

Kinleigh Folkard & Hayward

Safety regulations for residential landlords



Landlords are required to comply with a whole range of safety regulations when letting a property. The penalties for not doing so, or not doing so properly, can be an unlimited fine and/or imprisonment. As your letting agent, we are here to help guide you through this process.

Gas

Prior to the start of any new tenancy you must provide each tenant with a copy of a valid gas safety record. The test must be carried out by a GasSafe-registered engineer and will show that all gas pipework, flues and appliances in the property are safe. Further tests must be carried out annually throughout the tenancy and each tenant given a copy of the new record within 28 days of the new test being carried out. You need to keep a copy of the gas safety record(s) for at least two years, even if the tenancy has ended. This is to comply with the Gas Safety (Installation and Use) Regulations 1998.

A gas engineer must be able to inspect the whole length of a flue, so if it is hidden or partly hidden behind a wall or ceiling, you will need to make sure there are inspection hatches at recommended intervals. If the engineer can't check the length of the flue he may need to class the boiler as 'At Risk' and disable it until the flue can be fully inspected and declared safe.

Barbecues and patio heaters have their own testing criteria and we recommend that you remove these from the property wherever possible.

If the boiler serving the property is located in another part of the building or a separate building, then you are still required to provide each tenant with a copy of a valid gas safety record for that boiler, as above. You will need to obtain a copy of this from the freeholder or managing agent, or the record may be displayed in a prominent area of the building for you to take a copy.

If the tenancy for your property is to be an assured shorthold, you will require evidence that your tenant received a copy of the satisfactory gas record before the start of the initial term. Without this you may be unable to serve a valid Section 21 notice to end the tenancy, even at the end of the fixed term or any extension.

Electrics

You must provide each tenant with a copy of a valid and 'satisfactory' EICR (electrical installation condition report) at the start of any new, renewal or extended tenancy. 'Satisfactory' means that there must be no Code 1 or Code 2 faults (showing the need for remedial works) recorded on the certificate. The EICR must be carried out by a qualified person, meet with 2018 edition of the IET Wiring Regulations (BS 7671:2018). The record will be either be valid for five years or until an earlier date shown on the EICR. This also applies to the start of any renewed or statutory periodic tenancy. From 1st April 2021 this requirement will apply to all on-going tenancies.

You will be required to issue a copy of the report to your tenant within 28 days of any further inspection taking place during the tenancy and to carry out any remedial work necessary within that time, or sooner if required by the report, providing the tenant with evidence of the same. Where remedial works are carried out, you must also provide a copy of the EICR and evidence of the completion of the remedial works to the local authority within 28 days of the test.

Local authorities will have the power to serve notice (with a statutory deadline) to ensure remedial action is taken by the landlord. If a landlord still fails to act then the local authority can access the property and remedy the issue, which will then be charged to the landlord. Penalties may be up to £30,000 per breach of this new legislation.

We also recommend that you have a portable appliance test (PAT) carried out on all the portable electrical appliances provided to the property on an annual basis. (This may be a requirement if the property requires an HMO licence.)

You must also make sure that any new appliance provided to the property is in a safe condition, that it complies with British Standards, that you provide the tenant with operating instructions in English and that you retain details of the manufacturer, type/batch/serial number of the appliance, the registered trade name of the manufacturer and a point of contact. You may decide it is better not to leave small electrical appliance in the property.

Furniture and furnishings

Any furniture or furnishings that you supply or leave in the property must comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended 1993).

The Regulations apply to all upholstered furniture manufactured after 1st March 1989, including:

- beds, including headboards, bed-bases and mattresses
- sofa beds, futons and fold up guest beds
- sofas, armchairs and footstools
- nursery furniture
- cushions, seat pads, padded seats and pillows
- loose and stretch covers
- garden furniture suitable for indoor use



but not bed linen, duvets, pillowcases, loose mattress covers, sleeping bags, curtains and carpets or furniture manufactured before 1950 (and which has not been recovered or upholstered since 1st March 1989).

Compliant furniture should show one of the above labels, or you will need proof that the item was purchased in the UK and is compliant. If the item does not have the relevant label and you cannot provide evidence of compliance, then the item should not be left in the property.

Curtains and blinds

European Regulations apply to the installation for raising and lowering of blinds and the movement of curtains across windows. All new blinds and curtains being installed by a contractor will have fixed cords or ball bearing pulls to prevent the danger of asphyxiation to a young child and will have a warning notice. You should ensure that any blinds or curtains comply with current Regulations.

Smoke and carbon monoxide alarms

Since 1992 all new homes, or older properties refurbished in line with Building Regulations 1991, must be fitted with mains operated smoke detectors installed on every floor and which must be interlinked.

Apart from the above all properties, in order to comply with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, all other privately rented properties must have the following alarms in place. These which are in working order and tested on the day the tenancy starts:

- A smoke alarm for each storey where there is at least one room used wholly or partially as accommodation (including bathrooms and lavatories).
- A carbon monoxide alarm in every room used wholly or partially as accommodation (including bathrooms and lavatories) and which contains a solid fuel burning combustion appliance.

This includes half landings and mezzanines.

Individual licensing conditions will set out specific requirements for HMO properties.

Energy Performance Certificate (EPC)

You must have a current EPC in place with minimum energy efficiency rating of between A - E before marketing a property for letting. This rating needs to be shown on any advertising material or website advertisement. If the current rating is F or G then in order to let the property you will need to carry out work to raise standard, unless the property is listed on the Private Rented Sector Exemptions Register.

Legionella

Legionella is a bacteria spread within water droplets and can cause Legionnaires' disease in vulnerable people who inhale the bacteria; this attacks the respiratory system.

You will need to carry out a risk assessment of the property to make sure there is no risk of legionella being present. This particularly applies when the property has been unoccupied or where there are open water tanks, cooling systems, a swimming pool, etc or where there are redundant or capped off pipes. If your assessment highlights a risk then you should instruct a legionella assessment test to be carried out before the start of the tenancy.

Houses in Multiple Occupation (HMO)

If the property forms a mandatory or additional House in Multiple Occupation (HMO) or is in a selective licensing area then you will need to apply for the relevant licence and pay for this. This may be either before the start of a new tenancy, or when such new requirement/amendment is implemented by the local authority during a tenancy. You will be required to comply with the licence conditions, which may vary between different local authorities.

General safety

If the local authority believe your property is below the required standard, or if a tenant complains to the local authority that you have failed to carry out a repair which is your responsibility, then it may issue an improvement notice requiring you to carry out the necessary work within a certain time. If an improvement notice is issued you won't be able to serve a valid Section 21 Notice until six months after the notice has been served and the works completed.

The Housing Health and Safety Rating System (HHSRS)

This is a system for local authorities to assess housing conditions and it is your responsibility to ensure that your property complies with this standard. It covers such areas as damp, excess cold or heat, pollutants, space, overcrowding, security, lighting, noise, hygiene, pests, refuse, sanitation, drainage, water supply, falls, electrical hazards, fire, structural collapse and entrapment.

An assessment will take into account the severity of any hazard and the effect it could have on the most potentially vulnerable user of the property, based on age. This applies even if such a person is not living in or visiting the property at the time.

Section 11 of the Landlord and Tenant Act 1985

A landlord is also responsible for certain repairs under this Act, including keeping the property's structure and exterior in good condition, keeping utility supplies in good working order and for the supply of heating and hot water.

Homes (Fitness for Human Habitation) Act 2018

This Act amends the Landlord and Tenant Act 1985 and requires that any property let by a landlord is fit for human habitation at the time the tenancy is granted and remains so for the life of the tenancy.

It covers repairs, stability, freedom from damp, internal arrangement, natural lighting, ventilation, water supply, drainage and sanitary conveniences, facilities for preparation and cooking of food and for the disposal of water waste. It also enables a tenant to take direct court action against their landlord for breach of the regulations, without the need to rely on intervention and action from the local authority.

How can we help you?

Under our Management Service we can arrange for all the above tests to be carried out on your behalf before the start of a tenancy and again when necessary.

If you do not subscribe to our Management Service then we can arrange for the tests to be carried out on a 'one-off' basis at the start of a tenancy under our Pre-Let Service; after that any re-testing will be your responsibility. Please see our Terms and Conditions for details of these services.

If you need any further information or advice please speak to our local branch staff or contact us on llm@kfh.co.uk

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