

## Will you Vote Conservative in the Future?

May 2016

*Abridged from an article by Mark Littlewood-Director of the Institute for Economic Affairs*

Imagine you are a hard-working voter who like millions of others put your cross against a Conservative candidate in the last election. You backed the winning side so have every right to expect a Conservative set of economic policies. You might hope to be paying a little less tax, saving towards retirement, investing in a second property or a bigger home yet, under this Chancellor such things are easier said than done. You might find yourself asking if the Government you voted for is on your side at all because the aspiring middle classes, savers, property owners are all suffering under Osborne's stewardship of the Treasury.

Take tax: we now seem permanently stuck with a top rate of 45p - higher than the time of the last Labour Government and millions of ordinary people are being dragged into the 40p tax bracket. A tax designed for the very affluent is becoming the norm for the modestly paid. The amount you can put in your pension pot without tax has been slashed by more than a factor of six. The message and incentives are clear; if you are doing well this Government will make it harder not easier to build up a nest egg.

Tax relief on buy to let properties has been slashed for many, meaning perfectly sensible plans to invest and gain rental income are now unaffordable for many. Irrational and arbitrary stamp duty rates already penalise those wishing to live in a larger family home and can hit second home owners especially hard.

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# Will you Vote Conservative in the Future?

Prudent savers, property owners and those seeking to climb the income ladder are precisely the people who helped the Conservatives win the last election. Precious little thanks they are getting in return.

For all Osborne's talk of fiscal responsibility, state spending remains far too high and the overall national debt is actually increasing.

Taxes need to be cut not just for low earners but for middle earners and the successful too. Owning your own property, saving for your retirement and improving your own standard of living needs to be celebrated and encouraged not seen as an opportunity for the state to bring in more and more tax revenue.

**Enterprising, hard-working, aspirational, determined and ambitious voters are unlikely to thank the Conservative Members of Parliament for encouraging a socialist Chancellor.**

Contact your MP - make your concerns known!

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## **Tenants Prefer Shorter Tenancies**

Despite call from many for longer tenancies to increase renter's stability, 53% of tenants now favour a six month tenancy for privately rented accommodation.

New research from Frank Knight found that flexible lease offerings are increasingly favoured by private tenants especially younger tenants. 69% of those aged between 18-24 claim to prefer a tenancy of six months or a year while 61% of those aged 25-34 feel the same.

38% of tenants have lived in five or more rental properties. The temporary nature of privately rented accommodation means that tenants are often keen to move should there be a potential to improve their situation with 30% stating they moved to a larger or nicer property recently. 23% of those moved within a mile of their last property although 19% relocated over 60 miles. For over half of those surveyed being close to their place or work or study was important and 52% declared this a key priority.

Head of UK Residential Research, Grainne Gilmore said; "The Tenant Survey shows us that priorities for tenants when choosing a property include proximity to their place or work or study, how easily they can reach transport links and how affordable the property is. Tenants are mobile owing to the flexibility offered by renting as a tenure, and while the motivations for moving vary, the largest cohort of responders identified the wish to "upgrade" to a bigger or nicer property as the key motivation for moving into their current rental property."

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# Right To Rent Questions and Answers

## Who do you have to check?

You MUST check that a tenant or lodger can legally rent your residential property in England. Before the start of a new tenancy, you must make checks for all tenants aged 18 and over, even if: they are not named on the tenancy agreement, there's no tenancy agreement or the tenancy agreement isn't in writing. Check all new tenants. It is against the law to only check people you think aren't British Citizens. If the tenant is only allowed to stay in the UK for a limited time, you need to do the check in the 28 days before that start of the tenancy. You won't need to check tenants in some types of accommodation (eg social housing and care homes)

## How do I make a check?

Check which adults will live at your property as their only or main home. See the original documents that allow the tenant to live in the UK (keep copies). Check that the documents are genuine and belong to your tenant, with your tenant present. Make and keep copies of the documents and record the date you made the check.

You can be fined up to £3,000 for renting your property to someone who isn't allowed to rent a property in England.

## Check if the property is used as the tenant's only or main home

A property would usually be a tenant's only or main home if: they live there most of the time, they keep most of their belongings there, their partner or children live with them, they're registered to vote at the property and they're registered with the doctor using that address.

Check their original documents – When you are with the tenant, you need to check that

- The documents are originals and belong to the tenant
- The dates for the tenant's right to stay in the UK haven't expired
- The photos on the documents are of the tenant
- The dates of birth are the same in all documents (and are believable)
- The documents aren't too damaged or don't look like they have been changed
- If any names are different on documents, there are supporting documents to show why, e.g marriage certificate or divorce decree

If the tenant is arranging their tenancy from overseas, you must see their original documents before they start living at the property.

# Right To Rent Questions and Answers

## Making a copy of documents

When you copy the documents: make a copy that can't be changed, e.g a photocopy or a good quality photograph. For passports, copy every page with the expiry date or applicants details (eg nationality, date of birth and photograph) including endorsements e.g a work visa or Certificate of Entitlement to the Right of Abode in the UK. Copy both sides of biometric residence permits and make a complete copy of all other documents and record the date you made the copy.

Keep copies of the tenant's documents for the time they're your tenants and for one year after. Make sure you follow data protection law.

## Further Checks

You must make a further check on your tenant to make sure they can still rent property in the UK if their permission to stay is time limited.

You can get a fine (also known as a civil penalty) if you don't make a further check and your permission to stay runs out.

Depending on which is the longest, you must make a further check just before either:

- The expiry date of your tenant's right to stay in the UK
- 12 months after your previous check

You won't have to make a further check if your tenant doesn't have any time restrictions on their right to stay in the UK.

## If your tenant doesn't pass a further check

You must tell the Home Office if you find out that your tenant can no longer legally rent your property in England after making a further check. You might be fined if you don't.

## Agents and Subletting

Landlords can ask any agents that manage or let their property to carry out a check for them. You should obtain this agreement in writing. If a tenant sub-lets the property without you knowing, they're responsible for carrying out checks on any sub-tenants. They will be liable for any civil penalties if they don't check correctly.

## Tax Bosses Have Lost the Plot

It's time our tax bosses saw a shrink. The top bosses at HMRC and the Treasury have allowed their priorities to become so twisted that the institution has become a danger to themselves and to us.

It is increasingly clear officials have cosied up to the corporate giants! How else could Google, Vodafone, Lloyds, Shell and others be allowed to rake in billions from British customers without contributing to the schools, hospitals, roads and services their staff use here.

As a blind eye is turned to these outlaws the tax authorities are busily cutting the middle class way of life. Children who inherit properties from parents or grandparents will face a new tax blow when they want to buy a house of their own. It's a hidden side effect of a treasury plan to force people buying second homes to pay an extra 3% stamp duty.

Ironically the levy is supposed to help young people. It's designed to discourage buy-to-let landlords and foreign investors freeing up homes for first time buyers. But under plans being finalised anyone who inherits a house before they bought their own will be hit. Unless they can sell beforehand they have 18 months to dispose of the inherited property and claim back the tax. It is common for children to be given a share of the family home or buy to let properties as couples start to pass on some of their estate in later life.

Most severely hit will be amateur buy-to-let landlords on middling incomes who make just a few purchases for rental. In addition, this government is cutting tax breaks for landlords with overall income above £42,000 per annum.

Middle earners could see returns wiped out by 2020 under these rules. Again professional investors who set up a company will be spared. Fair?

When these property taxes are coupled with Osborne's plot to raid savers pensions you see a theme developing. The rich need no help to save.

For those on low incomes the idea of putting something away for old age is fanciful. The priority is making ends meet every month. Tax relief provides a vital boost to millions in the squeezed middle. Members of Parliament and civil servants who earn similar sums will be fine because the taxpayer will pick up any tab for a short fall in their gold-plated pensions.

Osborne and the tax authorities shouldn't need a shrink to set them straight on this - Stop trying to extract every last penny from hard working families if you want to fix Britain's finances.

You will find more tax is dodged by big businesses and discover a lot of spare change in your own bloated pension pots. Are you unhappy with these tax changes? Inform your MP and remind them who voted them in. It is estimated there are close to two million small landlords in the UK.

*Abridged from Article by Dan Hyde - Mail on Sunday*

## **Housing Minister writes to councils over evictions advice following pressure**

Housing Minister Brandon Lewis has written to all local councils in England in order to clarify homelessness guidance.

It follows pressure from National Landlord Association who conducted research earlier this year that showed an alarming number of private tenants are being told by their local council to ignore eviction notices served by their landlords – and to wait for bailiffs to turn up before moving out – in order to qualify for rehousing support.

The NLA has consistently warned that the advice was increasingly being offered because councils refuse to accept tenants' housing applications before an order for possession has been granted by a Court, despite guidance from Central Government that confirms all housing applications should be accepted from the time notice is served on the tenant.

Mr Lewis' letter says that, "The statutory Homelessness Code of Guidance, which local authorities are required by law to have regard to, is clear on this matter.

"It contains guidance on how authorities should treat homelessness applications in circumstances where a tenant has received a valid Section 21 notice.

"It says that housing authorities should not, in every case, insist upon a court order for possession and that no local authority should adopt a blanket policy in this respect.

"Unless a local authority has very good reason to depart from the statutory guidance, then they should not be placing households in this position."

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## **Plymouth crackdown on the harassment and illegal eviction of tenants**

Rogue landlords who harass or illegally evict tenants are the subject of a new crackdown in Plymouth.

Plymouth City Council is working in partnership with PATH (Plymouth Access to Housing) who have appointed a dedicated Tenancy Relations Officer to tackle these issues. The project involves the investigation of allegations of illegal eviction and harassment by landlords, and will see thorough enforcement action being taken against any landlords found to be flouting the law.

Other partners include South West Landlords Association and Devon & Cornwall Police.

Illegal Eviction, including a landlord or their agent physically denying a tenant access to their accommodation or taking a tenant's key from them, is a criminal offence under the Protection from Eviction Act 1977.

Harassment of a tenant, including withdrawal of utilities, entering accommodation without informing the tenant and constantly contacting a tenant, is a criminal offence under the same Act. Both offences carry the possibility of a custodial sentence and a substantial fine.

Councillor Chris Penberthy Cabinet Member for Cooperatives and Housing for Plymouth City Council said: "We are pleased to work with PATH on this important project and the officer is making great inroads into this sensitive area so far."

"The initiative forms part of our Plan For Private Rented Housing and our aim to drive up standards in the private rented sector."

"There are many excellent landlords in the private rented sector but we want to send a clear message that we will not tolerate the harassment or illegal evictions of tenants here in Plymouth."

"Tenants deserve to live happily and safely in their chosen home just as much as anyone else and we are working with our partners to ensure this happens."

"Whilst prosecution through the Courts remains an option to the local authority, the hope with this project is that such action can be avoided through the provision of informative and straightforward advice regarding these offences. Advice is being given to both tenants and landlords, and awareness is being promoted by the provision of literature to partner agencies."



# Plymouth crackdown on the harassment and illegal eviction of tenants

The Tenancy Relations Officer from PATH is working together with Plymouth City Council, Devon and Cornwall Police and the South West Landlord's Association with a view to ensuring that tenants feel safe in their own homes, and that landlords are aware of their obligations and responsibilities under the law.

Mike Taylor, Director of PATH said: "Many thousands of people live happily in private rented accommodation in Plymouth. Having a Tenancy Relations Officer in the City enables us to better support those people who have a less positive experience, people facing harassment from their landlord or even being evicted illegally. There is a chance to directly address wrong-doing but also to raise awareness and understanding amongst landlords, tenants and also housing workers."

"We at Path are pleased to be involved in that and to work with the Council, with other organisations and with the local landlords' association in raising standards in the sector."

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## **Councils Want National Blacklist of Bad Landlords**

Local councils want more powers to crack down on bad landlords who are dodging bans and letting out unsafe homes. The Local Government Association (LGA) claims that landlords convicted of housing offences are simply moving to another council area to carry on offering sub-standard accommodation because councils have no means of tracking them.

The new Housing Bill includes setting up a banned landlord database but the LGA wants the Government to extend the blacklist to landlords convicted of any housing offence.

The LGA which represents 370 local councils throughout England and Wales also wants the bill to include tougher “fit and proper” person test to screen out bad landlords and more powers to take action against letting agents aiding them to rent out their properties.

New research from the Citizens Advice Bureau and the New Policy Institute calculates one in six buy to let homes are dangerous to tenants. That compares with one in eight owner occupied homes and one in sixteen social rented properties. The report also suggests that more than half a million children are living in poor housing. The average rent paid to live in a defective home was £650 per month. Gillian Guy, Chief executive of Citizens Advice said: “The private rented sector is the most expensive housing tenure but is in the worst state- consumers are paying top dollar to stay in dire homes that can threaten their lives and risk their health. For too long the private rental sector has been seen as a side issue in the British housing crisis. This is utterly wrong as the astronomical cost of buying property means increasing numbers of people and families are moving into private tenancies.”

*(Taken from Guild)*

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## **How to obtain a copy of an Energy Performance Certificate (EPC)**

You can locate a copy of an EPC to give to your tenant(s) with an Assured Shorthold Tenancy Agreement from the website [www.epcregister.com](http://www.epcregister.com). Next click onto “Retrieve report using property address” and enter the postcode of the property. You will then be presented with a list of addresses with that postcode, so select the applicable house number and then download and print the EPC document.



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## **Tenant Guilty of Fraud for moving pets into rental property**

A tenant who moved a pet dog and three cats into a buy to let home without permission was taken to court for allegedly allowing the animals to cause £12,000 damage to the property.

Magistrates decided the tenant, Martin Starsmore, 28, signed a tenancy agreement banning pets from the home intending to ignore the restriction. Starsmore pleaded guilty to fraudulently signing a tenancy agreement at Nottingham Magistrates Court.

The court was told that Starsmore and his wife would refuse entry to letting agents wanting to inspect the property after neighbours reported a bad smell coming from the home,

When they left the home, the letting agents claimed the home was left in a filthy state.

Floorboards were replaced and new carpets laid at a cost of more than £5,000, while prosecutor Lee Shepherd estimated the total damage at £12,000.

Starsmore told the court he was agoraphobic and could not walk the dog. “This is a strange set of events and makes sentencing difficult,” Shepherd told the court. “Finding a charge to suit the event is difficult because the tenant did not cause the damage, the pets did, but they cannot be held responsible in law.”

Speaking in defence of Starsmore, Graham Heathcote said the tenant understood he made a false claim when he signed the agreement but did not realise that his pets would lead to a financial loss for the landlord. The magistrates ordered Starsmore to pay £1,000 compensation to the landlord, who was not named in court. They argued that they did not see that Starsmore was entirely to blame for all the damage. The fraud case was withdrawn against Mrs Starsmore.

### **About the case**

The case is the only recently reported criminal case against a tenant for fraudulently signing an assured shorthold tenancy agreement.

Generally, lawyers would advise that pursuing a case under these circumstances is easier in a civil court because the burden of proof is laxer – on the balance of probabilities rather than beyond reasonable doubt in a criminal court.

## Landlords warned to pay taxes or face jail

The HMRC have signalled a new tougher regime for landlords who fail to declare their rental income. One of HMRC's Chief Fraud Investigators has warned any landlord evading tax will face prosecution. Tax investigations are likely to stretch back for at least six years. This warning followed on from the Chancellor, George Osborne withdrawing tax breaks for landlords such as mortgage interest relief, wear and tear allowance and hiking stamp duty.

Businessman Mazhar Majeed was jailed for two years for not declaring rents from a multi-million pound property portfolio and failing to pay income tax and capital gains on property business profits. Majeed who lives in Surrey was a sports agent and former owner of Croydon Athletic Football Club. HMRC started a tax evasion investigation in June 2010 when it was discovered that Majeed had not declared £259,000 income from a property development business and rental properties on tax returns between 2006 and 2011. The money included profits on the sale of properties. He was arrested in August 2010 and admitted tax fraud in November 2014 at Croydon County Court. Sentence was delayed until November 2015. Alan Tully assistant director of HMRC's Fraud Investigation Service stated "Majeed was a very wealthy businessman who tried to wriggle out of paying his fair share of tax. He selfishly stole money that should have been used to fund vital public services and he now must pay the price for his dishonesty."



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# Asbestos in rented Accommodation

Asbestos is a potentially harmful substance and was widely used as a building material from the 1950s to the 1980s. It is now banned but any building built before the year 2000 may contain asbestos.

According to the Health and Safety Executive (HSE) asbestos is safe as long as it is maintained in a good condition. However, if it is damaged it can produce tiny dust particles which if inhaled can cause asbestosis, lung cancer and mesothelioma. It is classified as a hazard under the Housing Health and Safety Ratings System (HHSRS).

## Where might there be asbestos in a property?

Some of the areas where asbestos might be found in a property include:

Eaves, gutters and rainwater fall pipes

Fire blankets

Shed and garage roofs

Linings for walls, ceilings and doors

Insulation panels in some storage heaters

Bath panels

Central heating flues

Loose asbestos packing between floors and in partition walls

Floor tiles

If you or your tenant suspects that asbestos is present, you can ask the Local Authority to test for it. The testing will determine if asbestos is present and its condition.

## Landlord's Duties regarding asbestos

The landlord of a tenanted property has a legal responsibility to manage the risk associated with asbestos. Depending on the condition of the asbestos, one or more of the following actions should be taken:

Labelling the asbestos

Sealing the asbestos

Removing the asbestos

Great care needs to be taken when doing any work around asbestos. The HSE or the Local Authority will; give detailed advice about safe procedures. Any work done on the asbestos that takes longer than two hours must be done by someone who is licensed by the HSE.

*Taken From Tenancy Agreement Services*

# Energy Efficiency Ratings – Minimum Standards

In 2015, the Government announced new legislation to drive improvements in the UK's housing stock which will have a major impact for landlords. By 2018, it is estimated that almost one in ten private rental properties could become illegal for letting purposes unless energy efficiency upgrades are completed.

If these improvements need to be carried out and are not scheduled ahead of 2018, it could mean that properties new to your portfolio or where the tenant has left would have to stand empty until the work has been completed.

Domestic privately rented properties – The requirement to improve will be phased over a number of years.

April 2016 – The regulations will empower tenants to request consent for energy efficiency measures that may not unreasonably be refused by their landlord, where there is no cost to the landlord. For example the tenant might use grant funding such as the Energy Company Obligation. The landlord must respond to the tenant within one month of the request being raised.

April 2018 – New lets and renewals of tenancies:

It will be unlawful to rent a property which breaches the requirement for a minimum Energy Performance Certificate (EPC) rating of 'E' unless there is an applicable exemption.

April 2020 – Existing/all tenancies:

All existing tenancies will be required to have a minimum EPC rating of 'E'.

There are believed to be around 400,000 properties, about 10% of the rental sector which will be required to improve their energy efficiency. There will be a civil penalty of up to £5,000 imposed by local authorities for any breaches.

Importance of EPCs

Landlords must provide their tenants with an Energy Performance Certificate, free of charge, at the start of the tenancy. This has been a requirement since October last year. If you do not, then you cannot serve a Section 21 notice. EPCs should also be provided, free of charge to any prospective purchaser when you come to sell the property. If a property which is for sale or rent and does not have a current EPC then one should be commissioned before marketing the property for sale or rent. The EPC rating should be included in the advertising of the property whether for sale or rent. There are financial penalties of £200 per breach.

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**By The South West Landlords Association Ltd 30 Dale Road, Plymouth PL4 6PD**

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