

Annex 1: Legal Obligations on Landlords

The material to which a local authority must have regard, under section 85, in deciding whether an applicant is a fit and proper person to act as a landlord, includes material which shows that the applicant has “contravened any provision of the law relating to housing, or landlord and tenant law.” This Annex provides a brief guide to the range of issues which are covered by those legal requirements.

The exact obligations on landlords depend on the type of tenancy or occupancy arrangement in place. We hope to provide a more detailed description of legal requirements to accompany the registration guidance.

- The tenant must be given details of the landlord’s name and address. Where an assured or short assured tenancy exists, a written agreement must be provided.
- Correct legal procedures for seeking possession of the accommodation (if the tenant does not leave when they are asked to). In most cases this means giving proper notice, and ultimately getting a Court Order. Under the Rent (Scotland) Act 1984, it is a criminal offence to evict a tenant unlawfully, or to use harassment to try to make them leave.
- Various rules apply to the charging and handling of rents and deposits:
 - No charge must be made for a person to have their name put on a list for accommodation
 - No charge must be made for drawing up or copying the tenancy agreement
 - If a deposit is required, it must be no more than the equivalent of two months’ rent
 - If rent is paid weekly, the landlord must issue a rent book and enter a receipt for each weekly payment
 - The tenant cannot be required to pay rent before the start of the rental period to which it relates
 - Proper procedures must be followed before changing the amount of rent to be charged
- The landlord must keep the accommodation wind- and watertight and generally fit for human habitation (in practice this normally means the house should meet the Tolerable Standard). In particular, the landlord is responsible for keeping the structure and exterior of the property in good repair, including drains, gutters and external pipes, and must make sure the installations for the supply of water, electricity and gas, and the appliances for heating the house and heating water, are kept in good repair and in working order. (The current Housing (Scotland) Bill proposes to extend this to cover fixtures, fittings and furnishing provided as part of the let, and to require the landlord to carry out an inspection prior to the beginning of every tenancy).
- The landlord must have any gas appliances checked annually by a CORGI registered contractor, and obtain a gas safety certificate. He must provide tenants with a copy of the certificate, and keep the records for at least 2 years (Gas Safety (Installation and Use) Regulations 1998).

- All furniture and furnishings provided by the landlord must comply with the Furniture and Furnishings (Fire)(Safety) Regulations 1988.
- The landlord has a general duty to make sure that the electrical installations and appliances provided as part of the let are safe to use (Electrical Equipment (Safety) Regulations 1994).
- The landlord must comply with any statutory notices requiring property he or she owns to be repaired, brought up to a higher standard, closed or, if it is an HMO, provided with additional facilities or means of escape from fire.
- The owner of an HMO must hold a licence from the local authority and must comply with the conditions of that licence.

In addition, the local authority must consider whether the applicant has ‘practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business’.

- The Equal Opportunities Commission provides advice on its website for organisations and individuals who provide accommodation.
- The Commission for Racial Equality has produced a Rented Housing Code of Practice to help landlords comply with their duties under the Race Relations Act 1976.
- The Disability Rights Commission provides extensive guidance for suppliers of goods and services (which includes landlords) on the duty to make reasonable adjustments to make their services accessible to disabled people. The Disability Discrimination Act 2005 will extend the requirements on landlords to make reasonable adjustments or provide auxiliary aids and services to enable a disabled person to enjoy all the facilities of their home. Guidance on these requirements will be produced in due course.