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**HELEN PINK**

Residential Letting and Management Service

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## Landlord's Guide

and

### INFORMATION ABOUT OUR SERVICES

#### **Dear Property Owner,**

Thank you for requesting our brochure, which we hope you will find useful. As residential letting and managing agents we provide a comprehensive property letting service and we offer a free no obligation advice consultation. This will provide an opportunity to discuss the basic requirements of letting your property and also any pitfalls, which may be encountered. If you are thinking of buying a property to let, we will be happy to advise you about its suitability.

We receive regular enquiries from prospective tenants and local employers; these are monitored and matched to properties that our Landlords have available to let. We also advertise regularly via the Internet through several sites and on our website.

The residential lettings market is really active and many people are renting rather than buying. In addition, there are always homeowners seeking a short-term let as part of a move.

The following pages contain a landlord's guide to property letting. Please see our terms of business to understand which elements are included under which levels of service. If after reading the brochure you have any queries, please feel free to call the office and we will be happy to assist in any way we can

## **LETTING THE PROPERTY**

Once instructed [as sole agents] we will commence a search for a suitable tenant. Depending on which service you choose, we will either accompany viewings or make a mutually convenient appointment for you.

As soon as a suitable prospective tenant has been found we will negotiate the terms and commence the vetting procedure. When satisfactory references, including I.D. verification, are obtained we will interview the prospective tenant to assist us in making a recommendation to you. If you wish, we can arrange a meeting with you before any decision is made.

## **RENTERS' RIGHTS**

This legislation brings changes that landlords who have rented before may not be familiar with. It does not, for example, allow fixed term tenancies, more than one months' rent to be paid in advance or rent increase clauses. Most tenancies will be assured periodic tenancies and notices for breach of contract or possession will be under section 8 only. There will be new and amended grounds to ensure landlords can get their property back but a reason will be required and notice period will be longer in most instances.

There is a new requirement for landlords to sign up to a redress scheme even if the property is being managed by an agent. All landlords including joint-landlords will have to register on the Private Rented Sector database and each property must be registered on the database. Marketing of properties is not permitted until both of these have been confirmed.

We will guide you through the new requirements as they become a requirement.

## **MATERIAL INFORMATION**

Material information is any information that might, if known, mean a prospective tenant would make a different decision about proceeding with a viewing, an application or a tenancy. We

have already been required to give material information; however, National Trading Standards has now instigated minimum material information requirements. If the information is not given then a property may not be marketed. Information that must be included in all written marketing information will initially mean relatively minor changes to the marketing requiring, in Part A, the inclusion of the council tax band and information on the rent and any deposits. Part B requires information affecting all properties, such as utilities, broadband speeds and anything affecting the fabric of the building e.g. cladding. Part C is property specific and will require disclosure of information on, for example, restrictive covenants, local planning application and flood risk etc.

These are minimum requirements and we will be unable to start marketing, in time, without this information. This should though not be seen as the only material information required and we will ask that you also disclose anything else that might affect a consumer's decision such as neighbour disputes, an intention to sell in the near future or that the property was the scene of a notorious crime.

## **REFERENCES**

We take references appropriate to the potential tenant. This may involve using a specialist agency to carry out a detailed check including the credit and employment history of the prospective tenant. If there were any question of doubt about the ability to pay the rent, or perhaps job security, we would only advise proceeding if a suitable guarantor could be provided.

## **RIGHT TO RENT**

Under the Immigration Act 2014 agents and landlords have to ensure that all occupiers have a Right to Rent which is verified face to face / live video and by a single document or a combination of documents that have been listed by the Home Office; face to face / video after a share code check with the Home Office or via the Home Office Online checking service. Where the occupier has a limited right to remain in the UK, the Right to Rent has to be carried out again at the expiry of the right to remain or 12 months from the last check whichever date

is the later. If the agent or landlord has any concerns, the Home Office has a checking system where an answer should be provided within two working days.

## **THE TENANCY AGREEMENT**

We will discuss with you the best terms and conditions then prepare the appropriate legal agreement. In most cases, we will use an assured periodic tenancy agreement. Unless the tenant is in breach of contract there are a limited number of Grounds that you may rely upon to seek possession. Notice periods can be up to 4 months and they may not be able to expire within the first 12 months of the tenancy. We may be able to serve notice on your behalf but we are unable to represent you in court. You may wish to engage a solicitor to serve notices for you in the first instance.

## **MORTGAGED PROPERTY**

It may be that your property is mortgaged to a building society, bank or other lender. If so, the mortgage deed will almost certainly require the written consent of the lender to be obtained before you let the property. If your property is mortgaged, you should apply for consent. Lenders will not deal with us in relation to the mortgage; you will therefore need to fill out their application form, though we would be happy to help and provide any information necessary. Occasionally, it will be a condition of consent to the proposed letting that your mortgage interest rate is reviewed for a buy to let mortgage and it is therefore advisable for you to approach your mortgage lender at an early stage to see what the financial consequences are likely to be. Some lenders also charge an administration fee.

## **LEASEHOLD PROPERTY**

If your property is leasehold, you may require the consent of the freeholder for your proposed letting. We would be pleased to apply for the necessary consent on your behalf if you wish. We will require a copy of the head lease to append to the tenancy agreement so that the tenant and any other occupiers are able to ensure that they do not breach the conditions of the head lease.

## **RESTRICTIONS AFFECTING YOUR PROPERTY**

Whether your property is freehold or leasehold there may be special rights or restrictions affecting it (for example, a prohibition on more than one family or the parking of a caravan on the drive). We will need to have details of these to include with the initial marketing and in the tenancy agreement. This is material information.

## **ATTIC, CELLAR AND EXCLUDED AREAS**

We do not inspect the above areas but we may ask you to confirm the contents of these areas (if any) as this may affect safety issues. During our routine visits to managed properties we will not visit these areas unless requested to do so. It is strongly recommended that you do not store items at the property once let.

## **INSURANCE**

We always advise landlords to make sure that the property and its contents are adequately insured (unfurnished properties may still have contents such as curtains, white goods etc.) and to ensure that a minimum of level of third party liability cover of £1 million is maintained. It is extremely important that you advise your insurance company that you are proposing to let your property and that you confirm to them once this has been done. Failure to do so could result in you losing insurance cover. Some insurers impose letting conditions and we would require details as this may affect the choice of tenant. If your insurer is not happy with you letting the property we may be able to introduce you to companies that specialise in insurance for the rental market.

The Renters' Rights legislation makes it harder to refuse a tenant's request to keep a pet. Where the tenant is permitted to keep a pet, they may be required to pay the actual cost of the additional insurance that the landlord has to pay to insure the property. Alternatively, tenants may be required to pay for their own 'pet insurance'. We prefer the former option as it ensures that the landlord is in control and an insurance policy is maintained. When Renters' Rights is in force pet insurance becomes a permitted payment under the Tenant Fees Act 2019.

## INCOME TAX

Income received from letting your property will be subject to income tax and you will need to include details of the income and allowable expenses when completing your income tax return. HM Revenue and Customs may ask us directly for details of any income we pay you and we are obliged to supply these details.

It is essential that we know where you live. If you live abroad, we, as your agents, will be required by HM Revenue and Customs to operate the Non-resident Landlord Scheme and pay any tax liability that arises on rents collected by us on your behalf. We will therefore deduct income tax at the basic rate from rent payments received, less allowable expenses that we have paid, and these monies will be paid to HM Revenue and Customs. ***You may be entitled to receive rent without deductions of tax and we strongly recommend you consider this. If you live outside the UK, we will be happy to advise you on this and provide a link to the relevant Non-resident landlord application form with which to join the scheme allowing gross payment of rent. The non-transferable approval will, if granted, be sent to us as the letting agent. You will need our scheme number to complete the application to join the scheme. If approval is not received, we will have to operate the scheme.***

## DEPOSIT

Under laws introduced in 2007, any monetary deposit we take from a tenant in relation to any relevant assured tenancy must be protected with one of the Government approved schemes within a specified time period. In addition, the required prescribed information must be given to the tenant and any person who funded the deposit, again within the specified time period. In the event of non-compliance with the above, the consequences can be twofold; being (a) a penalty of between one and three times the deposit value, per offence, due to the tenant/person funding the deposit and/or (b) the inability to serve a valid notice, in most circumstances, unless the deposit is returned in full, less agreed deductions, you comply late with the initial requirements of the scheme or have already been sued for the financial penalty.

We normally collect a deposit from the tenant. For agreements covered by the Tenant Fees Act 2019 the amount of a deposit is limited to a maximum of five weeks' rent (or six weeks' rent where the annual rent is £50,000 or above per annum). This is held in our client account or by one of the deposit schemes. At the end of the letting this is returned to the tenant, less any deductions made to cover breaches of the agreement. Where we hold the deposit, we will hold the deposit as stakeholder. This means we will hold the deposit on behalf of both parties and will be unable to refund or pay all or part of the deposit to one party without the consent of both parties. We are therefore unable to deduct monies from the deposit without the tenant's consent or the decision of adjudication or the court. We have a procedure for dealing with disputes about the deposit and we will always use every endeavour to settle matters quickly and satisfactorily. If we are not able to settle the dispute, it can be resolved by the deposit scheme adjudication or a court order. We do not pay interest on client monies held.

Where we, as the agent, receive a deposit from the tenant on behalf of a Tenant Find Only landlord, we as the party who received the deposit, are responsible for ensuring that the deposit has been registered within 30 days of receipt and for the issuing of the deposit Prescribed Information. We will only transfer the deposit to the landlord once we are assured that the deposit has been registered and that the Prescribed Information has been issued. If it becomes necessary, we will take steps to ensure our compliance.

## **RENT**

The rent is usually payable monthly in advance. Under our Letting and Rent Collect and Full Management service, we will collect the rent and account to you at agreed periods (usually monthly).

We try and pay rent, less funds required to manage the property, if applicable, to landlords within five working days of receipt of cleared funds. Occasionally, this can be later during periods such as Christmas. We will always use our best endeavours to collect the rent on time. Should a tenant be late we will advise you and pay the rent due as soon as practical

after it is received. In common with all letting agents, we cannot be liable for non-payment of rent. However, we may be able to offer a full rent guarantee scheme to landlords and we will discuss this with you if you ask.

## **BILLS AND SERVICES**

It is usual for the tenant to pay charges for council tax, electricity and gas. We will notify the authorities and service suppliers and, if necessary, take meter readings. Tenants are, of course, entitled to change suppliers for gas and electricity. Water rates will normally be put into the tenant's name.

Regulations were passed in November 2023 in relation to council tax, these changes commenced on 1 December 2023. These amendments mean that for houses in multiple occupation (HMOs), council tax can no longer be charged on each bedsit. The building as a whole will be under one council tax bill. If someone (or group of people) have a contract to rent the whole property, our understanding is that they will remain liable for the council tax. There is some disagreement around this and either correcting legislation or a higher court decision is required. If not all the property is let on a single contract, then council tax will fall to the landlord. This is a very brief summary, please speak to us if you need further information.

## **LANDLORD OBLIGATIONS**

It is always the landlord's liability to keep the property and the services such as central heating in repair. Under our Full Management service, we will agree with you provision for emergency repairs such as a burst pipe. When major expenditure is required in a non-emergency situation, we will always obtain quotations for you before proceeding.

Under the Homes (Fitness for Human Habitation) Act 2018 there is an implied covenant by the landlord that the property will be fit for human habitation at the start of the tenancy and will remain fit for human habitation throughout the tenancy.

## **Decent Homes Standard**

The Renters' Rights legislation applies the Decent Homes Standard to the private rented sector which will require landlords to meet strict repair and maintenance timescales. Regulations will need to be brought forward later to provide further information but the focus is on landlords who fail to look after their properties so in our market, it should not have too much impact.

## **CLEANING**

Whether the property is furnished or unfurnished, it is important that it is clean throughout before the tenants move in. We strongly recommend that the property, including carpets, is professionally cleaned and, if necessary, the garden made tidy. An inventory will be taken to help evidence the condition at the start of the tenancy.

The Tenant Fees Act 2019 precludes landlords from requiring the tenant to have the property professionally cleaned at the end of the tenancy. However, if it is not as clean at the end as it was in the beginning, a claim could be made against the deposit.

## **INVENTORY**

We will produce a detailed inventory of the property including a schedule of condition. We will send you a copy and we will update this during the period we are letting the property as each tenant moves out. When a tenant is checked into the property, we give them a fair opportunity to check the inventory and we will deal with any discrepancies. We also do a detailed check out when the tenant vacates and we may report our findings to you.

## **LEGAL REGULATIONS**

There are strict regulations relating to the fire resistance of soft furnishings that are included in the letting. There are some exemptions but a breach of these regulations can result in criminal proceedings. If you propose including soft furnishings, we will advise you on the appropriate regulations. The regulations make it clear that there must be no non-compliant furniture on any part of the property including in the garage and attic.

Under current safety regulations it is the landlord's responsibility to ensure that the gas and electrical systems and appliances at the property are maintained in a safe condition and serviced by a qualified contractor.

A gas safety check must be carried out and a safety record issued to the tenant before they occupy the property. Also, under guidance from the Health and Safety Executive, landlords have a legal duty to carry out a risk assessment for legionella in each rented property.

An electrical installation check must be carried out at least every five years and report given to the tenant, along with evidence of any remedial work carried out since the last inspection, upon request; before they occupy the property or within 28 days of occupation or of the inspection for an existing tenant. There are additional requirements to provide a copy of the report and evidence of remedial works if remedial works were required following the inspection or during the tenancy.

Following the Grenfell Tower tragedy new legislation has passed through Parliament which amends the Regulatory Reform (Fire Safety) Order 2005. As a result, there is new legislation affecting any building with two or more domestic premises as well as buildings with communal areas such as blocks of flats, converted buildings or indeed bedsit buildings.

The current requirement is that the person in control of a building with communal areas must carry out and review a fire risk assessment. In order to demonstrate compliance a written record should be retained. New information relating to the structure of the building including but not limited to external walls, windows and doors in those walls in the communal areas and doors to individual premises will be required. Anything attached to the outside of the external walls such as balconies will also be included.

Dangerous cladding on buildings is in the process of being replaced. Any building over 18 meters tall which has not had the offending cladding removed must have additional measures in place such as the 24 hour walking fire watch. Whilst letting a property with dangerous cladding is not prohibited, it is material information and therefore we must disclose this to

prospective and existing tenants. This may impact on a prospective tenant's decision to rent the property and the tenant's quiet enjoyment of the property during remedial works which may both negatively affect the level of rent.

The property must be a safe environment for tenants and we will assist you in checking all safety aspects of the property prior to the tenant moving in.

If any appliances are included in the letting it will be the landlord's responsibility to ensure they are safe when the property is let. The law may also require the landlord to repair or replace these should they become defective. You will need to remove old or defective appliances such as cookers from the letting. Plugs and socket regulations apply and we must ensure that all plugs, leads and sockets are checked for safety and correctly fused before a tenant takes possession.

Where electrical appliances are included, we are obliged to supply safety instructions; please provide us with any that you have for the appliances.

An energy performance certificate is legally required for the marketing of a residential property. Details of a qualified "domestic energy assessor" who could conduct such a certificate on your behalf can be found via this web link <https://www.gov.uk/get-new-energy-certificate> or please contact this office as we can arrange a certificate on your behalf using one of our approved contractors. To comply with the Minimum Energy Efficiency Standard (MEES) the EPC rating has to have an 'E' rating or above. If the property has a rating of either 'F' or 'G' then, unless there is a valid registered exemption, or an EPC is not legally required, the property cannot be let.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, require that '*a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation*' unless the property has a full fire alarm system. These must be checked and working on the first day of the tenancy, the liability for ongoing regular testing is with the tenant

The same regulations require that *'a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a fixed fuel burning appliance, other than a 'gas cooker;'*. If the gas boiler is in the kitchen, as well as a gas hob, then a carbon monoxide alarm will be required anyway for the boiler. There is also a requirement for landlords to repair or replace smoke and carbon monoxide alarms once the tenant reports a fault or it comes to the attention of the landlord or their agent. As with smoke alarms they must be checked and working on the first day of the tenancy and the liability for ongoing regular testing is with the tenant.

If the property has working open fireplaces, we recommend that you arrange for these to be regularly swept. We can arrange these matters on your behalf.

A tenant or another party may ask the local authority to carry out an inspection of the property under the Housing Health and Safety Rating System. The local authority has significant powers to require property owners to make the property safe. The system is based on whoever may be considered the most vulnerable person to occupy the property. We will explain how these regulations may affect you. We will also assist you with outcomes of such an inspection. However, this is not included in our standard fee structure and we will charge fees based upon an hourly rate applicable at the time if you require our assistance.

There are definitions about what constitutes a house (residential property) in multiple occupation. We will advise you about this as there are legal consequences in letting a property to sharers.

Under The Consumer Protection from Unfair Trading Regulations 2008 landlords could be held criminally liable for misleading statements or misleading omissions in the marketing details that they approve.

## **DATA PROTECTION**

The UK General Data Protection Regulations (UK GDPR) came into force on 25 May 2018. Amongst wide ranging regulations concerning the processing of personally identifiable information is a requirement for Data Controllers to pay a data protection fee to the Information Commissioners Office and details of the fee will be placed on the register. Our understanding is that landlords are Data Controllers and therefore must pay the fee and be compliant with the UK GDPR. It is the responsibility of the landlord to ensure compliance with these requirements and penalties can be levied by the Information Commissioners Office for non-compliance.

A landlord will be a Data Controller where, for instance, they store personal data of the tenant, or other data subject, for instance a copy of the tenancy agreement or even emails identifying a data subject. A landlord will also be considered to be a data controller where they simply make a decision involving the processing of data held by the letting agent e.g. asking the letting agent to serve a notice seeking possession.

## **HOMES (FITNESS FOR HUMAN HABITATION) ACT 2018**

There is an implied covenant in all tenancy agreements covered by the Act that a property should be fit for human habitation both at the start and during the tenancy. Landlords (or their agent) will be responsible for attending to disrepair/fitness issues once they are notified although where this is in a communal area the responsibility begins immediately any such issues occur. A failure to deal with applicable problems may result in the tenant taking direct court action against the landlord which could result in the court ordering works (specific performance) and compensation. It is vitally important that documented routine visits are carried out in order to identify disrepair or potential problems before they give the tenant any cause to go to court. Those landlords who respond promptly and implement an ongoing maintenance regime will mitigate the likelihood of action being taken against them.

We will try and identify any issue which is apparent to us, however, if you have any concern or knowledge about issues that are not so obvious, we recommend that you discuss the situation with us at the earliest opportunity.

## **TENANT FEES ACT 2019**

Schedule 1 of the Act identifies payments that are permitted to be paid by the tenant for some lettings. Any other payments are prohibited and requiring or taking a prohibited payment may lead to penalty of up to £5,000 for a first offence and a more severe penalty of up to £30,000 for a second offence. A second offence alternatively may lead to a criminal prosecution, unlimited fine and possibly a banning order. We will take into account the guidance offered by the Ministry of Housing Communities and Local Government and ensure that, as far as possible and until the courts provide decisions, our tenancy agreement is compliant.

## **Money Laundering**

The 5<sup>th</sup> Money Laundering Directive brought letting agents into the scope of the money laundering legislation. Rents are generally seen as low risk for money laundering activities as rent is paid in exchange for the occupation of the property; dirty money is not cleaned and returned. A letting agent under this legislation is only a 'letting agent' if they collect a rent under a single tenancy that exceeds the equivalent of 10,000 Euros per month. The vast majority of letting agents and landlords will be unaffected.

Where an individual monthly rent exceeds this amount the letting agent will be required to register with HMRC for money laundering purposes. Customer due diligence must be carried out on tenants and landlords which will include both identifying and verifying the customer and obtaining information relating to who the beneficial owner of a property is. An example would be where the landlord is a trust; the identity of the trust's beneficiaries would be required.

There is a general duty for anyone who has suspicions of money laundering or terrorist financing to complete a Suspicious Activity Report and send it to the National Crime Agency

## **ROUTINE VISITS**

With our Full Management service, we make regular visits to the property on your behalf and advise you of any potential problems. The main purpose of such visits is to check if there are any matters that require your attention. We also aim to check that the tenant is abiding by

the agreement and not damaging the property. We also give the tenant advice, if necessary, on any defects we may find. However, tenants do have a right of privacy and we, and you as landlord, can only enter the property under limited circumstances. Similarly, we are not able to comment on the tenant's lifestyle or cleaning ability unless the property is being adversely affected.

## **LEGAL PROTECTION INSURANCE AND RENT GUARANTEE**

No matter how well prospective tenants are vetted, there is always the risk that a tenant will prove to be unsatisfactory, sometimes due to unforeseen changes in their own circumstances. Whilst court proceedings can be taken to enforce the terms of the tenancy agreement this is often expensive and it is unlikely that you will be able to recover the full costs involved from the tenant. We strongly recommend that you consider taking out legal protection insurance to guard against the risks involved. Similarly, insurance is available so that your income from rent is not lost in the event that the tenant stops paying. Please ask if you are interested in this.

## **PROBLEMS WITH THE TENANT**

In the event of difficulty, whether because the tenant is failing to pay rent or has broken other terms of the tenancy agreement, we will be pleased to discuss with you the steps to enforce the terms of the tenancy agreement. However, we would stress that the vast majority of lettings we manage are uneventful and trouble free. We will assist with any possession proceedings, but our management fee does not cover this. We will charge fees based on time and will always be happy to give details of the charging rate and an estimate where appropriate.

## **PETS**

Under Renters' Rights there is an implied term in all tenancy agreements that the tenant may keep a pet(s). Landlords will not be able to refuse a pet(s) unless that refusal is reasonable. This may be because the freeholder of a leasehold property does not allow pets or for example the property is not suited to a pet e.g. a large dog in a top floor studio flat.

It will be a condition of the tenancy that the tenant must return the property in the same condition in which it is provided less allowable wear and tear. Under the Tenant Fees Act 2019 we are unable to require a tenant to make a payment to a third party (getting the carpets professionally cleaned/flea treated etc.), although they may choose to do so. However, following Renter's Rights legislation tenants may be required to pay for pet insurance or reimburse landlords for the cost of pet insurance if the landlord arranges the pet insurance. If the tenant does not return the property in the required condition, a deduction from the deposit may be agreed or a dispute raised which may include a carpet clean and pest treatment.

## **GARDEN AND OUTSIDE AREAS**

Tenants are required to keep these areas neat and tidy. Standards of gardening ability and knowledge can vary considerably. If the garden is particularly important or has special features, we usually suggest that the landlord provides a gardener, the cost being included in the rent. The extent of this can be negotiable and we will make the necessary arrangements and monitor the work as part of our management service.