

32nd Edition October 2016

You Are Invited Conference & Training Day Are You Up to Date? Information, Trends & What Matters to You

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Welcome to the latest edition of London Landlord

Brexit is high on the agenda of the current Government and despite “optimistic” statements from some of the Brexiters that the negotiations could be completed promptly and without undue delay, the indications are that this seems unlikely. The new Government has already concentrated much of their efforts on the pre-negotiations and it's becoming clear that the negotiations with the EU and arranging new trade deals with the rest of the world are going to be very resource intensive, leaving less time of other matters.

The focus on Brexit may leave less time in the Government's timetable to pass further legislation on the private rented sector. Whilst the Government usually portrays new legislation as being aimed at “rogue” landlords (and illegal immigrants) the actual effect of most of the legislation has been to create a more complex, bureaucratic and resource intensive environment for the average good landlord, whilst the “rogues” continue to carry on regardless. The ultimate cost of dealing with the new rules (and tax changes) falls on the tenants. Brexit may provide some respite from further new regulation.

Little of the legislation affecting the private rented sector is directed from Europe, most is home grown. One exception has been the requirement to have an Energy Performance Certificate (EPC) to sell or rent a home. This requirement was introduced by an EU Directive, but because previous Governments have not wanted to “gold plate” any EU requirements they excluded some homes including listed buildings and bedsits from the need for an EPC. Unfortunately the recent legal requirement to provide an EPC, together with any gas safety certificate and the “How to rent” leaflet before a new tenancy begins, was poorly drafted. When it comes to the EPC, amongst other problems, the Government failed to make an exception for those premises which do not need an EPC e.g. bedsits, and there are reports of section 21 possession proceedings being challenged because non-existent EPC had not been provided.

A numbers of cases are to be decided by the Courts, but until the issue is clarified, it may be advisable when letting premises, to provide an EPC even if not legally required to have one!

Certain previously proposed regulation will be followed up, including consideration by the Government to force all rented properties to have the electrical installation regularly inspected by a qualified electrician. Despite the fact that the number of electrical fires and electrocution having fallen consistently over recent years and by far the majority of electric incidents being due to the actions of the user and not a problem with the installation, it is likely that electrical testing will be introduced. All electricians must be safe and let's hope that if testing is introduced the requirements are reasonable and proportionate.

Only time will tell if Brexit is good or bad, but let's hope that any new legislation is better drafted and thought through than has been the case for much of the recent PRS legislation.

Hope you enjoy this edition

Dave Princep (Chair of UKLAP)

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Welcome from
Master of Ceremony
Peter Littlewood
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Opening Remarks
Dave Princep
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>> Keynote speakers



Understanding PRS
Law & Legal Update
David Smith
RLA Policy Director & Partner of
Anthony Gold solicitor, specialist
in Landlord & Tenant law



The impact on & future
of PRS market Post Brexit
Richard Bowser
Editor of 'Property Investor
News' - the UK's leading
property investment magazine

>> Seminars



Housing & Planning Act 2016
Dave Princep
Housing Consultant



Taxation – Beating Audits
& Fines & Paying Less Tax
Steve Carpenter
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>> Question time

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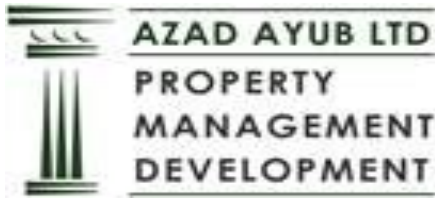


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Cricklewood landlord ordered to pay £700,000 Or face long prison sentence

A landlord guilty of breaching a planning enforcement notice has been ordered to pay a record fine and costs to Barnet Council after a lengthy and complex investigation led by the council's planning and Corporate Anti-Fraud Teams (CAFT).

In the biggest planning enforcement and confiscation investigation the borough has ever seen, landlord Saied Rahmdezfouli was ordered to pay over £700,000. The record sentence was imposed at Wood Green Crown Court on 21 September.

Mr Rahmdezfouli was originally found guilty of the planning offences at Wood Green Crown Court in August 2015. The case was referred for confiscation from the council's CAFT, which had been conducting the financial investigation in parallel with the planning enforcement investigation since 2010.

A Proceeds of Crime Act (POCA) investigation was conducted and it was calculated that Mr Rahmdezfouli had generated a profit of £555,954.49 from his criminal conduct, by renting out the property in breach of the enforcement notice. The POCA enables all such income to be confiscated by the court. The court heard that in September 2006 the council had refused Mr Rahmdezfouli's proposal to convert a semi-detached family home at Quantock Gardens, Cricklewood, into nine flats.

Despite this refusal, Mr Rahmdezfouli subdivided his property illegally and rented rooms out which were substandard in size and poorly designed. The council served a planning enforcement notice against Mr Rahmdezfouli in March 2007, requiring him to comply by 19 June 2007. Mr Rahmdezfouli ignored the planning enforcement notice and continued to rent out units within the property. Over a number of years Mr Rahmdezfouli made numerous court appearances,

while at the same time continuing to rent out his property.

Financial investigators from Barnet Council investigated the case using special powers under the Proceeds of Crime Act 2002 (POCA) to identify and calculate the criminal benefit that Mr Rahmdezfouli had received from rental income.

At the sentencing and confiscation hearing at Wood Green Crown Court on 21 September 2016, the judge made a confiscation order against Mr Rahmdezfouli for £555,954.49, which was the profit generated from his criminal conduct.

If he fails to comply with this confiscation order within a three-month period, he faces a default prison sentence of five years and four months. In addition, he must also pay a £65,000 fine for the planning offences and £80,000 in costs.

Leader of Barnet Council, Councillor Richard Cornelius, said "I am delighted that after a lengthy legal battle, the justice system has supported us in making sure that anyone who flouts our planning laws is suitably punished.

"The Proceeds of Crime Act is there to ensure that crime doesn't pay, which is why we have a dedicated team who are able to carry this type of complex investigation for the council in collaboration with our partners. "Planning permission rules exist to ensure everyone in our borough has a safe and healthy place to live, and we cannot allow anyone to breach these rules by providing substandard accommodation. We will always do our best to ensure that this illegal activity is stopped as soon as possible."

According to Barnet Council, the house has now been restored to a single-dwelling house, in compliance with the planning enforcement notice.

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Specialist landlord & tenant lawyer -Tessa Shepperson answers landlords' FAQ. In this issue: Getting Section 21 Notices Right!

I am hearing reports from Housing Advisors that many landlords are serving incorrectly drafted section 21 notices. This is bad news for the landlord as he will not succeed in getting a possession order at court – and could even be ordered to pay his tenants legal costs! (As the general rule is that the loser pays the winners costs).

So how DO you get your section 21 notice right?

The answer is by making sure you follow the rules! Note that they changed last year as a result of the Deregulation Act 2015 – so you need to check to make sure you are acting correctly. Here is some basic guidance – there are extra complexities (there always are!) but if you ask yourself these questions and follow these rules you should be all right.

Is the property in Wales or in England?

If it is in Wales, the Deregulation Act changes do not apply (Wales has its own changes coming soon). The rest of this article only applies to properties in England.

Did the tenancy start or was it renewed on or after 1 October 2015?

(Note that by 'renewed' I mean where you have given the tenant a formal renewal notice (sometimes called a memorandum) or a new tenancy agreement. The rules below will not come into force if the tenancy has just continued as a periodic tenancy after the end of a fixed term which started before 1 October 2015.)

If the answer is 'no' (i.e. it did not start or was not renewed after that date):

Then (like in Wales at the moment) you use the old rules and notices. I am not going to discuss these as most landlords should already know them. However note that if the following situations apply – you cannot serve your notice:

- If you have not protected the tenant's deposit or served the prescribed information
- If the property is an HMO which needs a license but does not have one.

If the answer is 'yes':

The two points above about deposits and HMO still apply, but there are now additional rules:

New pre-requisites

To be able to serve a valid section 21 notice you must have served on the tenant:

- An Energy Performance Certificate for the property
- A Gas Safety Certificate, and
- The Governments How to Rent booklet (you will find it at <https://www.gov.uk/government/publications/how-to-rent>)

If you have not served them yet, they can be served late. So long as they are served before your section 21 notice (or at the same time – staple them to the front of your section 21 notice)

New time limits

You must not serve the section 21 notice during the first four months from the original start of the tenancy (so if this is a renewal rather than a completely new tenancy – this rule should not affect you).

You cannot normally issue proceedings after six months after service of your notice – if you have not issued proceedings by then, you will need to serve a new notice. (The period will be different if the tenancy is a periodic tenancy where the period is quarterly or some other unusual period).

Anti 'retaliatory eviction' measures

If the Local Authority have served a notice on you regarding the poor condition of the property (normally this will be an improvement notice) you cannot normally serve a valid section 21 notice for six months. AND if the tenants previously complained about the problem to you and you then served a section 21 notice – this will be retrospectively invalidated.

A new prescribed form

There is a new prescribed section 21 notices which must be used for all tenancies which start or are renewed on or after 1 October 2016. It is form 6a and you will find it online at <https://www.gov.uk/guidance/assured-tenancy-forms#form-6a>

Note that this form is 'prescribed' which means that the notice served must include ALL the prescribed wording – otherwise your form will be invalid.

Further help

There is a lot of information about these rules on my [Landlord Law Blog](#)

There is more information on my [Landlord Law](#) service plus (if you are a member) you can ask me questions in the member's private forum area if you have a problem. If you have not protected your deposit – there is a kit you can buy which will explain how to rectify this problem at www.legalkits.co.uk

Many Local Authorities also have advice services which landlords can use. You may also want to use your solicitor, but if so make sure it is someone who understands this area of law as not all solicitors do – your conveyancing solicitor or the solicitor who dealt with your divorce is probably not the best person! Make sure you speak to a specialist landlord and tenant lawyer.

Tessa Shepperson is a specialist landlord & tenant lawyer and can be contacted online at www.landlordlaw.co.uk



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Kingston landlords – have you got a home to let to Syrian refugees?

Kingston Council is calling on local landlords to offer their self-contained flats or homes for a minimum of a year to help resettle displaced Syrian refugees.

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Feedback from a previous landlord includes:

“There are so many families that really need help - if you have the means; it's a great scheme to be part of. It's really easy to get involved - we managed despite not living in the UK ourselves!”

“Landlords should be also aware of the practical benefits in being part of this scheme - not only being able to feel good for taking part but knowing that void costs are covered, there's a one off payment at the start and that there's an opportunity to renew the tenancy after the first year. “

Refugees housed through the scheme will be supported by a caseworker from a specialist refugee service. The landlord premium and caseworker costs are funded by the Home Office.

Think you might have a property to rent to a Syrian family in need? Contact David Hill, Kingston Council's Accommodation Services Lead Officer on 020 8547 5412 or email david.hill@kingston.gov.uk.

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- ◆ Proof of property ownership
- ◆ An energy performance certificate (EPC)
- ◆ A gas safety certificate
- ◆ An Electrical Safety Certificate

Useful Contacts

If you would like more information or you would like to register your interest in our incentive scheme please contact our Private Lettings Team on:



01375 652 820



PrivateLandlords@Thurrock.gov.uk



<https://www.thurrock.gov.uk/private-landlords/private-landlord-incentive-scheme>



How tax relief changes are affecting buy to let landlords

By Steve Olejnik, Chief Operating Officer, Mortgages for Business

What tax relief changes?

From next year, landlords will no longer be able to deduct all their mortgage interest from their rental income when calculating profits. Instead, landlords will have to pay tax on the full amount of rental income, less relief of just 20% (the basic tax rate) on the mortgage interest regardless of the tax bracket of the landlord. Actually, this calculation is being introduced in a tapered format between 2017 and 2020 but in essence, it means that landlords will be taxed on their turnover rather than their profit.

What are the implications?

For some landlords the forthcoming tax changes will mean a substantial reduction in net profit. Some may even go from profit to loss. But it's not just higher and high rate taxpayers who will be affected; some basic rate taxpayers will lose out too because the changes could push them into the next tax bracket.

What should landlords do?

Landlords should already be preparing for the day when the tax changes come into effect. It could mean the difference between success and failure. And if they haven't already done so, landlords should be seeking professional tax advice.

A popular solution

For many landlords, the solution has been to 'transfer' properties from personal ownership into a limited company which attracts corporation tax rather than income tax. Crucially, corporation tax is charged post-interest deduction and currently stands at 20% but from 1 April 2020 will be cut to 17%.

In reality 'transferring' properties means that landlords must sell their personally owned property to the limited company and this comes at a price: A limited company must be set up and administered; properties must be sold at open market value, will be subject to stamp duty and potentially capital gains tax (unless the landlord qualifies for incorporation relief); and then there are all the usual remortgaging costs. It's certainly not cheap but can be the most efficient solution in the long run.

Limited company borrowing options

Borrowing options for limited companies tend to lie with the specialist buy to let lenders which can only be accessed via brokers but there is growing choice. By the end of June, 16% of all BTL rates were available to limited company borrowers.

Our business data reveals that 63% of buy to let mortgage purchase completions are now made by landlords using limited companies.

Next steps

If you are a landlord who has not yet taken professional advice on how the tax changes will affect you, we urge you to do so sooner rather than later. Thereafter, if you need help refinancing or making further purchases, our website is packed with information to help you take informed decisions. We offer a free portfolio finance health check and you can also talk to our expert buy to let advisers free of charge and without obligation.

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Using Tenancy Agreements

This article follows on from a question I received about using tenancy agreements; whether using old versions / copies, modified copies, off-the-shelf ones or free ones off the Internet would give sufficient protection?

To take a rather extreme position, currently as far as I'm aware, there is no legal requirement to use a written tenancy agreement at all for an assured shorthold tenancy (AST) in England and Wales. A tenancy can be created quite simply by the action of the parties and an intention to create one, so handing over keys to a property which gives exclusive possession, and usually but not crucially I believe, accepting rent payment, is sufficient to create a legal tenancy.

As the AST is the default residential tenancy, this is the tenancy that's created if you simply hand over the keys without any written evidence, with all the protections that the Housing Acts and the Protection from Eviction Act bestows on your tenant/s. Of course, any landlord would be rather foolish to go down such a track, but surprisingly, some still do it. Without an agreement it's difficult to prove when the tenancy started, what rent was agreed and who the tenant actually is. If the tenant has to be evicted then court action becomes a messy process as a court hearing, rather than section 21 Accelerated Possession, is always needed.

It's also the case interestingly that with agreements, whichever one you decide to use, or whatever you may call it; tenancy, licence or contract, it's the situation that determines which statutory laws apply. For example, it's been a common strategy in the past of avoiding the strict housing rules to call your agreement a licence, rather than a tenancy. But of course, if the occupation takes on all the appearance of a tenancy, exclusive possession being the primary determinant, then it is a tenancy regardless that it is headed "licence".

Hence the famous ruling by Lord Templeton in *Street v Mountford*: *"If the agreement satisfied all the requirements of a tenancy, then the agreement produced a tenancy and the parties cannot alter the effect of the agreement by insisting that they only created a licence. The manufacture of a five pronged implement for manual digging results in a fork even if the manufacturer, unfamiliar with the English language, insists that he intended to make and has made a spade."*

Some landlords like to have custom-made agreements drawn up by a solicitor, and that's OK providing the solicitor is up-to-speed on property matters, and the advantage is you can include more obscure clauses into your contract such as dealing with what happens to property left in the property, making sure the tenant is responsible for checking smoke and CO alarms regularly, and specifying which tenancy deposit protection agency is to be used etc.

However, a good up-to-date off-the-shelf residential agreement from a recognised supplier will not only cover all these minor tweaks, it will also have taken into account the most recent changes in the law, and it will come at a fraction of the cost of using a custom one drawn up by a solicitor.

With commercial property it's a different matter. If it's a substantial leasing or long-term arrangement you are dealing with, a negotiated lease drawn up by lawyers can be essential. Otherwise, a small straightforward commercial letting may use a standard law society part or whole of building commercial lease, or an off-the-shelf one, again from a reputable supplier, which are usually perfectly adequate.

Ninety nine per cent of tenancies start and end without recourse to the agreement, but if you have one of those one per cent or so of tenancies that end up in court, you will be very grateful you used a good quality up-to-date agreement.

The statutory rules in the Housing Acts are there to protect tenants, and to some extent landlords, regardless of what an agreement says. They are important as they over-ride any contractual agreement drawn up between the parties. But providing the contract complies with the general "Guidance on Unfair Terms in Tenancy Agreements" drawn up by the now Competition and Markets Authority (<http://bit.ly/1OUpgBs>), they are a vital form of protection for the landlord as well as the tenant.

Going back to the original question then, yes most commercially available AST agreements such as the WH Smiths ones, which are the Law Pack kits, as well as those available from the RLA and NLA, Legalhelpers.co.uk, and landlordzone.co.uk/documents will fit the bill admirably, as they are regularly checked and updated by lawyers and contain all of the most applicable clauses as they become necessary.

However, accompanying the new government guidelines on lettings, "How to Rent" (a requirement for new lettings which landlords must provide to their tenants) is their "Model Agreement for an Assured Shorthold Tenancy" and includes accompanying guidance (<http://bit.ly/1qJncRH>).

This agreement is very comprehensive and free to download from the above Government website. This model agreement has been developed by the Government with the aim of producing an agreement which "strikes a fair balance between the interests of landlords and tenants".

It is particularly focussed on supporting tenants who want to negotiate a longer fixed-term period at the start of the tenancy. There is no legal requirement to use this particular agreement however; it is free, very comprehensive and regularly updated, but you will need to read it carefully so that the appropriate sections which apply to you are included and others excluded as appropriate - it needs some customising to your own requirements and is very long at something like 35 pages

The Government says it recognises that there is growing interest in tenancies that have a longer fixed period – e.g. three years. Such agreements can give tenants – particularly families with children - greater certainty and stability to plan for the future, it says.

Tom Entwistle is an experienced landlord and editor of LandlordZONE®



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Buy2Lease



A new Help2Let scheme for landlords

Let us do all the work

If you would like up to £5,000 financial help to buy a rental property in Harrow, this scheme is for you. This offer is to encourage growth in Harrow's private rented sector.

- Includes full management service
- 5 year lease - guaranteed payments paid 3 months in advance
- Offering you financial security and worry free letting
- Advice on property you are thinking of buying
- Money available now!

*Terms and conditions apply



Call us on 020 8424 1605
Email landlords@help2let.co.uk
www.help2let.co.uk

Landlords, we have other schemes available. Call us for more details.



Harrow COUNCIL
LONDON

Property Licensing made easy!

When it comes to property licensing, many landlords find themselves confused by the rules and struggling to understand what schemes apply where. Fortunately, help is at hand in the form of **London Property Licensing** - a new business that was awarded 'Best Service Provider in the PRS' at the UKLAP 2016 Awards Ceremony.

The **London Property Licensing** website is a unique free information resource offering simple, impartial and expert advice on every property licensing scheme in London, plus news, comment and regulatory advice for landlords operating across the country.

Did you know there are now 23 additional and selective licensing schemes in London covering around 180,000 private rented homes, with more schemes coming soon? Whilst some schemes are restricted to Houses in Multiple Occupation (HMOs), others extend to all private rented accommodation.

Each and every licensing scheme is different and you need to study the rules carefully to see if they apply to you. Some schemes offer discounted fees to accredited landlords, which we think is a good idea.

Across London, there are many thousands of properties that need licensing but where no application has yet been submitted. To help keep up to date, readers of the London Landlord can sign up for regular free licensing updates at www.londonpropertylicensing.co.uk/newsletter. There is also a Landlord Suppliers Directory to help you find the goods and services you need, from landlord insurance to evictions and fire risk assessments to pest control!

And for those landlords that need extra support, **London Property Licensing** can provide assistance with all aspects of property licensing together with advice and guidance on HMO rules and regulations.

To find out more, visit the **London Property Licensing** website at www.londonpropertylicensing.co.uk. For consultancy support, email info@londonpropertylicensing.co.uk or call 020 8090 2186 to discuss your requirements.

The right to rent~ Landlord immigration checks

The right to rent

- The right to rent restrictions introduced in Immigration Act 2014
- Began nationally 1st February 2016.
- Makes it **COMPULSORY** for all private landlords to check the immigration status of all persons over the age of 18 who will be occupying the property **BEFORE** entering into a tenancy agreement.
- It had already come into effect on 1st December 2014 in Dudley, Walsall, Sandwell, Wolverhampton and Birmingham.

Overview

- Applies to any new tenant wanting to rent accommodation as their only or main home. This includes lodgers or sub tenants. Checks must be made on all persons over the age of 18 who will be living in the property - not just the tenants.
- The landlord or agent must undertake the check (agents **MUST** be instructed in writing to carry out checks).
- Documentary evidence need to be checked *no longer than 28 days before the start of the tenancy* in the presence of the tenant (or video link) and must be originals. Must be satisfied that they are genuine and take copies.

- Copies must be stored securely for at least 1 year after the tenancy ends
- Checks last for the length of the tenancy or the expiry date of any restricted leave, whichever is the longer
- Large fines that can be imposed if checks are not made

Who has a right to rent?

1. Relevant Nationals

These are people who are not subject to immigration control and include British citizens, EEA and Swiss nationals. Just have to prove ID and nationality but are not required to prove a right to be in the UK

2. Those with a right to rent

People subject to immigration control and who have leave to enter or remain in the UK that has no limit or restrictions

Groups 1& 2 only need to be checked when they move into a new property and can rely on expired passports provided they can be identified by them.

3. Those with a limited right to rent

These are individuals who have limited leave or restrictions imposed by the home office that is time limited. Landlords are required to carry out follow up checks either just before the leave expires or after 12 months, whichever is the later.

What documents are required? They will require 1 of list **A** or 2 of list **B**

A	B
UK, EEA or Swiss passport	UK Birth or adoption certificate
EEA or Swiss ID card	Full UK drivers licence
Permanent EEA /Swiss residence or family member card (blue)	Official letters from: HM prison service or national offender service or criminal record check *
Biometric residence permit or immigration status document endorsed with ILR or ILE	Evidence of current or previous service in armed forces *
Passport or UK travel document endorsed with ILR or ILE	Letter from the police confirming certain documents have been stolen*
Commonwealth citizens right of abode	Testimony from employer or UK passport holder*
Certificate of naturalisation	Letter from UK further education establishment, local Authority or Benefits Agency*
TIME LIMITED RIGHT TO RENT valid passport , biometric document , non-EEA national residence card or UK immigration status document endorsed with time limited leave	*These letters and testimonies cannot be more than 3 months old

The Process

- The documents must be checked for authenticity in the presence of the tenant and copied. These documents must be kept securely for at least 1 year after the end of the tenancy.
- Comply with the Data Protection Act and dispose of unwanted documents by shredding or burning them.

If documents are with the home office due to an outstanding immigration application, checks can be made with the **landlord checking service** online form or with the advice line on **0300 069 9799**.

- The Home office reference number is required. If the online form is used a reply will be made within 48 hours, if no reply has been received then the landlord may continue with the letting.
- If follow up checks need to be carried out and it is discovered that the person no longer has a right to rent the landlord must make a report to the home office. **There is no need to evict the tenant.**

What are the penalties?

- It is now an offence to rent accommodation to “an illegal immigrant”. If an illegal immigrant is found in a landlords property and they have failed to make the proper checks then they are liable to a Civil Penalty of up to £3,000
- If a landlord is reported to the Home Office s/he will receive a **referral notice** and be asked to provide an explanation following an **information request**. Following this a **civil penalty notice** will be issued or a **no action notice**. Landlords have 28 days to object to a civil penalty; grounds are that the landlord is not liable, the penalty is too high or there is a statutory excuse. The outcome is by means of an **objection outcome notice**, if they still disagree they may appeal to the courts

Summary



London landlords to pay over £115,000 for Breaching Planning Regulations

Two north London landlords who breached planning regulations by converting a house into seven studio flats have been ordered to pay a total of £116,000 following legal action from Islington Council.

The council had previously asked Mr Efstratios Filis-Gelagotis and Mr Andreas Charalambous to cease using the property at 52 Benwell Road, N7, as studios, after it was found that the property had been converted without proper planning permission.

Islington Council’s planning enforcement notice, issued in December 2013, required the unauthorised use of the single-family dwelling to studio flats to cease within six months. However, the flats continued to be let out, despite further warning letters from the council, so a decision was taken to prosecute. On 12 October 2015 Mr Filis-Gelagotis and Mr Charalambous pleaded guilty to failure to comply with the enforcement notice.

At a hearing in 2016 at Blackfriars Crown Court, Mr Filis-Gelagotis and Mr Charalambous were ordered to pay a fine of £5,000 each and legal costs of £4,000 each. They were also each ordered to pay £49,000 - £98,000 together - made from renting out the flats between July 2014 and October 2015, under the Proceeds of Crime Act.

The property has since been converted to a six bedroom house in multiple occupancy after planning permission was granted in October last year. Landlords and property owners who would like guidance on how to meet current legislation please **attend LLAS/UKLAP training** or visit www.gov.uk/private-renting/your-rights-and-responsibilities & for training visit www.londonlandlords.org.uk

Do you have a property to let in Lewisham?

Lewisham Council runs two schemes to meet your needs.



Lewisham Landlord Letting Scheme

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

- ▶ one-off cash payment for new landlords
- ▶ continuous supply of tenants
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- ▶ free professional inventory
- ▶ fast-track payments from tenants on housing benefit.

Private Sector Leasing Scheme (PSL)

With the PSL scheme, we manage your property for you. Benefits include:

- ▶ guaranteed rent 52 weeks a year
- ▶ protection from LHA changes
- ▶ no void or bad debts
- ▶ professional housing management services
- ▶ property inspections.

Find out more – with no obligation.

www.lewisham.gov.uk/landlords • 020 8314 7086 / 9772 / 6753



Haringey Landlords' Forum – Wednesday 16th November 2016

Kindly sponsored by Kullans

I am pleased to invite you to our next Landlords' Forum on **Wednesday 16th November 2016** in the **Council Chamber, Civic Centre, Wood Green, High Road, London, N22 8LE.** (N22 9SB for Sat Nav users)

Refreshments and registration 5pm to 6pm.

You will be able to register from 5pm and enjoy refreshments and network. Our Housing Demand staff will be on hand to answer any queries you may have. There will also be an opportunity for you to put questions to the panel.

There is some parking available at the Civic Centre. We do, however, recommend you come by public transport.

If you have any questions about the forum or there are any particular issues you want to discuss, please do not hesitate to contact **the Acquisition Team** on **020 8489 4726** or email

privatesectorlettings@homesforharingey.org

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You are cordially invited to:

Hackney Council's
**LANDLORD
FORUM**

Thursday 10 November 2016
at The Tomlinson Centre,
Queensbridge Road, E8 3ND 11am to 2pm.
(Registration from 10:30am)


Our free Landlord Forum gives you the chance to hear from Council officers about key changes that may affect your tenancies, and quiz our experienced team about any issues.

November's forum includes:

- A presentation on how government changes to the Benefit Cap in November – to reduce the amount your tenants can claim – may affect you
- A presentation on policy and legal changes you need to be aware of – including Brexit
- Hackney Council's new purchasing systems, leasing and acquisition protocols to help challenges you may have
- Information about how you can take part in our social lettings agency, Priority Homes – giving you a guaranteed tenant and full rent collection
- The opportunity to sign up to our new Landlord Newsletter

If you are an accredited landlord with the London Landlord Accreditation Scheme, your attendance at this forum will earn you CPD Points. Please ensure you submit your organisation's name and membership reference number. Certificates will be issued to you on the day.

Refreshments and lunch will be provided.

 If you require additional information, please contact a member of our team at **Hackney Council, Housing Supply Team, Hackney Service Centre, 1 Hillman Street, London E8 1DY** or telephone **020 8356 4411**.

Please confirm your attendance by emailing:
hackney.priorityhomes@hackney.gov.uk
by **31 October 2016**.

We look forward to seeing you there.



Southwark's Landlord Forum

1 December 2016, 5.30pm to 8pm
160 Tooley Street SE1 2HZ

Engaging our Landlords

The theme of the landlord forum is **Engaging our Landlords**

This forum is aimed at promoting closer partnership working with developers, private landlords, managing and letting agents.

The forum will feature the opportunity to learn more about:

- Relevant council services
- Housing management packages
- Procurement opportunities
- Landlord partnership options
- An opportunity to hear updates on recent key legislation and council policies which affect the private rented sector in Southwark, including:
 - The Deregulation Act
 - Right to Rent
 - Housing and Planning Act Licensing
 - Planning applications — change of use.

Please come and network with other landlords, the National Landlord Association and key contacts within the council. We will discuss landlord needs in Southwark and how we can work better together. Food and refreshments will also be provided.

We have a limited number of places available, please RSVP by emailing:

<https://southwarklandlordforum.eventbrite.co.uk>

Housing and Planning Act 2016: What does it mean to private landlords and agents?

The new Act includes six measures designed to tackle landlords and property agents who operate illegally. They include:

- Banning orders for most prolific offenders
- Database of rogue landlords/property agents
- Civil penalties of up to £30,000
- Extension of Rent Repayment Orders
- Tougher Fit and Proper Person test for landlords
- Tenancy Deposit Protection Scheme data sharing.

It also includes a new mechanism allowing landlords to legally recover abandoned properties without needing to go to court. The Act applies to landlords in England. The sections affecting private renting survived largely unchanged, with the addition of two enabling amendments that will allow the introduction of electrical safety standards and checks, and a requirement to agents to hold client money protection.

Banning Orders and 'Rogues' Database

Intended to help local authorities keep track of rogue landlords and agents and target enforcement action, the Government has promised an autumn consultation on what offences could result in a banning order, with draft regulations published in early 2017 and the measures coming in to force in October 2017. A banning order will prohibit acting as a landlord or agent for a minimum of 12 months. The database of rogue landlords and agents will be held by Department for Communities and Local Government (DCLG) and updated by local authorities. Currently, only local authorities are proposed to have access to the register.

Civil Penalties, Rent Repayment Orders and Fit and Proper Person Test

The Government expects to publish guidance on these aspects of the Act in March 2017, with the measures taking force in April 2017. Local authorities will be allowed to fine landlords up to £30,000 and keep the proceeds. Rent Repayment Orders will extend to unlawful eviction, violence to secure entry and breach of banning order.

Sharing Tenancy Deposit Scheme Data

Local authorities will be able to request data from tenancy deposit protection schemes to help identify private rented property and landlords, take action against rogue landlords and enforce housing standards.

Electrical Safety and Client Money Protection

The Secretary of State can now bring forward proposals to ensure property agents (i.e. letting and managing agents) that hold client money, such as rent or service charges, belong to a client money protection scheme; and require that rented properties in the PRS meet acceptable electric safety standards. DCLG will consult on details of these proposals before regulations are published.

Abandonment

The Act includes a new statutory code enabling a landlord to recover a property if the assured short-hold tenant has abandoned it, without the need to serve a section 21 notice or obtain a possession order;

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

- **Extension of Mandatory HMO Licensing**

Last year the Government consulted on proposals to extend the scope of mandatory licensing of HMOs. Ministers are still considering their response, but changes to include two storey buildings, flats above shops seem likely, as well as reducing the people/ households threshold. Minimum room sizes may also be stipulated. Any changes are expected to be implemented in October 2017.

Proposed Implementation	
Banning Orders	
Sept – October 2016	Formal consultation
Jan – March 2017	Draft regulations published
October 2017	Regulations to come into force
Civil Penalties and Rent Repayment Orders	
March 2017	Guidance published
April 2017	Implementation
Revised Fit and Proper Person test	
March 2017	Guidance to be published
October 2017	Implementation
Rogue Landlord Database	
October 2017	Implementation



For further information visit www.legislation.gov.uk/ukpga/2016/22/contents/enacted/data.htm

Legionella and landlords' responsibilities

What is Legionella?

Legionnaires' disease is a potentially fatal form of pneumonia caused by the inhalation of small droplets of contaminated water containing Legionella. All man-made hot and cold water systems are likely to provide an environment where Legionella can grow. Where conditions are favourable (i.e. suitable growth temperature range; water droplets (aerosols) produced and dispersed; water stored and/or recirculated; some 'food' for the organism to grow such as rust, sludge, scale, biofilm etc.) then the bacteria may multiply thus increasing the risk of exposure. It is a simple fact that the organism will colonise both large and small systems so both require risks to be managed effectively.

What is a landlord?

A landlord is anyone who rents out a property they own under a lease or a license that is shorter than seven years. Landlords' duties apply to a wide range of accommodation, occupied under a lease or a license, which includes but not exclusively, residential premises provided for rent by:

- local authorities
- housing associations
- private sector landlords
- housing co-operatives
- hostels

The law and you

The law is clear that if you are a landlord and rent out your property (or even a room within your own home) then you have legal responsibilities to ensure the health and safety of your tenant by keeping the property safe and free from health hazards.

Section 3(2) of the Health and Safety at Work Act 1974 (HSWA) makes provision for relevant health and safety legislation to apply to landlords to ensure a duty of care is shown to their tenants' with regard to their health and safety. The general duties require under section 3(2) that *"It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety."* Landlords, under **Section 53 of HSWA** are regarded as being self-employed and tenants fall into the class of *"other persons (not being his employees)"*. If you rent out a property, you have legal responsibilities to ensure you conduct your undertaking in such a way that your tenant(s) are not exposed to health and safety risks.

The Control of Substances Hazardous to Health Regulations 2002(COSHH) provides a framework of actions to control the risk from a range of hazardous substances, including biological agents (eg Legionella) - to identify and assess the risk, and implement any necessary measures to control any risk. There has been no change to UK legislation. Since the introduction of the Control of Substances Hazardous to Health Regulations (COSHH) in 1989, there has been a requirement for landlords of both domestic and business premises to assess the risks from exposure to Legionella to their tenants.

L8 Approved Code of Practice (ACOP) was revised and republished in November 2013 and retained the guidance on the requirements of HSWA and COSHH for employers AND those with responsibilities for the control of premises including landlords (L8 ACOP, paragraphs 1 and 2). It applies to the control of Legionella bacteria in any undertaking involving a work activity AND applies to premises controlled in connection with a trade, business or other undertaking where water is used or stored and there is a reasonably foreseeable risk of exposure to Legionella bacteria (L8 ACOP, paragraph 22).

What you must do

The practical and proportionate application of health and safety law to landlords of domestic rental properties is that whilst there is a duty to assess the risk from exposure to Legionella to ensure the safety of their tenants, this does not require an in-depth, detailed assessment. The risks from hot and cold water systems in most residential settings are generally considered to be low owing to regular water usage and turnover. A typical 'low risk' example may be found in a small building (e.g. housing unit) with small domestic-type water systems, where daily water usage is inevitable and sufficient to turn over the entire system; where cold water is directly from a wholesome mains supply (no stored water tanks); where hot water is fed from instantaneous heaters or low volume water heaters (supplying outlets at 50 °C); and where the only outlets are toilets and wash hand basins.

A simple assessment may show that there are no real risks and are being properly managed and no further action is needed. It is important to review the assessment in case anything changes in the system.

Implementing simple, proportionate and appropriate control measures will ensure the risk remains low. For most domestic hot and cold water systems, temperature is the most reliable way of ensuring the risk of exposure to Legionella bacteria is minimised ie keep the hot water hot, cold water cold and keep it moving. Other simple control measures to help control the risk of exposure to Legionella include:

- flushing out the system prior to letting the property
- avoiding debris getting into the system (e.g. ensure the cold water tanks, where fitted, have a tight fitting lid)
- setting control parameters (e.g. setting the temperature of the hot water cylinder (calorifier) to ensure water is stored at 60°C)
- make sure any redundant pipework identified is removed.
- the risk is further lowered where instantaneous water heaters (for example combi boilers and electric showers) are installed because there is no water storage.

What your tenant needs to know

Tenants should be advised of any control measures put in place that should be maintained e.g. not to adjust the temperature setting of the calorifier, to regularly clean showerheads and tenants should inform the landlord if the hot water is not heating properly or there are any other problems with the system so that appropriate action can be taken.

Where showers are installed, these have the means of creating and dispersing water droplets (aerosols) which may be inhaled causing a foreseeable risk of exposure to Legionella. If used regularly (as in the majority of most domestic settings) the risks are reduced but in any case, tenants should be advised to regularly clean and disinfect showerheads. Instantaneous electric showers pose less of a risk as they are generally cold water-fed and heat only small volumes of water during operation.

Additional actions for properties left vacant

It is important that water is not allowed to stagnate within the water system and so there should be careful management of properties left vacant for extended periods (e.g. student accommodation left empty over the summer vacation). As a general principle, outlets on hot and cold water systems should be used at least once a week to maintain a degree of water flow and minimise the chances of stagnation. To manage the risks during non-occupancy, consideration should be given to implementing a suitable flushing regime or other measures such as draining the system if it is to remain vacant for long periods.

Who can assess the risk?

In most cases, the actions landlords need to take are simple and straightforward so compliance does not need to be burdensome or costly. Most landlords can assess the risk themselves and do not need to be professionally trained or accredited; but if they do not feel competent, or inclined to do so, they can arrange for someone who is to do it on their behalf.

Most landlords are able to understand the set of risks of running a hot and cold water system in a way that provides the above conditions; and would also be able to implement cheap, simple and effective physical control measures required to minimise the risk of the system becoming colonised with Legionella and other microorganisms.

Testing (or sampling) the water system for Legionella

Testing or sampling for Legionella (sometimes referred to as microbiological monitoring) is not usually required for domestic hot and cold water systems, but only in very specific circumstances (HSG274 Part 2, para 2.120). Testing for Legionella should not be confused with temperature monitoring, which is a reliable method for confirming the water system is under control. Health and safety law does NOT require landlords to obtain, produce nor does HSE recognise a 'Legionella test certificate'.

Keeping a record of the assessment

Landlords are not necessarily required to record the findings of the assessment (this is only a statutory duty for employers where there are five or more employees), but they may find it prudent to keep a record of what has been done for their own purposes.

Reviewing your risk assessment

The law does not prescribe that the risk assessment be reviewed on an annual or biennial basis. It is important to review the assessment periodically in case anything changes but where there are difficulties gaining access to occupied housing units, appropriate checks can be made by carrying out inspections of the water system, for example, when undertaking mandatory visits such as gas safety checks or routine maintenance visits.

Are domestic properties proactively inspected?

HSE and Local Authority inspectors do not proactively inspect domestic premises or ask for evidence that landlords have undertaken a risk assessment. However, if a tenant were to contract Legionnaires' disease from the water system in their home, the landlord may be liable to prosecution under HSWA, and would have to demonstrate to a court that they had fulfilled their legal duty, so it is important that they assess and control the risks (see <http://www.hse.gov.uk/press/2010/coi-e-05.htm>)



Are you a landlord, property developer or managing agent looking to let a property?

No commission, no fees, no hassle.

Newham Council URGENTLY requires properties and wants to work in partnership with landlords and managing agents to rent their properties.

The council can offer:

- Up to £2,000 non-refundable cash incentive payment
- £200 non-refundable cash payment to hold a property
- Deposit Bond to the value of six weeks rent
- Deposit and rent in advance

Working with the council means:

- Ongoing landlord support and advice
- Support to maintain the tenancy
- Direct rent payments
- Local housing allowance (LHA) rates paid

If you have any properties or would like to find out more about our Private Rented Sector Scheme, contact the Housing Supply team now.

Telephone: 020 3373 1149

Email: PRSSupply@newham.gov.uk



Rented property licensing proposals - Have your say

Whether you are a private tenant or landlord, a local resident or business, Newham Council wants your views on proposals to bring in a new licensing scheme for landlords of privately rented properties after the current scheme expires.

The proposals aim to tackle anti-social behaviour and poor management of properties owned by landlords who do not operate in a professional way and fail to comply with the law. It also aims to improve living standards for our residents.

For full proposal details and to respond to our questionnaire, please visit

www.newham.gov.uk/licensingconsultation

The consultation closes on **Monday 23 January 2017**. All responses must be received by this date.



Useful links

LLAS – www.londonlandlords.org.uk

UKLAP- www.uklap.org.uk

RLA – www.rla.org.uk

SLA – www.southernlandlords.org

Landlord Law – www.landlordlaw.co.uk

TDP (The Deposit Protection Service) – www.depositprotection.com

Landlordzone – www.landlordzone.co.uk

Accreditation Network UK (ANUK) – www.anuk.org.uk

Landlord's useful links and information – www.landlords-uk.net

Fire Protection Centre – www.fireprotectioncentre.com

Direct Gov UK: Advice for tenants and landlords – www.direct.gov.uk

Gas Safe Register – www.gassaferegister.co.uk

National Inspection Council for Electrical Installation Consulting (N.I.C.E.I.C) – www.niceic.org.uk

Online Planning and Building Regulations Resource – www.planningportal.gov.uk

The Residential Property Tribunal (RPTS) – www.rpts.gov.uk

Health and Safety Executive – www.hse.gov.uk

HM Revenue & Customs – www.hmrc.gov.uk

The Court services – www.hmcourts-service.gov.uk

The Office of Fair Trading – www.offt.gov.uk

The Department of Business Innovation & Skills – www.berr.gov.uk