Factsheet 63

Finding private rented accommodation

January 2016

About this factsheet

This factsheet provides information about finding private rented accommodation. It includes information about letting agencies, what to consider when viewing the property and things to think through before signing a tenancy agreement.

Information about rented accommodation from the council or a housing association can be found in factsheet 8, *Council and housing association housing*. Information regarding your rights as a tenant can be found in our range of factsheets on tenants' rights.

The information in this factsheet is applicable in England and Wales. Please contact Age Scotland or Age NI for information applicable to those nations. Contact details can be found on page 18.

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1 Recent developments

- The government plans to roll out 'right to rent' checks across **England** from February 2016. This scheme, which was enabled by the *Immigration Act 2016*, is currently being piloted in the West Midlands. The *Immigration Act* sets out the people who are disqualified from renting privately because of their immigration status and those who have a limited right to rent privately. According to the explanatory notes to the Act, "in general, those who entered the UK unlawfully, or have overstayed their leave to enter or remain in the UK, will be disqualified and those persons who have a limited right to enter or remain in the UK have a limited right to rent". See section 6 for more information about what this means and the kind of checks that will be carried out. This law does not apply to local authorities (councils) as they already check the immigration status of people who apply to go on their housing registers. However, housing associations will have to make the checks if they operate their own waiting lists for prospective tenants. See factsheet 8, *Council and housing association housing*, for more information.
- The *Consumer Rights Act 2015* introduced a new requirement for letting agents in **England and Wales** to publicise information about their fees, in force from 27 May 2015. There are additional requirements for letting agents in **England**, including the requirement to belong to a government-approved redress (i.e. complaints) scheme, which was introduced by the *Enterprise and Regulatory Reform Act 2013*. See section 5 for more information.
- Significant new legislation in **Wales** – the *Renting Homes (Wales) Bill* – has been passed by the National Assembly for Wales. According to the Welsh Government, the legislation "will make it simpler and easier to rent a home, replacing various and complex pieces of existing legislation with one clear legal framework". A central plank of the legislation concerns new "occupation contracts". Except for a limited number of exceptions, the legislation will replace "all current tenancies and licences with just two types of occupation contract":
  - a "secure contract – modelled on the current secure tenancy issued by Local Authorities"; and
  - a "standard contract – modelled on the current assured shorthold tenancy used mainly in the private rented sector.

A minimum six-month occupation period will be maintained by the Bill [but there will be measures to] help protect people from being evicted simply for complaining about the condition of a property"[1]. Further information on the legislation can be found on the National Assembly for Wales website at:

www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=12055

- Earlier housing legislation in Wales – the *Housing (Wales) Act 2014* – became law in September 2014. The law addresses a broad range of housing matters, including a new requirement – as of 23 November 2015 – for the compulsory registration and licensing of private rented sector landlords, letting agents and management agents. The Welsh Government's stated aim for this new requirement is to improve letting and management standards in rented accommodation. 'Rent Smart Wales'[2] is the licensing authority in Wales who will administer the scheme. The main requirements of the new regulatory regime are that:
  - •"All private landlords must register themselves and the addresses of their rental properties in Wales with Rent Smart Wales".
  - •"Landlords who undertake...property management activities at a rental property in Wales must become licensed. If a landlord instructs an agent to do such work on their behalf, it is that agent who must become licensed".
  - •"Local authorities are responsible for any necessary enforcement action against non-compliance"[3] (though it should be noted that landlords and agents "have 12 months in which to comply with the new legislation"[4] – i.e. 12 months starting from 23 November 2015).
  - •"The new licensing authority will establish a comprehensive, central database of all private landlords and agents that operate in the sector. Limited information will be publically available on-line via the Rent Smart Wales website"[5].

1 Renting Homes, 24 November 2015, Welsh Government website: www.gov.wales/topics/housing-and-regeneration/legislation/rentingbill (last accessed 9 December 2015)

2 Rent Smart Wales is actually operated by Cardiff Council, who the Welsh Government appointed to carry out this role for every local authority area in Wales.

3 Private rented housing, 23 November 2015, Welsh Government website: www.gov.wales/topics/housing-and-regeneration/legislation/housing-act/specific-elements/private-rented-housing (last accessed 9 December 2015)

4 Rent Smart Wales, 23 November 2015, Welsh Government website: www.gov.wales/topics/housing-and-regeneration/housing-supply/renting/privately/landlord-and-agent-registration (last accessed 9 December 2015)

5 Private rented housing, 23 November 2015, Welsh Government website: www.gov.wales/topics/housing-and-regeneration/legislation/housing-act/specific-elements/private-rented-housing (last accessed 9 December 2015)

2 Introduction

Private rented accommodation can be a good option for those who are unable to access council or housing association accommodation or who find buying a home too expensive. The main advantage of private rented accommodation is that you may be able to find it quickly and in a location of your choice. But new private lettings are likely to offer much less security than rented accommodation in the public sector (council or housing association housing) and the rent is usually higher. You are likely to have to pay a deposit and possibly also rent in advance. You may find it difficult to obtain your landlord's permission if you need to carry out any adaptations or alterations to the property. Housing Benefit may not cover all the rent and you may have difficulty persuading the landlord to carry out necessary repair work.

Important
If you are a council tenant or housing association tenant, think very carefully about giving up this security to move to private rented accommodation. Most private landlords now grant assured shorthold tenancies, which can be brought to an end when the fixed term expires (or after six months if the tenancy did not have a fixed term). Some private providers of sheltered accommodation offer assured tenancies that provide more security.

For more information about your rights as a tenant see factsheet 35, *Tenants' rights – rents*; factsheet 67, *Tenants' rights – repairs*; and factsheet 68, *Tenants' rights- security of tenure*.

3 Renting checklists

3.1 How to Rent: the checklist for renting in England

How to Rent is a checklist produced by the Department for Communities and Local Government (DCLG) for tenants and prospective tenants in England. It includes information on:

- what to look out for before renting
- your rights and responsibilities in a rented home
- what happens at the end of a tenancy
- what to do if things go wrong.

If you were granted an assured shorthold tenancy on or after 1 October 2015, your landlord must provide you with a copy of this checklist before they can seek to bring your tenancy to an end on a 'no-fault' basis. However, it contains useful information for people who are looking for private rented accommodation and it would be a good idea to obtain your own copy before entering into an assured shorthold agreement.

DCLG state that the checklist is updated regularly, but the most up-to-date version at the time of writing this factsheet can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464910/How_to_Rent_October_2015_FINAL.pdf

3.2 A home in the private sector: a guide for tenants in Wales

The Welsh Government has recently published *A home in the private rented sector: a guide for tenants in Wales*. It is intended as a guide to be read at the beginning of someone's tenancy and addresses the rights that they have and what they should be able to expect from their landlord and/or agent, as well as their responsibilities as a tenant.

It includes information on:

- what to look out for before renting
- your rights and responsibilities in a rented home
- what happens at the end of a tenancy
- what to do if things go wrong.

You can obtain a copy online at:

www.gov.wales/docs/desh/publications/151119-rent-smart-guide-for-tenants-en.pdf

4 Where to find private rented accommodation

To find private rented accommodation, you can look for advertisements in your local newspaper or on the notice board in your local shop, ask your friends or use a letting agency (see section 5).

In **England**, some councils run landlord-accreditation schemes, under which landlords have to meet certain standards to be registered. Check with your local council if they have such a scheme. In **Wales**, as outlined above in section 1, there is now compulsory registration and licensing of private sector landlords across all local authority areas and certain standards must be met as part of this. The compulsory registration scheme came into force on 23 November 2015.

Note

Under the *Housing Act 2004*, a council in **England** also has the power to operate 'selective licensing' in specific areas of its district.

This means that all private properties in those areas would have to be licensed, not just Houses in Multiple Occupation (HMOs – see factsheet 67*, Tenants' rights – repairs*). The benefit of this is that the proposed licence holder (i.e. the landlord) is subject to a 'fit and proper person' test, as is any managing agent that they appoint. However, it is a mandatory condition of every licence that the licence holder must obtain references from persons wishing to occupy the house.

If you are living in England, you may wish to ask your local authority whether it operates selective licensing in any areas of its district and what discretionary conditions are attached to licences, if any.

Again, in **Wales**, as a result of the *Housing (Wales) Act 2014*, all private landlords across all local authorities must register the addresses of any rental properties they own. Landlords who then undertake the property management activities at those properties themselves must become licensed, or – alternatively – if a landlord instructs "an agent to do such work on their behalf, it is [the] agent who must become licensed"[6]. In order to obtain a licence someone will need to prove they are a 'fit and proper person'.

5 Letting agencies

Letting agencies are usually listed in the Yellow Pages and your local telephone directory. They are private agencies that let out rented accommodation on behalf of the owners. Some letting agencies also carry out the full day-to-day management of properties. Most agencies charge a fee to tenants for finding a home and fees for property management work where applicable.

[6] Private rented housing, 23 November 2015, Welsh Government website: www.gov.wales/topics/housing-and-regeneration/legislation/housing-act/specific-elements/private-rented-housing (last accessed 9 December 2015)

Note
The *Accommodation Agencies Act 1953* makes it illegal for any agency to charge for just registering the names and requirements of prospective tenants and/or supplying addresses and details of available accommodation.

You should not pay agency fees until they have found you accommodation and you have agreed to take it.

The agency may charge you for extra services, for example, drawing up your tenancy agreement, preparing a furniture inventory (if the property is let furnished) or negotiating the terms of the tenancy agreement with your prospective landlord. The agency may also charge you a holding deposit while they take up references. This holding deposit should be deducted from the amount of rent in advance or deposit you have to pay once your references come through. The agency may ask for references from your employer, bank or/and previous landlord. If you decide not to move into the property you may lose this holding deposit. Make sure you are clear on all the charges you will have to pay.

Note
The *Consumer Rights Act 2015* says that letting agents in **England and Wales** must prominently display a list of their fees in any premises where they "[deal] face-to-face with persons using or proposing to use services to which the fees relate" and on their website if they have one. The list must state how much is payable for each service and whether this is per tenant or per property.

In **England only**, letting agents are also required to state whether they are a member of a client money protection scheme, which would enable a client to be compensated if money is not repaid in certain circumstances, and which approved redress scheme they are a member of. See below for more information on membership of an approved redress scheme, which is a legal requirement for letting and property management agents in **England**.

Some letting agencies are members of self-regulatory bodies such as the Association of Residential Letting Agents (ARLA), the National Association of Estate Agents (NAEA) or the Royal Institution of Chartered Surveyors. These agencies may have membership of the National Approved Lettings Scheme (NALS) and must meet defined minimum standards such as arranging for safety checks, providing a written tenancy agreement and a complaints procedure.

If the agency that you are using is a member of such a body you may be able to make a complaint if it does not follow certain standards of good practice.

SAFE agent

The SAFE scheme ("Safe Agent Fully Endorsed") was launched in September 2011 by the NALS to protect landlords and tenants from unscrupulous letting agents. Agents who belong to this scheme protect the money of tenants and landlords in a client money protection scheme (explained above in relation to letting agencies' duty to publicise fees etc.). You can check the SAFE agent website to find agents that belong to the scheme at www.safeagents.co.uk.

Approved redress schemes

In **England**, it is a legal requirement under the *Enterprise and Regulatory Reform Act 2013* for a letting or property management agent to be a member of a government-approved redress scheme. This is defined in the Act as "a scheme which provides for complaints against members of the scheme to be investigated and determined by an independent person".

The three redress schemes that have been approved by government are:

- The Property Ombudsman
- Ombudsman Services Property
- Property Redress Scheme.

In **Wales**, there is no specific legal requirement for a letting or property management agent to be a member of one of these schemes, though many may be, having registered voluntarily. The schemes' contact details are listed in the Useful organisations section at the back of this factsheet, so you can check to see whether an agent that you are using or planning to use has signed up.

Each of the schemes will investigate complaints about their members free of charge, but their policies and procedures may vary. In broad terms, they may be able to help you with a dispute about how a letting agent has behaved, for example if you have experienced avoidable delays or if an agent has treated you badly, breached their obligations or failed to follow procedures that they are supposed to follow. The available remedies include an apology, an explanation of their behaviour and up to £25,000 in compensation.

A complaint will not normally be considered by a redress scheme until you have exhausted your letting agent's internal complaints procedure, unless it has been eight weeks since you first complained to your letting agent and they have still not given you a final response.

Note
There are some exceptions to the legal requirement in **England** discussed above, such as where an agent's work is limited to publishing advertisements, disseminating information or enabling a prospective tenant to make direct contact with a prospective landlord. Seek advice from Shelter or a local advice agency like a local Age UK or Citizens Advice if you are dealing with a letting agent who is not a member of a redress scheme but whose duties are not limited to those described above.

Discrimination

Under the *Equality Act 2010*, it is unlawful for a letting agency to discriminate against a prospective tenant on grounds of age, disability, gender reassignment, marriage/civil partnership, pregnancy and http://www.stepchange.org/maternity, race, religion or belief and sexual orientation. This could be by refusing to let a property to such a person or by granting them a tenancy on less favourable terms than usual.

If you feel you have been discriminated against, get advice on how to take action. For more information contact the Equality Advisory Support Service run by the Equality and Human Rights Commission (EHRC - see Useful organisations at the back). For information on the "right to rent" checks and how they should be applied, see section 6 below.

6 "Right to rent" immigration checks in England

Private landlords in the West Midlands have been carrying out "right to rent" immigration checks on prospective tenants since December 2014. The government plans to roll them out across England from February 2016.

The legislation that introduced the checks is the *Immigration Act 2014*, Under the Act, "a person…is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement" if they are not a "relevant national" and do not have a "right to rent". A "relevant national" is a British citizen, an EEA national or a Swiss national. A person does not have a "right to rent" if they require leave to enter or remain in the UK but do not have it, or have leave to enter or remain in the UK but this is conditional upon them not occupying such premises.

Under the Act, a landlord must not allow an adult to occupy premises under a residential tenancy agreement if they are disqualified from doing so. Note that this does not apply only to the named tenant or tenants, but to any adult who would occupy the premises under the agreement.

In the local authority areas in which this law applies at the time of writing this factsheet (Birmingham, Dudley, Sandwell, Walsall and Wolverhampton), landlords or letting agents acting on their behalf are required to carry out checks before a tenancy is granted to ensure that the adults who would be occupying the premises are not disqualified from doing so. These checks consist of obtaining an original document from a list prescribed in the *Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) Order 2014*. The documents set out in this list include:

- a British passport
- a passport or national identity card showing that the holder is a national of an EEA state or Switzerland
- a passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.

If a prospective occupier does not have one of these documents, the landlord or letting agent can obtain two documents from a second list prescribed in the Order. These documents include:

- A full birth certificate issued in the United Kingdom, which includes the name of at least one of the holder's parents
- A letter issued by a government department or local authority no longer than 3 months before the date on which it is presented, confirming the holder's name and the earliest known contact between that government department or local authority and the holder and signed by a named official stating their name and professional address
- A document issued by one of Her Majesty's forces or the Secretary of State confirming that the holder is or has been a serving member of that force.

The landlord or letting agent also has to take "reasonable steps" to check the validity of a document and be satisfied that it is genuine and belongs to the prospective occupier in question.

Concerns have been raised about the potential for discrimination in carrying out the checks. The Home Office has issued a Code of Practice for landlords, *Avoiding unlawful discrimination when conducting 'right to rent' checks in the private rented residential sector*, which can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376789/Code_of_Practice_for_Landlords__web_.pdf

If you believe that a landlord or letting agent has breached this Code and discriminated against you, get advice on how to take action. For more information contact the Equality Advisory Support Service run by the Equality and Human Rights Commission (EHRC - see Useful organisations at the back). If you are looking for private rented accommodation and are concerned about the “right to rent” checks as you do not have one of the documents listed above, seek advice from Shelter or a local advice agency like a local Age UK or Citizens Advice. They may be able to assist you in obtaining a document or combination of documents that meet the statutory requirements.

Note

The Immigration Bill 2015-6 (currently before Parliament) contains provisions that will make it easier for landlords to evict tenants who lose their “right to rent”. It also introduces a criminal offence for landlords who repeatedly fail to carry out “right to rent” checks or remove tenants who are disqualified from renting. At the moment, landlords who fail to carry out the checks are liable for a civil penalty.

7 Viewing the property

Always view the property and the area before you accept a tenancy. For safety reasons, go with a friend and let somebody else know where you are going.

If possible, also visit the area after dark to see how comfortable you feel about moving around in the evening. Check how safe and secure the accommodation is, the state of repairs and how easy it is to keep it warm. If it is shared accommodation, try to talk to the other tenants to see if you can get on with them.

Landlords of properties that are self-contained and rented out after 1 October 2008 are required to provide prospective tenants with an Energy Performance Certificate (free of charge). This should give you an idea how energy efficient the accommodation is.

Gas equipment, such as cookers or fires that are provided by your landlord must be checked for safety annually by a gas engineer registered with the Gas Safe Register and your landlord must keep a copy of the safety inspection. Any upholstered furniture provided by your landlord must be fire resistant unless it was made before 1950. Most furniture will carry a manufacturer’s logo saying so. For more information on private landlords’ responsibilities, see factsheet 67, *Tenants’ rights – repairs*.

8 Before moving in

Before you sign a tenancy agreement, check it carefully and ask about anything you don't understand. Check:

- the type of tenancy or licence (for more information on tenancies see the tenants' rights factsheets mentioned in section 2)
- who is responsible for maintenance and repairs
- how much and how often you pay rent and if whether this includes payments for utilities and council tax
- whether there are any other charges
- how to end the tenancy; does it have a break clause (a right to end the tenancy with, for example, one month's notice)? This is particularly important if you have a fixed term tenancy - if there is no clause allowing you to give notice, you can be held liable for the rent for the remainder of the fixed term even if you had to leave before it ended
- whether the property has a mortgage; you may lose your accommodation if the property is repossessed because your landlord has not kept up with their mortgage payments
- the name and address of your landlord.

Note
Under the *Landlord and Tenant Act 1985* you have a legal right to know the name and address of your landlord. If your letting agency has not provided you with it, you can write to them requesting this information. This may be important if there are any disputes in the future, for example around repairs.

You may need to pay a deposit (see section 9) and rent in advance (see section 10).

You should get a list of furniture and other items in the property (an inventory) including notes of any damage or disrepair. It is best to sign it with your landlord at the start of your tenancy to prevent future disagreement.

Important
If you are not sure about any of the terms, take the agreement to a local advice agency such as your local Age UK (local Age Cymru in Wales) or Citizens Advice before signing (see Useful organisations for contact details).

9 Deposits

A deposit is an amount of money that you pay at the beginning of a tenancy (usually the equivalent of one month's rent). Your deposit should be returned to you at the end of the tenancy, but the landlord can keep all or part of it if you have damaged the property or owe any rent. Your landlord or agent is not allowed to keep your deposit to cover normal wear and tear.

From 6 April 2007, all deposits taken by private landlords for assured shorthold tenancies must be safeguarded by a scheme sponsored by the government. A tenancy deposit protection scheme protects your deposit and provides assistance to resolve a disagreement about the deposit at the end of your tenancy through an alternative dispute resolution service. Your landlord has 30 days from receiving your deposit to tell you, in writing, which scheme has been used to protect your deposit. If a landlord fails to comply with the tenancy deposit rules, the court can order them to pay compensation to the tenant of between 1 and 3 times the value of the deposit.

For more information, see the Shelter booklet *Private tenancies: Paying a deposit* that you can download from the Shelter website (see Useful organisations).

10 Financial help

If you need help to raise money for a deposit, contact a local advice centre or your local council. There may be charities in the area that could help you, or other initiatives such as a local rent deposit scheme or rent guarantee (bond) scheme. Each scheme will have different rules about who is entitled to receive help

A rent deposit scheme offers a loan for a deposit that you have to pay back over a period of time. You will get your money back at the end of your tenancy if there were no problems (such as damage to the property or unpaid rent).

A rent guarantee (bond) scheme provides a written guarantee to a landlord that covers damage to the property and unpaid rent; if there are problems at the end of your tenancy, the scheme will pay for damages or unpaid rent and you will usually have to repay the money to the scheme.

If you receive Pension Credit, you may be able to get help from the Social Fund to pay for rent in advance. For more information see factsheet 49, *The Social Fund, Advances of Benefit and Local Welfare Provision*. If you are entitled to Housing Benefit or Universal Credit, you may be able to claim a Discretionary Housing Payment (DHP) from your local council to cover your deposit and/or rent in advance. However, as such help is discretionary it cannot be guaranteed. It is often a good idea to ask a local advice agency for help when applying for a DHP. See Useful organisations for relevant contact details and factsheet 17, *Housing Benefit*, for more information on housing benefit and DHPs.

Useful organisations

Association of Residential Letting Agents (The)
www.arla.co.uk
Tel 0845 250 6001

A regulatory body for letting agents in UK. It promotes standards in the residential lettings property market.

Citizens Advice Bureau (CAB)
England or Wales go to www.citizensadvice.org.uk
Northern Ireland go to www.citizensadvice.co.uk
Scotland go to www.cas.org.uk
In England tel 0344 411 1444
In Wales tel 0344 477 2020
In Scotland tel 0808 800 9060

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

Equality Advisory Support Service
www.equalityadvisoryservice.com
Tel 0808 800 0082

Funded by the Government Equality Office, called the Equality Advisory and Support Service began operation on 1st October 2012. The new service replaces the helpline run by the Equality and Human Rights Commission.

Housing advice services

The availability and quality of housing advice varies from area to area. Local councils have a legal duty to ensure that advice and information about homelessness and how to prevent homelessness is available in their local area. Contact your local council as soon as possible if you are worried you may become homeless.

In some areas there may be a specific housing advice or housing aid centre, providing advice on a range of housing issues. Your local council or CAB should be able to tell you if there is a housing advice centre in your area.

National Approved Letting Scheme (The)
www.nalscheme.co.uk
Tel 01242 581712

An accreditation scheme for lettings and management agents. It has a customer complaints procedure offering independent redress.

National Association of Estate Agents (The)
www.naea.co.uk
Tel 0845 250 6001

The UK professional body for estate agents. Its members operate under rules of conduct and must meet certain standards relating to professional and ethical practice.

Ombudsman Services Property
www.ombudsman-services.org
Tel 0330 440 1634

Provides dispute resolution for the communications, energy, property and copyright licensing industries.

Property Ombudsman (The)
www.tpos.co.uk
Tel 01722 333306

An independent service for buyers, sellers, tenants and landlords of property in the UK.

Property Redress Scheme
www.theprs.co.uk
Tel 0333 321 9418

Consumer redress scheme for property agents and professionals.

Royal Institution of Chartered Surveyors
www.rics.org/uk
Tel 0247 686 8555

RICS is a professional body for qualifications and standards in land, property and construction.

Shelter
www.shelter.org.uk
Tel 0808 800 4444 (free call)

A national charity providing telephone advice to people with housing problems on tenancy rights, homelessness, repairs and housing benefit.

Shelter Cymru
www.sheltercymru.org.uk
Tel 0845 075 5005

Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

Age UK Advice
www.ageuk.org.uk
0800 169 65 65
Lines are open seven days a week from 8.00am to 7.00pm

In Wales contact

Age Cymru
www.agecymru.org.uk
0800 022 3444

In Northern Ireland, contact

Age NI
www.ageni.org
0808 808 7575

In Scotland, contact Age Scotland by calling

Silver Line Scotland
www.agescotland.org.uk
0800 470 8090
(This is a partnership between The Silver Line and Age Scotland)

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To see the evidence sources used in this document please contact resources@ageuk.org.uk

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Every effort has been made to ensure that the information contained in this guide is correct. However, things do change, so it is always a good idea to seek expert advice on your personal situation.

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