

Welcome from the private sector housing team

- What is happening in the private rented sector
- New legislation
- Government push on LA self-funding (FPN, RRO, Fines instead of prosecution)

Presentation subjects

- Eviction process, correct way and wrong way to evict a tenant
- Carbon Monoxide and Smoke Detectors
- Energy Performance Certificates
- Redress Schemes

Communication channels

- Website www.eastriding.gov.uk/housing
- Facebook www.facebook.com/eastridingcouncil
- Twitter www.twitter.com/East_Riding
- Letter
- Email
- Landlord forum

Illegal Eviction

- What is an illegal eviction?

‘Forcing a tenant to leave their home without having followed the correct procedure’

- It's a criminal offence for a landlord to evict a tenant without following the correct legal steps for eviction.
- [Harassment](#) is also a criminal offence. A landlord who tries to make a tenant leave by threatening violence or making it hard for them to stay may be guilty of harassment.

Illegal Eviction

- **What the local authority will do**
 - Duty bound to investigate
 - Pace interviews
 - Caution
 - Prosecution or civil action

- **Penalties a landlord could face**
 - Large fine
 - Criminal record
 - Possible prison sentence or tagging

Remember.....

**It may be the landlords
house but it is the
tenants home!!**

What does a landlord need to do?

- Establish the type of tenancy
- Serve an eviction notice
- Apply for a possession order if required
- Apply for a bailiffs warrant if required

- **DO NOT ENTER THE PROPERTY!!**

Abandonment

- Housing and Planning Act 2016
- Under section 57 of the HAPA 2016, the Landlord will be able to give notice bringing an Assured shorthold tenancy to an end provided;
- i) The AST is for a property in England.
- ii) The unpaid rent condition is met (section 58 HAPA 2016).
- iii) The landlord gives the warning notices (section 59 HAPA 2016).
- iv) No tenant, occupier or deposit-payer responds to the notices before the dates they specify.
- Poss coming in 7th April watch this space!!

Further information

- Shelter.org
- nearlylegal.co.uk
- landlordzone.co.uk
- <http://www.darlingtons.com/blog/nobody-home-abandoned-tenants-housing-planning-act-2016>

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- New legislation, not replacing any existing requirements.
- Apply to most rental properties but there are some exceptions including HMO's and properties with a live in landlord.



The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- The regulations require private rented sector landlords, from 1 October 2015, to have:
- at least one smoke alarm installed on every storey of their rental property which is used as living accommodation, and
- a carbon monoxide alarm in any room used as living accommodation where solid fuel is used
- The landlord must make sure the alarms are in working order at the start of each new tenancy.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- 28 day remedial notice requiring alarms to be fitted.
- If this notice is not complied with;
 - the council can arrange for alarms to be fitted and
 - penalty charge of up to £5000

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- For more information please visit...
- <https://www.rla.org.uk/landlord/guides/carbon-monoxide-requirements.shtml>
- <https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords/the-smoke-and-carbon-monoxide-alarm-england-regulations-2015-qa-booklet-for-the-private-rented-sector-landlords-and-tenants>
- <http://www.alarms4life.com/>

Energy Performance Certificates in the Private Rented Sector

Today's presentation is around EPC's in relation to;

- Energy Performance of Buildings Act 2012
- Deregulation Act 2015
- Energy Act 2011

Energy Performance Certificates in the Private Rented Sector

The Energy Performance of Buildings (England and Wales) Regulations 2012 – apply to:

- The Sale or Rental of properties, New buildings, Display Energy Certificates for large public buildings, Air Conditioning System inspections, Energy Efficiency of Boilers
- However, our focus is on the Private Rented Sector and, in particular, the rental of domestic properties

What is an EPC?

- An EPC is similar to that provided with domestic appliances with a rating from A to G
- The EPC shows two things about the house;
 - The Energy Efficiency Rating
(based on how much the home would cost to run)
 - The Environmental Impact Rating
(based on how much Carbon Dioxide is released into the environment by the home)
- The rating is based on factors such as age, layout, construction, heating, lighting and insulation
- The rating is accompanied by a recommendation report that shows how to improve the dwelling's energy efficiency

Energy Performance Certificate For Training Purposes Only 

Dwelling type: Mid-terrace house
 Date of assessment: 09 July 2009
 Date of certificate: 09 July 2009
 Reference number: 3611-1923-6100-0971-5006
 Total floor area: 88 m²

This home's performance is rated in terms of the energy use per square metre of floor area, energy efficiency based on fuel costs and environmental impact based on carbon dioxide (CO₂) emissions.

Energy Efficiency Rating		Environmental Impact Rating (CO ₂)	
	Current	Potential	
Very energy efficient - lower running costs			Very environmentally friendly - lower CO ₂ emissions
(91-100) A			(10 plus) A
(81-90) B			(91-90) B
(71-80) C			(80-80) C
(61-70) D		70	(70-60) D
(51-60) E	53		(50-50) E
(41-50) F			(40-50) F
(31-40) G			(30-40) G
Not energy efficient - higher running costs			Not environmentally friendly - higher CO ₂ emissions

England & Wales EU Directive 2002/91/EC 

The energy efficiency rating is a measure of the overall efficiency of a home. The higher the rating the more energy efficient the home is and the lower the fuel bills are likely to be.

The environmental impact rating is a measure of a home's impact on the environment in terms of carbon dioxide (CO₂) emissions. The higher the rating the less impact it has on the environment.

Estimated energy use, carbon dioxide (CO ₂) emissions and fuel costs of this home		
	Current	Potential
Energy use	371 kWh/m ² per year	234 kWh/m ² per year
Carbon dioxide emissions	5.4 tonnes per year	3.4 tonnes per year
Lighting	£91 per year	£45 per year
Heating	£771 per year	£523 per year
Hot water	£133 per year	£96 per year

Based on standardised assumptions about occupancy, heating patterns and geographical location, the above table provides an indication of how much it will cost to provide lighting, heating and hot water to this home. The fuel costs only take into account the cost of fuel and not any associated service, maintenance or safety inspection. This certificate has been provided for comparative purposes only and enables one home to be compared with another. Always check the date the certificate was issued, because fuel prices can increase over time and energy saving recommendations will evolve.

To see how this home can achieve its potential rating please see the recommended measures.

 This EPC and recommendations report may be given to the Energy Saving Trust to provide you with information on improving your dwelling's energy performance.
 For advice on how to take action and to find out about offers available to help make your home more energy efficient call 0800 512 012 or visit www.energysavingtrust.org.uk/myhome

How Do I Get an EPC?

- EPC's must be produced by an accredited Domestic Energy Assessor (DEA) (Details of accredited assessors can be found at www.epcregister.com)
- As a landlord / agent you are free to seek accreditation for yourself or for your employees enabling you to certify your own properties
- Each EPC has a unique reference number and can be found on the national register www.epcregister.com
- Once the EPC has been created you can view or download further copies by using the URN or address search on the register

Benefits of having an EPC

- Allows tenants to make informed decisions
- Identifies potential steps towards reducing energy wastage and lower bills
- May incentivise landlords to invest in energy efficiency measures
- Potential to increase rent for more efficient properties

When do I have to produce an EPC?

- EPC's should be provided to prospective new tenants , free of charge, 'at the earliest opportunity'
- As a minimum this should be when first giving written information or arranging a viewing
- An EPC is only required for buildings which are 'self contained' i.e. one that does not share facilities such as bathroom, kitchen, w.c. etc
- Existing EPC's are valid for 10 years for rental purposes and can be re-used as many times as required for new tenants in that period
- EPC's are not invalidated by renovation or improvement works but it may be advisable to obtain a new certificate to demonstrate the energy efficiency improvements to potential tenants

What is the Council doing about the regulations?

Extensive Awareness Raising Exercises conducted between 2011 and 2012

- Survey letters to over 750 landlords / agents
- Follow up information updates to 150 +
- Presentation to landlord forums
- Media updates
- Mail shots regarding 2012 amendments to known landlords / agents
- **27 Caution letters and 5 PCN's issued**

What happens if I don't supply an EPC to a prospective new tenant?

- An Authorised Officer has powers to ask a landlord to produce for inspection an EPC if they suspect an offence has been committed
- If the landlord fails to provide an EPC to a tenant, or fails to show an EPC to an enforcement officer when asked, Authorised Officers can issue a notice with a penalty charge of £200 per dwelling
- In addition to the penalty the landlord will still have to provide an EPC to the person who has become the tenant

More information

- Link to 'Energy Performance Certificates for dwellings in the social and private rented sector – A Guide for Landlords' (Comprehensive Guide)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307556/Improving_the_energy_efficiency_of_our_buildings_-_guide_for_the_marketing_sale_and_let_of_dwellings.pdf

Deregulation Act 2015

Introduced new regulations in relation to setting up a tenancy including the requirement to provide copies of the following documentation to a tenant;

- Gas Safety Certificate
- 'How to Rent' leaflet
- Details of the Tenancy Deposit Scheme (if a deposit is taken)

And

- Energy Performance Certificate

If any of the above are not provided then a Section 21 Notice, for a tenancy created after October 1st 2015, may be deemed to be invalid

Energy Act 2011 and Minimum Energy Efficiency Standards

- From 1 April 2018 it will be an offence to let a property with an Energy Efficiency Rating of F or G.
- Applies to new tenancies from 1st April 2018 and all tenancies from 1st April 2020.
- If there is an EPC in place which shows that the property is an F or G then it must not be let; otherwise the landlord is liable to penalties.
- Penalties, and requirements to carry out Energy Efficiency Improvements to bring the property up to a minimum E rating, are subject to exemptions
- Only appropriate, permissible and cost-effective improvements are required under the regulations.

Energy Act 2011 and Minimum Energy Efficiency Standards

- Landlords will be eligible for an exemption from reaching the minimum standard where they can provide evidence that either;
 - permission is withheld by a third party or a tenant,
 - improvements are not cost effective or are detrimental to the valuation or structure of the property
 - they have carried out all required Energy Efficiency works but the property still falls below an E rating
 - the improvements require Green Deal finance and they do not meet the credit checks.
- There will be a database of exemptions and failure to register will render any exemption ineffective and amount to non-compliance.
- Penalties up to a maximum of £5,000

Energy Act 2011 and Minimum Energy Efficiency Standards

However?

- The effective ending of the Green Deal means that changes may need to be made to the Regulations imposing minimum energy efficiency standards in the PRS.
- No final decision has been made and the Regulations themselves have not yet been amended. Therefore;

WATCH THIS SPACE!

Redress Scheme

- Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014
- Consumer Rights Act 2015

Legislation

Enterprise and Regulatory Reform Act 2013 led to:

Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014

Redress Schemes

There are 3 schemes available:

- Ombudsman Services: Property
- Property Redress Scheme
- The Property Ombudsman

Definitions

The scheme applies to those who do “letting agency work” and “property managers work” acting on the instructions of another.

Lettings Agency Work

- What do we mean by ‘lettings agency work’?
- ‘Lettings agency work’ is things done by an agent in the course of a business in response to instructions from:
 - a private rented sector landlord who wants to find a tenant: or
 - a tenant who wants to find a property in the private rented sector.

Property Management

Property management work means things done by a person in the course of a business in response to instructions from another person i.e.

- services,
- repairs,
- maintenance,
- Improvement,
- insurance
- or to deal with any other aspect of the management of residential premises.

Role of a redress scheme

- Requires a member to provide consumers with a copy of their internal complaints procedure and information about the redress scheme when signing any agreement, and at the point a formal complaint is received.
- Requires any complainant to contact the agent in the first instance to try to resolve the complaint before going to the scheme. If unsuccessful the scheme will consider the complaint and issue its decision accordingly.
- Has the power to award monetary penalties, require an apology or some other practical action. There are also powers to award payments for distress or a payment in recognition of the time and trouble taken to make the complaint.

Enforcement

Those who do not join a scheme may face a fine of up to £5000 through a monetary penalty notice.

If the agency do not agree with the penalty notice they may:

- Make a written representations to the issuing local authority in 28 days
- Appeal to the first-tier tribunal within 28 days of confirmation of the penalty charge.

Consumer Rights Act 2015

Consumer Rights Act 2015 Section 83-88

- Requirement to display fees payable by landlords and tenants for any letting agency or property management service and display which Redress Scheme they have joined.

Enforcement

Failure to display Fees

- A local authority may serve a penalty charge notice if letting agents fail to display fees on their website and in their agency offices.
- The penalty charge is up to £5000

The Main Points

- Clear description of the fees
- All fees, charges and/or penalties must be quoted inclusive of VAT.
- Prominently displayed in the shop and/or website
- No hidden fees/surcharges
- Must be clear if the charge is per property or per tenant
- No duplication of charges
- English agents must publicise their membership of a redress scheme.

Appeals

What if letting agents don't agree with the penalty?

- They can make written representations to the local authority within 28 days
- Appeal to the first-tier tribunal within 28 days of confirmation of the penalty charge.

Local Activity

Locally both York City Council and Leeds City Council are actively pursuing this area of work through their Private Sector Housing Teams.

Tribunal Decision

There has also been a First-Tier tribunal decision on the issue.

London Borough of Camden fined Foxtons, a local agent, for failing to sufficiently describe their administration charge. Foxtons appealed to the Tribunal. The Tribunal varied the fine due to the circumstances but found that Foxtons were in breach.

Further Information

<https://www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes>

http://england.shelter.org.uk/housing_advice/private_renting/letting_agent_redress_schemes

<https://www.tpos.co.uk/members/news-articles/item/the-consumer-rights-act-2015>