have their own insurance for this.

They may also, depending on the policy type, exclude cover for:

- Malicious damage by tenants
- Subsidence
- Flood damage
- Accidental damage

There are also often problems when leaseholder landlords fail to take out proper insurance believing (wrongly) that everything is included in the freeholder's insurance policy.

This was discussed in my Landlord Law Blog post at

<https://www.landlordlawblog.co.uk/2017/05/02/problems-freehold-leasehold-insurance/>

## 3. Underinsurance

This can be a big problem. If you try to save money by taking out insurance for less than the property's value, you will normally find that your claim will be reduced proportionally. For example, assume that the cost of rebuilding your property is £70,000 but you insure it for £35,000. If you have a claim for, say, water damage and the cost of repair comes to £6,000 (after the excess) – as you have underinsured by 50%, your claim will also be reduced by this amount – so you will just get £3,000 rather than the full £6,000.

You need to take care with contents policies too. Be wary about insuring for the minimum amount. If there is a fire and the kitchen is destroyed – will, for example, £5,000 be enough to cover all the contents?

#### **4. Fair wear and tear**

You should also be aware that your insurance will not cover damage due to fair wear and tear. So even though your flat may have been in spit spot condition when let – if it has been returned in a worn out condition because it has been occupied for two years by a family with three young boys, you will not be able to claim this on your insurance (or in most cases from the deposit) as this sort of damage counts as fair wear and tear. Damage due to fair wear and tear is an expense which landlords have to bear as part of their ‘landlord business’. Even though you may not consider it to be a business!

#### **5. Damage to unoccupied properties**

Most landlord’s insurance policies will only provide cover for a limited number of days if the property is unoccupied. In some policies, it may be 30 days. Others may offer only 14. The best that I am aware of is Alan Boswell Group’s landlord insurance policy which offers 90 days cover. But if your property remains unoccupied beyond the specified number of days you need to notify your insurers and arrange for extra cover (which in most cases should not be a problem). If you don’t – then any claim after the time limit will not be covered.

#### **6. Failing to check tenants and/or carry out inspections**

For certain types of claim, in particular, if you are claiming for damage due to having inadvertently let your property to cannabis farmers (assuming this is covered by your policy in the first place), you will need to prove to your insurers that you have carried out regular inspections of the property during the tenancy. In most cases, it will be expected that you will have done, or tried to do, inspections every three months.

A classic situation is where a respectable looking couple offer to pay 6 months or a year’s rent up front. Often landlords will just take the money and fail to check them out (thinking why they should, when the tenants have paid up front?). If you then fail to do any inspections and find that your property has been trashed by cannabis farmers at the end of the term, you will have little chance of having your claim paid. You must ALWAYS check out tenants carefully and keep all credit checks and reference information carefully.

You should also try to carry out regular inspections. If you are unable to gain access, this should put you on alert. However provided you are able to show proof that you have at least tried to carry out inspections (e.g. copies of letters, notes of phone calls, attendance notes etc.) then your insurers will probably pay out your claim. But it is important that you act responsibly by checking tenants carefully and doing regular inspections, and are in a position to prove that you have done so. As in every other aspect of a landlords work, proper records and paperwork are vital.

#### **Conclusion**

As you will see from the above, many of the problems landlords experience when making claims are down to sloppy practice when the insurance is taken out. Even if you can’t face reading the terms and conditions in full, you should at the very least check over carefully what exactly your policy covers and make sure that this is what you want. A decent insurance broker should advise you and make sure that your policy is suitable for your needs. Problems often arise when landlords take out an insurance policy just because it is cheap.

If you want to find out more, check out our free Insurance Mini Course which goes into more detail about all aspects of landlords insurance. You can sign up at <http://landlordlawinfo.co.uk/landlord-law-insurance-mini-course/>.

*By Tessa Shepperson (with help from Samantha Faulkner of Alan Boswell Group).*

*This article was first published on the Landlord Law Blog on 26 June 2018.*

**Tessa Shepperson**

**Read more from Tessa at [www.landlordlawblog.co.uk](http://www.landlordlawblog.co.uk)**

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# Changes to Mandatory HMO Licensing

*As most letting practitioners know, from 1 October 2018, the new rules for mandatory licensing of a house in multiple occupation commenced. Understanding the requirements is a far from simple task but it is essential to be aware of the changes to avoid prosecutions and costly fines. There are also new minimum room sizes and specific refuse requirements.*

## Raising standards

Since the introduction of licensing of houses in multiple occupation (HMOs) in 2006, the Government has reported an increase in the number of so-called 'smaller HMOs' in the private rented sector. These are typically two-storey houses and flats that have been converted into shared accommodation.<sup>1</sup> The Government believes that many of these properties are substandard and overcrowded, potentially exploiting vulnerable tenants who tend not to complain about their unsafe living conditions. With this as a backdrop, the Government decided to broaden the criteria for mandatory licensing to include some smaller HMOs. The objective is to improve property conditions and enhance the management standards of such lettings.

## New regulations

On 23 February 2018, new licensing rules were agreed by Parliament. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018<sup>2</sup> amended the type of HMO that falls within mandatory licensing to also include smaller HMOs. From 1 October 2018, if an HMO has five or more occupiers regardless of the number of storeys, it will need a license.

- Section 257 HMOs remain exempt.
- A new rule states purpose-built blocks of three or more flats are also exempt.

The new regulations also apply to houses, bungalows and blocks of purpose-built flats etc. with up to two properties. Note that the new licensing rules leave the 'people' and 'households' definitions unchanged.

## Does my HMO require a license?

Understanding mandatory licensing is a challenging task. It is fundamental to appreciate that the new regulations do not affect whether a property is an HMO, just whether an HMO requires a license. In simple terms, the Housing Act 2004 defines an HMO as:

- A building where three or more people, who are not all related to each other, share, lack or have to go outside their own front door to get to a basic amenity (section 254).  
OR
- A converted property which is not compliant with the 1991 Building Regulations and where less than two thirds of the building is owner occupied (section 257, HMOs).

## Example

An easy way to understand this is to imagine five students living in and sharing a two storey property, which is owned and managed by a private landlord. Previously, this would not have been a mandatorily licensable HMO under the old rules, but after 1 October it is if the property is occupied by five or more people from two or more households.

Any landlord letting a property similar to the above example that did not require licensing prior to 1 October 2018, must now apply for a license from the local authority in order to continue renting it out lawfully.

## Understanding licensing

Property licensing derives from the Housing Act 2004 and has been in force in England since April 2006. In Wales, the implementation took place in July 2006.

Although it is common to talk about three types of licensing – mandatory, additional and selective – in fact these fall into “Part 2 licensing of HMOs” and “Part 3 licensing” which is selective licensing. The ‘parts’ referred to are Part 2 and Part 3 of the Housing Act 2004.

Those properties that are in an additional licensing scheme and will, from October 2018, fall into mandatory licensing, are already licensed under Part 2; this means no change is needed. Note that room sizes and refuse rules now apply to all Part 2 licences, both mandatory and additional.

Those properties that are already licensed under Part 3, selective licensing, but which will meet the test for the new mandatory HMO licensing, are specifically addressed in the legislation and can continue under their existing licence until it is due for renewal when the Part 2 licence will apply.

There are transitional provisions which state that if a property is licensed under Part 3 (selective licensing), this license will continue until expiry, at which time the property will then require a mandatory license

## Existing licenses

All properties currently licensed under selective or additional licensing will come under the new mandatory licensing requirements, providing they fulfil the new criteria. This means that as their current license expires, landlords must apply for a new mandatory license. For such properties there is no need to take action immediately because they will have been ‘passported’ into the new mandatory licensing scheme.

## Room sizes and refuse facilities

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018<sup>3</sup> introduce two revised conditions for Part 2 licenses, therefore includes additional licenses:

- minimum room sizes and
- refuse provisions.

They do this by adding in new paragraphs into Schedule 4 of the Housing Act 2004. New paragraph 1A deals with room sizes and paragraph 1B addresses the 18-month time period allowed for compliance with new room sizes to avoid all those tenants being evicted. The introduction of paragraph 1C adds further new rules for the storage and disposal of “household waste”. This includes both the recycling and non-recyclable sides of household waste

## Minimum bedroom space

Local authorities can either enforce the new minimum bedroom size standards or apply higher standards to address specific local needs. The areas of the room where the height between the floor and ceiling is under 1.5 meters will be ignored when determining the size of a bedroom. The new room size requirements are:

- Bedrooms for children of ten years and younger must be a minimum of 4.64 square metres.
- Bedrooms for one person over ten years old must be a minimum of 6.51 square metres, and those slept in by two people over ten years old must be a minimum of 10.22 square metres.
- The local authority must be notified if rooms are smaller than 4.64 square metres.

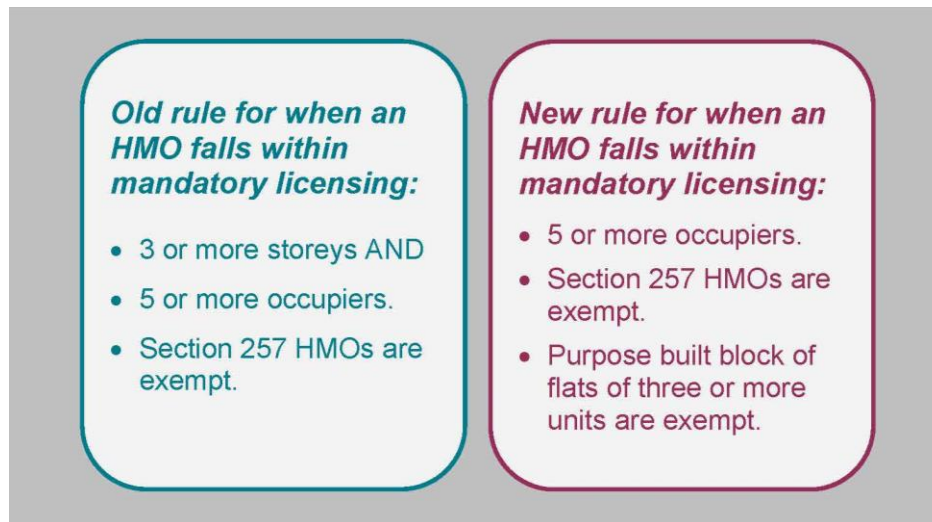
The license will specify the maximum number of people who may occupy any room. The total number of occupants across all the rooms must not exceed the number allowed in the property as a whole. In the event that the new license is issued and the rooms are too small, the license will include a condition stating what the landlord must do to comply with the license conditions. Improvement works / alterations must, if required, be completed within 18 months of the local authority’s request.

Landlords of HMOs with an existing license under the mandatory scheme will be allowed up to 18 months to make the necessary alterations to the HMO when reapplying for a license.

## Refuse facilities

In a bid to stop refuse from piling up outside shared rented properties, landlords are now required to provide adequate domestic waste storage facilities in line with the rules set by the local authority. License holders must comply with the local authority scheme for refuse storage and disposal at the HMO.

Guidance notes issued by the Government confirm that, while overall responsibility for refuse collection is for the local waste authority, managers of HMOs must ensure that there are adequate facilities for refuse storage. The scheme does not, however, permit the local authority to add additional charges for handling waste in HMOs. This should also be read in conjunction with the Management of Houses in Multiple Occupation (England) Regulations 2006.<sup>4</sup> These regulations require the occupants of HMOs to comply with the disposal facilities provided by the landlord.



## Penalties

There are serious consequences for landlords and letting agents managing unlicensed HMOs in breach of the new regulations. The local authority can prosecute in the Magistrates' court. Fines for breaches of the Housing Act 2004 offences have been 'unlimited' since March 2015 and this is extended to apply to the new regulations. Crucially, local authorities can now issue landlords with civil penalties of up to £30,000 per offence as an alternative to prosecution.<sup>5</sup> Tenants and local authorities also have the power to seek a rent repayment order for up to 12 months' rent, should a landlord be found guilty of operating an unlicensed HMO. A tenant or local authority must prove beyond reasonable doubt that the landlord has committed the offence before a rent repayment order can be made.

## Agents fined

Two letting agents were recently fined over £42,000 for managing three substandard HMOs that required licenses. The prosecution was brought by the London Borough of Camden and the case was heard on 13 July 2018 at Highbury Magistrates' Court. The local authority prosecuted the two managing agents for failure to apply for licenses for three flats within the same building and for nine offences under the HMO management regulations for the condition of the flats. This case clearly demonstrates that it is not only landlords, but also agents, that can face fines for non-compliance with the HMO management regulations.

## Conclusion

The new regulations have brought an estimated 177,000 new HMOs into the scope of mandatory licensing in England. Where other licensing schemes are already in place for landlords (accounting for about 20,000 HMOs), existing licenses will count as mandatory licenses until they expire. These measures are said to build on wider Government action to improve standards within the private rented sector by targeting landlords who flout the law.

There is, of course, a database of so-called 'rogue landlords' and the introduction of banning order offences that came into force on 1 April 2018, all of which will no doubt have an impact. The new mandatory conditions apply to all Part 2 licensable HMOs (for both mandatory and additional HMO licensing). Clearly, this is further tightening up the market and bearing down on the number of unfit properties.

### References

1. Explanatory memorandum to the licensing of houses in multiple occupation (prescribed description) (England) Order 2018.  
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2. [www.legislation.gov.uk/uksi/2018/221/made](http://www.legislation.gov.uk/uksi/2018/221/made).
3. [www.legislation.gov.uk/uksi/2018/616/regulation/2/made](http://www.legislation.gov.uk/uksi/2018/616/regulation/2/made).
4. [www.legislation.gov.uk/uksi/2006/372/contents/made](http://www.legislation.gov.uk/uksi/2006/372/contents/made).
5. Section 249A of the Housing Act 2004 which was inserted by the Housing and Planning Act 2016.

Article by David d'Orton Gibson CEO- Training for Professionals (TFP)

<https://www.tfponline.co.uk/> Tel: 01258 85 85 85



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With this scheme you manage your property yourself on an Assured Shorthold Tenancy. Benefits include:

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- ▶ continuous supply of tenants
- ▶ four-week deposit bond
- ▶ free professional inventory
- ▶ fast-track payments from tenants on housing benefit.

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# Investing in Lincoln

## Rob Hunter of Bond Housing Group explains their continuing commitment to Lincoln



From just one property in 2014, Bond Housing Group has become one of the fastest growing and most well respected property companies operating in Lincoln. So, 4 years on from their

first property in Richmond Road we revisit Rob Hunter their award winning group MD to see what's been happening since.

"The speed with which we have grown the Lincoln business has been phenomenal. Starting with just one property in 2014, we now own and operate over 100 units in Lincoln, and have invested over 5 million pounds into the local economy.

We are recognised as Lincoln's go to operator for bespoke co-living and studio accommodation and believe we are the only private landlord in Lincoln to have achieved ATLAS / UKLAP, MLAS, NLA and DASH accreditation, and to offer Client Money Protection. We are also one of a handful of landlords to achieve Trusted Landlord status from the City Council.

We are now a leading HMO manager in the City, and our portfolio includes some of the very largest HMOs in the area.

Operating from three locations in the city including our city centre offices on Clasketgate we are expanding all the time with developments underway at St Catherines and our new development being planned at The Avenue."

### When asked about the year ahead Rob comments:

"We are very excited with the projects we have in the pipeline and we presently have 3 new properties on which we are ready to complete subject to planning. Because Lincoln is now an area with an Article 4 direction, we are now either acquiring poorly run existing HMOs, or vacant commercial buildings for conversion. For example St Catherines was an old doctor's surgery and The Avenue was an old dentist's clinic, so we are bringing these redundant buildings back into use to provide much needed safe secure accommodation for local professionals and students".

Although these are challenging times for Landlords, with mandatory HMO Licensing now being applied to all multi lets comprising 5 or more unrelated persons and tax changes affecting smaller landlords and those who have been operating for many years without a corporate structure, we are well positioned and well funded to continue to grow".



### A visit ?

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# I'm a landlord - Get me out of here!

The last few years have seen a dramatic shift in how private landlords are both perceived and treated. Apart from being demonised as being the main reason behind house price inflation and denying first-time buyers access to affordable housing, the private rental sector (PRS) is the only type of business to be effectively taxed on turnover and not profits.

But then again, taxation 101 is all about collecting the most revenue for the least effort from something that one way or another pretty much everyone has to have, which in this case is a roof over their head.

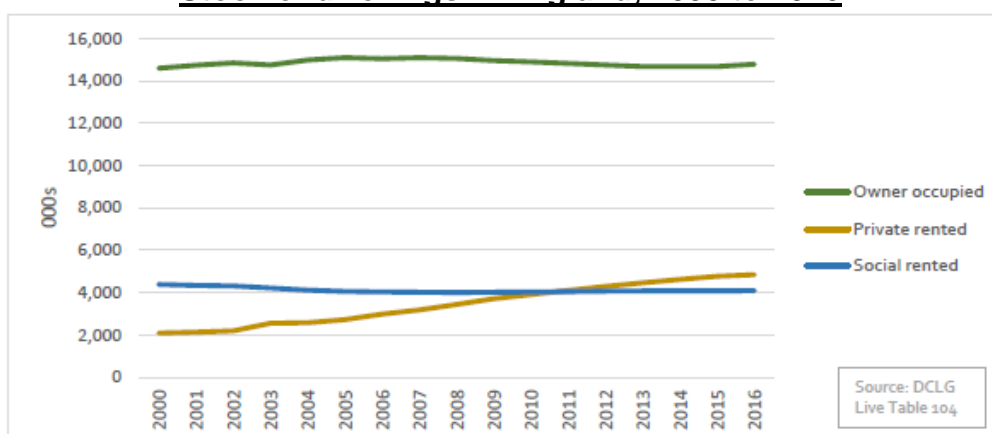
What's even harder to believe, is that this brutal assault was instigated by a Tory chancellor who, like most politicians these days (and not just the far-Left who really do believe that property is theft), seem to put short-term poll ratings and populist electoral success before thought through policies that actually work.

Just look at what's happened to the NHS, state pensions, and funding the care crisis to name but a few of the more obvious examples wherein the politicians of the day either completely miscalculated the changing demography, failed to make proper provision for the future (what part of national 'insurance' didn't they understand), or simply chose to ignore the 'realpolitik' just to secure another term. Mind you, like everyone else MPs have bills to pay, and they wouldn't be the first 'public servants' to put their own needs before those they are meant to serve.

In fact, when you take a closer look at the unintended consequences of S24, rather than freeing up housing stock or taking the heat out the economy, the administration of the day will have to find the money from the ever dwindling public purse to house tens of thousands of families now made homeless, simply because their private landlord was taxed out of existence, and that's without the other ticking time bombs of how will tenants get their deposits back, or lenders their money when for many landlords tax bills overtake profits in 2020/21.

Even before the blunt instrument of taxation was so ruthlessly applied by George Osborne, by mid-2010 the PRS had already overtaken the public sector/local authorities as being the main provider of rented (social) housing, and nothing we've seen is likely to change that any time soon.

**Stock of dwellings in England, 2000 to 2016**



<http://www.nationwidedefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf>

Sadly, it doesn't stop there. According to the excellent report produced by the Centre for Economics and Business Research (CEBR) on behalf of Shawbrook Bank

[https://www.shawbrook.co.uk/media/1916/sb\\_buy\\_to\\_let\\_report\\_2018.pdf](https://www.shawbrook.co.uk/media/1916/sb_buy_to_let_report_2018.pdf)),

the tougher Prudential Regulation Authority (PRA) lending criteria mean that the changes in tax rules and underwriting criteria have impacted the BTL market via their effects on transaction costs, landlord demand and access to finance. Meaning that the CEBR's scenario analysis approach estimates that by 2023 up to 360,000 fewer BTL mortgages will be approved due to the changes.

That said, and despite the so called 'Tenant Tax' being trumpeted in just about every way possible various surveys, research by the University of York and the Centre for Housing Policy, and our own experience show a significant number of private landlords simply don't understand what the changes mean in real terms. No wonder the powers that be call us 'accidental'!

### Landlord awareness and understanding of tax changes

	Stamp Duty Land Tax (%)	Deductibility of mortgage interest (%)	Wear and tear allowance (%)	Differential taxation of capital gains on residential property (%)
Aware of it and fully understand the details	30	23	17	16
Aware and have a fairly good understanding of the details	31	29	24	23
Aware but do not understand the details	24	24	23	26
Not aware of this at all	15	24	35	35

Source: Scanlon, K. and Whitehead, C. (2016) *The Profile of UK Private Landlords*, London: CML, Table 13

#### Further Challenges

Other challenges affecting the 'accidental' landlord are licensing, Brexit, the general political uncertainty both here and abroad, rent controls, working with local authorities, building to rent, whether to go for capital growth or income, or following the money bubble to the northern half of the country.

As a result some landlords are looking at becoming an ex-pat either in the flesh (it's not as easy as you think), or virtually via some exotic 'Panama Papers' type arrangement whereby they run the very real risk of changing from an 'interesting person' to the distinctly uncomfortable position of being a 'person of interest', and that's without the perennial problem of not getting joined up properly indemnified advice.

Many landlords are also looking at incorporating their property businesses as the answer to their business, tax, mortgage, and inheritance ills. This is not something we'd recommend, but more on that later.

When taking it all into account, and despite the hyperbole; our experience is that those private rental sector portfolio landlords who are seeking to legitimately the commercial benefits of building, running, and growing a professional property business are better placed than ever before to survive and prosper.

So, what are your options?

**Option 1 - Sell up.** Take the CGT hit and mortgage penalties (if any), and either spend the lot or invest the money elsewhere. Being a landlord is not as easy as it seems, and for some the changes are simply a bridge too far.

**Option 2 - Make a positive decision to do nothing.** Investigate the options as best you can and decide to stay as you are even though that may raise how much tax you pay, lower your disposable income, and leave your eventual heirs a wholly unnecessary IHT bill.

**Option 3 – Incorporate into a stand-alone limited company.** Transfer your personally held investment properties to a limited company which you own. Much trumpeted elsewhere as the obvious choice, but in almost every case that's usually an expensive and bad idea with no cost-effective way back, along with the fact that limited companies are subject to almost every tax known to man. Moreover, if you have carried-forward losses, they'll disappear completely the minute you make the switch.

**Option 4 – Maximise the commercial benefits of building, growing, and running a recognised professional property business.** Hybrid (Mixed Partnership) arrangements are generally the only way by which you can successfully counter the punitive tax changes, legitimately reduce your property income tax to basic rate without negatively affecting what you can spend, keep your losses, and create a trading business capable of being passed on intact as a going concern, whilst at the same time helping to stop the wealth you create from falling into the wrong hands. FYI, despite what one may read in the various landlord forums, Mixed Partnerships have NOT been outlawed, and HMRC continue to publish how to set them up on the gov.uk website.

All of that said, and as with everything else in life, there's no one right answer.

If you own up to three rental properties, are a basic rate taxpayer, and either intend to dispose of them in the short to medium term, or not to grow any bigger, then it is probably better to stay as you are.

If, however, you're already a portfolio landlord (four or more rental properties), are a higher rate taxpayer, or by 2020/21 the changes will make you one, then the Hybrid route is almost certainly the right way to go.

The same applies if you're serious about expanding your property business and have the means with which to do it.

Whatever you do though, DON'T LET THE TAX TAIL WAG THE PLANNING DOG!

You can complete our free assessment at [lt4l.uk/LLAS](http://lt4l.uk/LLAS). If you'd like to speak to us, please email [info@lesstaxforlandlords.co.uk](mailto:info@lesstaxforlandlords.co.uk) or call 0203 735 2940.

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Switchboard: - 0203 735 2940

Email: - [info@lesstaxforlandlords.co.uk](mailto:info@lesstaxforlandlords.co.uk)

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## RE- Accreditation Training Dates for Rest of 2018

If your accreditation has expired or about to expire and you don't have enough CPD points. If you successfully complete the one-day reaccreditation training, you will be reaccredited for another 5 years.

**28 November 2018**

To be held in Committee Rooms in Camden Crowndale Centre

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**Hall, SW2 1RW**

Lambeth Council is holding the autumn landlords' forum, a **free** event for landlords in the borough.

The evening will provide an update on the latest news affecting the private rented sector. Topics include the new HMO licensing regulations, an update from Planning, a talk by Trading Standards on lettings fees and a consultation on the Council's Private Rented Sector Strategy with the Cabinet Member for Housing, Councillor Paul Gadsby.

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To attend, please register  
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HILLINGDON  
LONDON

## Hillingdon Landlord Forum

Tuesday 20th November 2018

6.30pm – 8.30pm (Registration from 6pm)

Committee Room 6, Civic Centre, High Street, Uxbridge, UB8 1UW

Dear Landlord/Agent

We are pleased to invite you to our next Landlord Forum which will be on Tuesday 20th November 2018 at the Civic Centre. The Forum provides an excellent opportunity for all landlords and agents working in Hillingdon to meet and discuss the issues that affect them in the borough.

This Forum includes presentations with information on the following topics:

- Richard Blanco National Landlords Association - Responding to the changes in the PRS - Finance, Regulation & Taxation.
- Dave Princep Residential Landlords Association - An update on HMO regulations.
- Inderpal Mudhar, Partnership Manager, Jobcentre Plus - Universal Credit and how it affects you.

For those landlords who are members of professional bodies their attendance at the Forum qualifies them for CPD (Continuing Professional Development) points and certificates will be emailed after the event.

We would encourage all landlord and agents who work in Hillingdon to attend this event. It provides an opportunity to be brought up to date with all recent housing legislative changes and is an excellent networking opportunities amongst your fellow landlords and housing industry professionals.

The event is free to attend but please do confirm your attendance by emailing us at [resettlement@hillington.gov.uk](mailto:resettlement@hillington.gov.uk) by close of business on 16th November 2018.

If you have any further questions about the Forum please do hesitate to get in touch.

Yours sincerely,

Mark Billings

Service Manager - Homeless Prevention and Housing Allocations

## City of Westminster Landlord Forum

**Date:** Monday 12<sup>th</sup> November  
**Time:** from 3.00pm for a 3.30 pm start  
**Finish:** 6.30pm  
**Venue:** 5 the Strand, London WC2N 5HR

### Speakers

Ben Reeves Lewis of the "Landlords Blog"  
Tom Simcock from the RLA.

Come and find out about recent changes to mandatory HMO licensing scheme.

### Light refreshments will be available on the day.

To confirm your place please email [hst@westminster.gov.uk](mailto:hst@westminster.gov.uk)

We look forward to seeing you all on the day

**5 CPD points will be awarded for your attendance**

## Barnet Landlord, Developers and Investor Forum.

**Date:** Tuesday 13<sup>th</sup> November 2018  
**Time:** from 6pm – 11pm.

**Venue:** The RAF Museum, in Colindale.

This is a networking / informative event that **Midas Property Group** are hosting in partnership with the Barnet Council. The Event is aimed at updating all Landlords, Developers and Investors with current changes in regulations with licensing, Lettings and other aspects of Private Rental Sector (PRS).

**Refreshments will be available on the day.**

**5 CPD points will be awarded for your attendance**

## London Borough of Harrow Help2Let Landlord Forum

**Date:** Wednesday 5<sup>th</sup> December 2018,  
**Time:** from 6 to 9pm  
**Venue:** Council Chamber, Harrow Civic Centre, Station Road, Harrow, HA1 2XY  
Refreshments will be provided on the day

To register your interest, please email Help2let with your contact details.  
Email: [Landlords@help2let.co.uk](mailto:Landlords@help2let.co.uk)

**5 CPD points will be awarded for your attendance**

## London Borough of Tower Hamlets Landlord Forum

**Date:** Wednesday 12 December 2018,  
**Time:** from 5:00pm to 7:00 pm  
**Venue:** Room 701, Tower Hamlets Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG

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Less Tax for Landlords Limited

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London Property Licensing is a housing consultancy offering simple, impartial and expert advice on property licensing and the regulation of private rented homes.

Established in 2015, the business was awarded 'Best Service Provider in the Private Rented Sector 2016' by the UK Landlord Accreditation Partnership and was a finalist in the FSB London Business Awards 2017.

Our website [www.londonpropertylicensing.co.uk](http://www.londonpropertylicensing.co.uk) maps out the property licensing requirements across every London borough. We can handle license applications and provide expert advice on compliance. Landlords can also sign up to our free **newsletter** ([www.londonpropertylicensing.co.uk/newsletter](http://www.londonpropertylicensing.co.uk/newsletter)) for regular updates. For further information contact: [info@londonpropertylicensing.co.uk](mailto:info@londonpropertylicensing.co.uk)

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# Landlords hate void periods

## Here are some tips to let quickly

Vacant periods are anathema to landlords as you have money going out and nothing coming in, so if you have a large mortgage you are paying this out of your own pocket. Voids are one of the biggest risks to profitability for buy-to-let investments, that's why mortgage companies and investors usually work on a rule of thumb basis of allowing for one month per year (1/12<sup>th</sup> of your income) to be lost through void periods, when doing your financial appraisal of a particular investment. This of course is a cautious and conservative strategy as most residential tenancies will last for around 18 months and some last for many years. The danger with voids is that you panic and let to tenants who are less than desirable, and when you do that it often results in costing you far more – get yourself lumbered with a nightmare tenant and not only does it cost you a lot financially, it can have a detrimental effect on your health through worry and sleepless nights.

You should aim to build-up a reserve fund to see you through any void periods without being panicked into lowering your usual thorough screening standards. You can also use periods between tenancies to carry out repairs, maintenance and refurbishment which would be difficult when a tenant is in residence. Keeping your property in a good state of repair and decoration with clean modern facilities will help you let the place quickly, plus if you do work on a planned maintenance basis over time, a little bit at a time, it's less painful financially. One issue which is important is energy efficiency in residential lettings. You should be thinking about carrying out energy efficiency assessments for all your tenanted properties now for new lettings. All new lettings must have an EPC rating of at least E, and ahead of legislation changes that will come into force for ALL lettings in 2018, plan for this.

The Energy Act 2011 means it is now unlawful to let residential or commercial properties with the two lowest grades of energy efficiency – this is an EPC rating of F or G. Currently it is estimated that around 20 per cent of non-domestic buildings could have F and G ratings. If you have buildings that fall into these low categories, void periods are the time to do the work necessary to bring them up to standard, work which would be too disruptive to carry out while the building is tenanted.

Depending on the extent of the refurbishment work you carry out it may be possible to save by having the property removed from the council tax list, but don't hold your breath on that one – cash strapped councils are reluctant to give these concessions at the moment, but it's worth a try. Keeping the property in a good tenable state will not only help you let quickly for a higher rent, it will keep your tenants happy and encourage them to stay longer, reducing the number of tenancy changes and therefore void periods.

Generally, you can reduce void periods by starting to market the property as soon as you know the current tenant is leaving. Make sure you get notice in writing, and then get to work on your advertising and organising your paperwork. Viewings are sometimes a problem with tenants in place as you cannot force them to cooperate, but giving them a financial incentive to assist can be a good idea – how about a meal for two at a favourite restaurant if they avoid a void period for you? Keeping things tidy and being flexible about viewings can be a great help.

Generally you do need a few days between tenancies to do proper checkouts, get the place ship-shape again and produce a new inventory. If you have someone in the wings ready, this can be done in a day or two. You can't produce tenants out of thin air, so you need your properties in areas where there's good tenant demand and a good local letting market. Make sure you pitch the rent at a competitive level, just below the prevailing market rent in that area is a good strategy, if you want to let quickly. There's a lot of luck involved: I've had tenancies that let on the first day of the advertisement and other's that take weeks. It all depends if the right tenants come along.

If you find yourself struggling on a do-it-yourself basis, think about local agents. Agents often have would-be tenants sitting on their books and they are usually happy to do a deal on a let only basis.

You might agree a fixed fee, which leaves you in a position to do the screening and administration yourself. Make sure everything is in working order at the start of the new tenancy and always give any repairs priority for good tenants and you will cement a good long-term relationship.

Don't forget to fulfil at all the necessary pre-tenancy documentations – see a good checklist here: <https://www.landlordzone.co.uk/documents>

**Tom Entwistle is an experienced landlord and editor of LandlordZONE®**



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Camden Lettings	Cash Incentive	Rent Guarantee Service
Fully vetted prospective tenants. Checks includes immigration status, housing & credit history	Yes	Yes
All tenants attend tenancy training & receive 3 months support at the start of the tenancy	Yes	Yes
Rent paid directly to you the landlord	Yes	Yes
Choice of tenants so that you can decide who is most suited for your property	Yes	Yes
Tenancy Support Service, offering FREE specialist support and expert advice for landlords and tenants*	Yes	Yes
Generous Cash Incentive Payments	Yes	No
Guaranteed Rent up to 6 Months in advance	No	Yes
Free London Landlord Accreditation Scheme (LLAS) voucher worth £100	Yes	Yes
Fees payable	No	No

\*T's & C's apply





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Some benefits of joining the Private Rented Scheme (PRS):

- There are no fees or commission payable for this service
- For new landlords there is help and assistance with accessing the lettings market
- There is assistance with completing housing benefit forms
- It saves landlords time and money, as there is no advertising and can reduce the amount of time a property is left vacant
- Ongoing tenancy support assistance

If you are a managing agent or if you own a property which you wish to offer a client from the council, please contact us. One of our officers will be in touch with you to discuss the scheme in further detail.

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# Important changes to section 21 notice of seeking possession procedure after 1 October 2018

By David Smith & Sarah Cummins at Anthony Gold Solicitors

As all landlords and agents should be aware the Deregulation Act 2015 made substantial changes to the operation of section 21 notices in Assured Shorthold Tenancies (ASTs) in England.

These changes first came into effect on 1 October 2015 but only for tenancies which started or were renewed for new fixed terms after that date ('new tenancies'). Therefore we have been in a transition period for tenancies which pre-dated 1 October 2015 ('old tenancies'). This transition period ends on 1 October 2018 and from that date the Deregulation Act changes will apply to all ASTs. However, not all the changes will apply and they will not apply uniformly so it is not quite that easy.

## The Changes

There are essentially four groups of changes that the Deregulation Act made to section 21 notices:

- New form of notice (Form 6A) and changes to time limits;
- Prohibitions on service of notice after local authority enforcement action under the HHSRS (retaliatory eviction);
- Obligation to serve Energy Performance Certificates (EPCs) and Gas Safety Certificates (GSCs);
- Obligation to serve the How to Rent guide.

Not all of these will apply to all ASTs from October 2018.

## Section 21 Notice Forms and Time Limits

The Deregulation Act introduced a prescribed section 21 notice, also known as 'Form 6A'. Previously, section 21 notices just had to be in writing and had no set style.

The new Form 6A and the time limits on service of section 21 notices will apply to all ASTs from 1 October 2018. While currently not mandatory for old tenancies landlords serving notice now would be advised to use the prescribed form anyway. Any section 21 notice served now will not expire until after 1 October 2018 and a possession hearing will not be listed until after this date. There is no good reason not to use the Form 6A and it will prevent unnecessary disputes over whether the correct form of notice has been served.

The Deregulation Act also introduced restrictions on the timings of serving section 21 notices including preventing the landlord from serving a section 21 notice within the first 4 months of the original AST. Section 21 notices now also have an expiry period.

If proceedings are not commenced within 6 months from the date the notice was given (the period is slightly longer if more than two months' notice is required), the notice will expire and the landlord will need to serve a fresh notice if they want to bring a possession claim.

While these rules currently only apply to new tenancies it seems that from 1 October 2018 the 6 month time limit will operate for all ASTs including old tenancies so that even notices served now, before the 1 October 2018, will be subject to the 6 month restriction after 1 October 2018.

It is probably safest for landlords to assume that the 'use it or lose it' provision now applies to all section 21 notices served. This means that landlords will have to issue possession claims promptly. If they delay then a new section 21 notice will need to be served.

## **Retaliatory Eviction**

The retaliatory eviction rules are complex and are explained in more detail [here](#). In summary, they prevent a landlord from serving a section 21 notice for 6 months if the local authority has served an Improvement Notice or Emergency Remedial Action Notice (a “relevant notice”). These are notices that local authorities can serve using their powers under the Housing Act 2004 to deal with hazards at a property. The provisions also provide a mechanism for rendering a section 21 notice already served invalid if the local authority serves a relevant notice before a possession order is made.

From 1 October 2018 the retaliatory eviction provisions will apply to both old and new tenancies in existence regardless of when they commenced.

It is not entirely clear what this means in respect of old tenancies now. In respect of the 6 month prohibition on service of a section 21 notice, does the local authority’s notice have to be served on or after 1 October 2018 to trigger the prohibition? The second scenario where a section 21 notice already served is rendered invalid due to tenant complaint is even more complicated because it is based on a series of events occurring including the tenant making a complaint in writing, a section 21 notice being served and the local authority serving a relevant notice before the possession hearing. The specific facts and dates of each case will need to be considered carefully to determine whether the retaliatory eviction provisions apply. However, it seems likely that the new provisions will apply and so from October this year no section 21 notice can be served if an Improvement Notice was given from May onwards until the 6 month lock-out expires.

## **How to Rent Guide**

The How to Rent guide currently only applies to new tenancies that started after October 2015 or which were actively renewed after that date. That situation will not change after October 2018 so the obligation to serve the How to Rent guide will not apply to old tenancies that began before October 2015 and have simply continued as periodic tenancies after that date without any renewal.

The How to Rent guide has recently been updated. The changes are discussed in more detail [here](#).

## **Gas Safety and Energy Performance Certificates**

This is the provision that appears to have caused landlords the most difficulty since the Deregulation Act came into force. The Deregulation Act amended the section 21 procedure by stating that a section 21 notice may not be given in relation to an AST at any time when the landlord is in breach of a prescribed requirement. The prescribed requirements were then set out in The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015 ([here](#)). These regulations in turn referred to requirements imposed on landlords in other regulations dealing with gas safety and energy performance. In summary, the requirement is to give tenants a copy of the latest gas safety record and energy performance certificate for the property.

In the recent county court appeal of Caridon Properties Ltd v Monty Schooltz, a prominent housing judge stated that the rules relating to gas safety required the landlord to give the tenant a copy of the most recent gas safety record before the tenant occupies the property. This is a ‘once and for all’ duty that prospective landlords owe to prospective tenants which means if the gas safety record has not been given to the tenants before they occupy the premises it is not possible for the landlord to rectify this breach later. This effectively means landlords who failed to give their tenants the gas safety record at the outset of the tenancy are prevented from using the section 21 procedure.

The Deregulation Act states that this provision will apply to any AST in existence at the time from 1 October 2018. However, the 2015 Regulations which specify the prescribed requirements expressly state that they only apply to ASTs granted on or after 1 October 2015 and not to statutory periodic tenancies that came into being on or after 1 October 2015 at the end of an AST granted before that date. It therefore seems that until new regulations are passed to clarify this position, there are no prescribed requirements in existence applicable to old tenancies. This is not as unusual as it might seem.

For example, in relation to Notices to Quit there is a power in section 5 of the Protection from Eviction Act 1977 for the government to prescribe wording. This has been prescribed in relation to landlord's notices to quit but not for notices given by tenants. It is possible that individual judges in county courts will arrive at their own interpretations of the rules. It is certainly an area that requires clarification.

## Conclusion

While the majority of the Deregulation Act changes are due to apply to all ASTs from 1 October 2018 it is clear that there are still a number of grey areas in relation to how the rules apply to old tenancies. This is especially true of the provisions relating to gas safety and energy performance certificates.

While 1 October 2018 changes should make the section 21 procedure more straightforward for landlords, section 21 remains a notoriously complicated area. If you are unsure about how to serve a valid notice or would like advice on your tenancy we can assist.

David Smith and Sarah Cummins are solicitors at Anthony Gold. You can contact them at [David.Smith@anthonygold.co.uk](mailto:David.Smith@anthonygold.co.uk) and [sarah.cummins@anthonygold.co.uk](mailto:sarah.cummins@anthonygold.co.uk)

An advertisement for TenantVERIFY. It features a woman with blonde hair on the right side. On the left, there is a logo for TenantVERIFY, which includes a globe and a checkmark. Below the logo, the text reads 'Fast & Efficient Credit Checks & Referencing'. A list of services follows:

- Basic Credit Checks
- Comprehensive with Referencing
- Residential & Commercial
- Tenant Tracing
- Firms & Limited Companies
- Fast Priority Checks
- International with Referencing
- Immigration Status

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# Fire safety advice for private rented sector landlords

If you rent out a property or are responsible for managing rented properties on a landlord's behalf, here's an overview of the fire safety areas you need to be aware of.

## Fire Risk Assessment

### You will need to:

1. Complete a risk assessment.
2. Act on the findings of the fire risk assessment and ensure adequate general fire precautions continue.
3. Consider evacuation as part of your risk assessment.

## Fire Detection and Carbon Monoxide Detectors

Landlords are required by law to have at least one smoke alarm installed on every floor of their properties and a carbon monoxide alarm in any room containing a solid fuel burning appliance (e.g. a coal fire, wood burning stove). You must also make sure the alarms are in working order at the start of each new tenancy.

However, London Fire Brigade strongly recommend an additional heat detector in the kitchen, and a smoke alarm in the lounge and hallway of individual flats and houses to give early warning to residents. The council also strongly recommends a monitor in a room containing a gas boiler.

## Fire doors

Fire doors stop the spread of heat and smoke in the event of a fire.

Without this vital fire protection, residents won't be able to evacuate when necessary due to smoke logging and high temperatures in escape routes.

Poor adjustment of self-closing devices or inappropriate choice of closure type can cause fire doors to close very quickly and bang, disturbing residents. To stop this, residents wedge fire doors open to stop the door fully closing and banging. This can weaken the door closing device and stop the door from properly closing, making the door less effective at stopping the spread of fire.

### You need to:

1. Make sure all flat front doors and doors on corridors and staircases must be 'self closing' fire doors.
2. Make sure 'self closing' fire doors are fitted on all flats, corridors and staircases.
3. Check that doors don't bang shut, to avoid them being wedged open.
4. Regularly check door closing devices haven't been tampered with or become defective.

Fire protection and fire stopping to service risers, and between individual flats, corridors and the means of escape routes prevents

the rapid spread of fire throughout blocks of flats – and is essential.

## Storage and security

Tenants storing belongings in communal areas can pose a real risk to safety. Items can accidentally be set alight, or be set alight deliberately. In the event of fire, items in hallways and on stairs can stop people escaping, and stop firefighters doing their job.

### You need to:

- Ensure that corridors, stairs and stairwells are clear.
- Make sure electrical and gas riser cupboards aren't used to store anything.

## Building, refurbishment and redecoration

The **Fire Safety Order** stipulates that risk assessments should be reviewed if any material change is planned within an occupied building. This includes changes to compartmentation arrangements, refurbishment and redecoration works particularly if these works affect the common parts of the building.

## Take the next step...

Keeping your tenants safe, and yourself within the law, starts with your Fire Risk Assessment and Emergency Plan.

Fire Risk Assessment advice and tools can be found **online here**.



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