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# Code of Practice

**for Landlords and Agents  
licensed under Part 1 of the  
Housing (Wales) Act 2014**

**October 2015**

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**Please Note:**

**Welsh Government has not yet updated this Code of Practice in line with the Renting Homes (Wales) Act 2016. You are still required to comply with all relevant elements of this code, and the Renting Homes (Wales) Act 2016 even if they are not part of this document yet.**

# 1: Introduction

This Code of Practice (“the Code”) has been prepared to help landlords and agents licensed through the *Rent Smart Wales* scheme. The scheme has been developed to implement Part 1 of the Housing (Wales) Act 2014, the purpose of which is to improve practices in the private rented sector.

Section 40 of the Housing (Wales) Act 2014 requires Ministers to issue a Code of Practice setting standards relating to letting and managing rental properties. Section 22 of the Act makes it a condition that any person issued with a licence under Part 1 of the same Act must comply with the Code of Practice.

This document comprises two elements. First and foremost, it sets out what landlords and agents must do i.e. “Requirements” in order to comply with the law. Unless specified, the “Requirements” apply to both landlords and letting agents. The Requirements are contained in legislation. Any reference to legislation in this Code is deemed to be a reference to that legislation as amended, re-enacted or substituted with or without modification from time to time.

The second element of the Code is information on what can be done to raise standards above the minimum level required by law. This is described as “Best Practice”, and is shown in shaded boxes throughout the document. These are carried out at the discretion of landlords and lettings agents. Many already work in this way but spreading best practice is good for landlords and agents, their tenants and for the overall reputation of the sector.

All landlords and agents who hold a licence under the Rent Smart Wales scheme must abide by the Requirements of the Code. A landlord or agent who fails to comply with any of the Requirements runs the risk of losing their licence, which means that they would be unable to let or manage any residential properties.

## **The remaining sections of the Code are:**

- Section 2: Before letting a property
- Section 3: Setting up a tenancy
- Section 4: During a tenancy
- Section 5: Ending a tenancy

A Glossary is provided in Appendix 1 as an aid to understanding common terms in letting and managing residential properties. Appendix 2 lists legislation and guidance which relates to the Requirements and Best Practice recommendations.

## 2: Before letting a property

**2.1** This section explains what must be done before letting a property. The requirements will depend on whether the landlord wishes to appoint an agent to manage the letting of the property on their behalf. The first part of this section explains what is required of a landlord in appointing an agent and vice versa.

### Appointing an agent – Requirements

- 2.2** If appointing an agent to let or manage their property, a landlord must be sure that the agent holds a licence under the *Rent Smart Wales* scheme<sup>1</sup>.
- 2.3** When a landlord approaches an agent to instruct them, the agent must provide the following details<sup>2</sup>.
- a. Fees and expenses
  - b. The terms of business between the landlord and agent
  - c. The duration of the agreement to manage the property on the landlord's behalf; and
  - d. The extent of the agent's financial authority to authorise expenditure such as essential repairs/maintenance.
- 2.4** The agent must give the landlord sufficient time to read and understand these details before requiring them to agree to them. If the landlord appoints the agent based on the details, then the agent must provide the landlord with a written copy of the details on which the instructions are based to the landlord for their records<sup>3</sup>.
- 2.5** Unless it is contained within the original signed agreement, agents who want to appoint a sub-agent must first obtain the landlord's authorisation<sup>4</sup>.

#### Best Practice

- The landlord and agent should sign and date the written details of their business arrangements, and include details of who is responsible for specific tasks related to the letting and management of a landlord's property. Any subsequent changes to these arrangements should again be confirmed in writing, and signed by both parties.

<sup>1</sup> Section 9 in Part 1(Regulation of Private Rented Housing) of the Housing (Wales) Act 2014.

<sup>2</sup> Section 50 of the Consumer Rights Act 2015 and regulation 11 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, SI 2013/3134.

<sup>3</sup> Regulations 11 and 12 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, SI 2013/3134.

<sup>4</sup> Section 57 of the Consumer Rights Act 2015.

## Marketing and advertising – Requirements

- 2.6** All statements made about a property, whether spoken, in pictures or in writing, must be correct and not misleading. Statements must be clear and not hide important information about the property<sup>5</sup>.
- 2.7** For all properties which require an Energy Performance Certificate, any advertisements or information provided about the property must include the Energy Performance Indicator, which is more commonly known as the Standard Assessment Procedure, or “SAP”. The Indicator, which provides the energy and environmental performance of the property, can be found on the Certificate<sup>6</sup>.
- 2.8** The Energy Performance Certificate must be made available should a tenant wish to view it.
- 2.9** An agent must disclose to a prospective tenant all fees so all the costs payable if entering a tenancy agreement are clear and understood. The same also applies to any fees which may be charged at a later date, such as any fees for the renewal of the tenancy agreement. All fees must be stated as being inclusive of Value Added Tax (“VAT”)<sup>7</sup>. This also includes any fees which may be charged as a result of late payment of rent. This requirement covers any property adverts an agent may produce.
- 2.10** Questions from potential tenants must also be answered clearly and truthfully, including making it clear if an offer has already been accepted for the tenancy from somebody else.<sup>8</sup>
- 2.11** When arranging for a potential tenant to view a property in which a tenant currently lives, the existing tenant must be given reasonable notice (at least 24 hours) of the appointment, unless arrangements for access to the property were agreed otherwise in the tenancy agreement<sup>9</sup>, or specifically agreed with tenants outside of the tenancy agreement.

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<sup>5</sup> Section 8 of the Consumer Protection from Unfair Trading Regulations 2008, SI 2008/1277.

<sup>6</sup> 2 (Duties relating to Energy Performance Certificates) of the Energy Performance of Buildings (England and Wales) Regulations 2012, SI 2012/3118.

<sup>7</sup> Section 83 of the Consumer Rights Act 2015.

<sup>8</sup> Section 8, Part 3 - The Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)

<sup>9</sup> Part 1 (Unlawful Eviction and Harassment) of the Protection from Eviction Act 1977.

## Best Practice

- Before offering a property for rent, the appropriate consents should be obtained by a landlord.
- An agent should obtain written confirmation from a landlord that the appropriate consents, as detailed above, have been granted.
- If a landlord intends to rent a leasehold property, such as a flat, they should consider the terms of that property's lease, and any obligations that will need to be included in the tenancy agreement, such as service charges which may be payable by a tenant. Any relevant terms should be brought to the attention of potential tenants, and agent if relevant, at the earliest opportunity
- The responsibility for paying service charges which relate to the repair and maintenance of the structure or exterior of the building, or common parts of the building should not be passed to tenants.
- Landlords and agents should seek to conduct all tenancy-related matters, and deal with prospective tenants, in a professional, fair and reasonable manner.
- Providing someone interested in renting a property with full and detailed information on the property, and terms of the rental, helps avoid misunderstandings and difficulties which could occur after they've entered a tenancy agreement.
- Any fees charged to the tenant as a result of late payment of rent should be proportionate. Legitimate reasons for late payment should always be taken into account before any fee is charged.
- If a property is not served by mains gas, you should inform tenants of this, and provide them with information about local suppliers of gas and how much this is likely to cost them. This will help them to decide whether renting the property is affordable for them.

## 3: Setting up a Tenancy

- 3.1 This section explains what is required when preparing to let a property. This includes seeking references for a prospective tenant, agreeing the requirements of the tenancy and the documentation which must be provided.

### References and checks – Requirements

- 3.2 The prospective tenant's consent must be sought before seeking a reference or carrying out a credit check<sup>10</sup>.
- 3.3 Prospective or existing tenants must not be treated less favourably than others because of their age, disability, gender, gender identity, race and nationality, religion or belief, sexual orientation or whether they have children or are pregnant<sup>11</sup>.

#### Best Practice

- References requested for a prospective tenant (or their guarantor, if applicable) should only ask for information relevant to the tenancy.
- If a previous tenant requests a reference to allow them to take out a tenancy on a new rental property, one should be provided. References should always be fair and accurate.
- Tenants should be given, or signposted to, the Welsh Government's publication "A Home in the Private Rented Sector – A Guide for Tenants" at the beginning of their tenancy.

### Agreeing the tenancy – Requirements

- 3.4 During negotiations, and before they have committed to pay any expense, the potential tenant must be provided with clear information on<sup>12</sup>:
- a) Terms of the tenancy
  - b) How long the tenancy will last (if a fixed period)
  - c) Costs for which the tenant will be responsible
  - d) Amount of any security deposit, if applicable
  - e) The amount of any holding deposit, if applicable. You must also clearly state the reason for such a deposit, and all associated terms and conditions

<sup>10</sup> Section 7 of the Data Protection Act 1998.

<sup>11</sup> Chapters 1 (Protected Characteristics) and 2 (Prohibited Conduct) in Part 2 (Equality: Key Concepts) of the Equality Act 2010.

<sup>12</sup> Part 3 (Offences) of the Consumer Protection from Unfair Trading Regulations 2008, SI 2008/1277.

- f) The total sum the tenant will be required to pay on signing the tenancy agreement
- g) Any guarantor requirements, if applicable
- h) Methods of payment available to the tenant
- i) The procedure to follow when the tenant arranges to sign the tenancy agreement

**3.5** Potential tenants must be given sufficient opportunity to read a draft or sample tenancy agreement prior to signing their tenancy agreement<sup>13</sup>. This would allow them to obtain independent advice should they wish to do so.

### Best Practice

- Be considerate of a prospective tenant's circumstances when dealing with people who might be disadvantaged because of their age, illness, lack of understanding, lack of linguistic ability, economic circumstances or bereavement.
- If any extra terms are negotiated between the parties prior to the tenancy being agreed, such as new furniture which will be provided prior to the tenant moving in, these should be written into the rental agreement.
- Where possible, be accommodating towards prospective tenants with pets. Reasonable provision could be made within the tenancy agreement which could cover the possibility of any damage caused by pets to the property, or any furniture which may be provided with the property.

## Tenancy agreement – Requirements

**3.6** A written tenancy agreement must include:

- a. The rent amount and key terms
- b. Frequency of payment
- c. The period of the tenancy
- d. How any rent increases will be imposed including a statement, making clear what notice the landlord must give the tenant before the rent increase will take effect<sup>14</sup>.

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<sup>13</sup> Regulations 11 and 12 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, SI 2013/3134.

<sup>14</sup> Section 20A of the Housing Act 1988.

## Best Practice

- A tenancy agreement should always be made in writing. A tenancy agreement made verbally still offers the same protection in the eyes of the law as a written tenancy agreement, but the evidence of a verbal tenancy agreement can be harder to prove.
- If there is a written tenancy agreement, it should be signed and dated by both the tenant and the landlord, or agent. A copy should be kept by the landlord, or agent, and a copy given to the tenant.
- A written tenancy agreement should also include:
  - Guidance to the tenant on the rights to use any common parts or shared facilities, such as garages, parking spaces or gardens
  - Details of any tenancy deposit required
  - If known, which tenancy deposit protection scheme the deposit is to be registered with
  - If known, how the deposit will be returned, and the terms of any deductions, together with an undertaking to return the balance of the deposit within a reasonable time, which is to be stated in the agreement
  - A clear description of which party is responsible for paying:
    - Council Tax
    - Utility bills
    - Television Licence
    - Phone, broadband, television subscriptions, or any other payable media services
  - Any other regular charges linked to the tenancy which are liable to be paid by a tenant
  - Any other fees or charges to be made with regard to the tenancy with a clear description of what they are for, and if they are returnable at any point. This is to include all fees charged to the tenant
  - How the tenancy can be terminated.
- It is always a good idea to produce an inventory before a tenancy. The inventory should be presented to the tenant at the start of the tenancy, and the tenant should be given an opportunity to check the inventory is correct before signing up to it. The tenant and the landlord or agent should both keep a copy.
- If a letting agent is involved, it should be made clear to the tenant that the tenancy agreement only relates to the landlord's and tenant's obligations. The letting agent should separately explain to the tenant what their responsibilities are.
- The tenancy agreement should allow for entry in the case of an emergency.

## Supplementary documentation – Requirements

- 3.7** The following documentation must be supplied to the tenant, in writing and before occupation:
- a. Landlords Gas Safety Certificate, dated within the last 12 months, if the property has any gas appliances<sup>15</sup>.
  - b. Current Energy Performance Certificate (EPC) dated within the last ten years, if the property is of a type that needs one<sup>16</sup>.
  - c. Any other documentation required by law.

## Deposits – Requirements

- 3.8** If a security deposit is required, when taken it must be protected in a Government-authorised scheme within 30 days of receiving it, and there must be full compliance with the rules of the relevant scheme. The prescribed information regarding the tenancy deposit protection scheme must be made available to the tenant within 30 days of receiving the deposit. The tenant must be given an opportunity to check and sign the prescribed information<sup>17</sup>.
- 3.9** Where a deposit is held by an agent, deposit money must be dealt with in the same way as other clients' monies. The commission payable to the agent upon the signing of a tenancy agreement, or any other charges owed by the landlord to an agent, must never be taken out of the deposit<sup>18</sup>.

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<sup>15</sup> Regulation 36 of the Gas Safety (Installation and Use) Regulations 1998, SI 1998/2451.

<sup>16</sup> Part 2 (Duties relating to Energy Performance Certificates) of the Energy Performance of Buildings (England and Wales) Regulations 2012, SI 2012/3118.

<sup>17</sup> Chapter 4 (Tenancy Deposit Schemes) in Part 6 (Other Provisions about Housing) of the Housing Act 2004.

<sup>18</sup> Section 184 of the Localism Act 2011.

## 4: During the Tenancy

- 4.1 This section explains what is required at the start of the tenancy and afterwards over the duration of the tenancy. It covers rent collection, the provision of contact details and access to the property after it has been let.

### Starting the tenancy – Requirements

- 4.2 Basic information must be provided about the new tenants to the water supplier within 21 days of the start of a new tenancy<sup>19</sup>. This information can be submitted at: [www.landlordtap.com](http://www.landlordtap.com).

#### Best Practice

- If the tenant is responsible for paying utility companies directly, provide the tenant with the relevant information to make it as easy as possible for the tenant to register with them as the customer from the start.
- Where utilities are metered, record the meter readings at the start of a tenancy. Utility companies should also be advised for water, sewerage, gas and electricity, as appropriate.
- The Local Authority should be informed of the date that the tenancy begins for council tax and electoral register purposes.
- Let the tenant(s) know the arrangements for the collection of refuse and recycling.
- Inform the tenant of the insurance arrangements for the property e.g. what is insured and by whom. If a tenant's own possessions are not covered by any existing policy, make this clear to them so they can take out their own contents insurance.
- Explain the workings of the heating and hot water installations, the location of the water stop tap, the main electrical fuse box (and shut-off switch), gas shut-off valve and the use of burglar alarm or any window and door locks.
- Tenants should be made aware of how to use any fire fighting equipment which may be provided, and how to exit the property safely in case of fire.
- Tenants should be provided with information about the proper use of heating and ventilation and practices to reduce the risk of damp and mould growth.
- At the start of their tenancy, information could also be provided to tenants about organisations who could offer them help and advice should something go wrong during their tenancy, such as Citizens Advice Cymru, Shelter Cymru or NUS Wales (if students).

<sup>19</sup> Regulation 5 of the Water Industry (Undertakers Wholly or Mainly in Wales) (Information about Non-owner Occupiers) Regulations 2014, SI 2014/3156.

## Collecting rent – Requirements

- 4.3** Rents and other charges must be collected through legal means and with regard to the clauses of the relevant tenancy agreement<sup>20</sup>.
- 4.4** The name and business address of the landlord must be included on any written rent demand. Until an address is provided, the rent is not deemed to be due from the tenant. If the provided address is not in England or Wales, then the tenant must be notified of an address in England and Wales to which notices may be served<sup>21</sup>.
- 4.5** If the rent is paid weekly, a rent book must be provided. The rent book must be kept up to date<sup>22</sup>.

### Best Practice

- If used, rent demands should be clear and easy to read to help ensure they are understood by a tenant.
- Provide a receipt for the rent and/or an annual statement of rent if requested by the tenant.
- Agree with the tenant how the rent will be paid. The best method is considered to be by standing order. Rent should not be collected in the form of post-dated cheques.

## Contact details – Requirements

- 4.6** If a tenant requests their landlord's name and address, then they must be given it within 21 days, beginning with the day on which the Landlord receives the request<sup>23</sup>. If the landlord is a company<sup>24</sup>, and the tenant requests more information after receiving the name and address of the landlord, the name and address of the directors and the secretary of the company must also be given to the tenant within 21 days, beginning with the day on which he receives the request.

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<sup>20</sup> See tenancy agreement provisions in the Protection from Eviction Act 1977 and the Housing Act 1988.

<sup>21</sup> Section 48 of the Landlord and Tenant Act 1987.

<sup>22</sup> Section 4 of the Landlord and Tenant Act 1985.

<sup>23</sup> Section 1 of the Landlord and Tenant Act 1985.

<sup>24</sup> Section 2 of the Landlord and Tenant Act 1985.

## Best Practice

- Tenants should be provided with the details of the person who they can contact about their tenancy. These details should be kept up to date. The contact person should hold a licence issued by *Rent Smart Wales*. Details should include:
  - A correspondence address
  - A contact telephone number
  - An email address (if available)
- The contact person should always respond within a reasonable period of time.
- If different from the person who a tenant should contact about general concerns with their tenancy, tenants should also be given details of how to make contact with a person licensed to deal with any problems within their property in an emergency.
- If the main contact person is unavailable e.g. on holiday, it's a good idea to inform the tenant and provide him or her with alternative contact arrangements.
- Tenants should be advised how to report repair and maintenance issues.
- Explain how the tenant can make a complaint and how they will be dealt with. It is helpful if this is in writing. This helps to ensure any complaints are dealt with fairly, promptly and efficiently.
- For an agent, or for landlords with a portfolio of properties, it is a good idea to include details of formal redress arrangements, where applicable.

## Access to the property – Requirements

- 4.7** Except in an emergency (e.g. a fire; problems with gas, electricity or escape of water that pose real risk of injury or significant damage to the property or neighbouring properties), tenants must be given at least 24 hours notice, in writing (or by any other means preferred by the tenant, such as a telephone call) requesting access to the property.
- 4.8** Tenants have the right to peaceful enjoyment of the property they are renting. If there is a valid reason why entry is needed and if access is refused for whatever reason, a court order must be obtained.
- 4.9** Forced entry must only be considered in case of an emergency or if there is no response to attempts to contact the tenant and there is genuine reason to believe the property has been abandoned by the tenant<sup>25</sup>.

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<sup>25</sup> Part 1 (Unlawful Eviction and Harassment) of the Protection from Eviction Act 1977.

## Best Practice

- If access to the property is needed, it should be arranged for a mutually agreed reasonable time.

## Property Conditions

- 4.10** A property must be kept in a safe condition, and with no unacceptable risk to the health of the tenants. If demands for improvements under the Housing Health and Safety Rating System (“HHSRS”) are made by a local authority, then these must be acted upon<sup>26</sup>.
- 4.11** The installations provided for the heating of the property, such as the central heating or gas fires, and also for the water heating, together with the installations for the supply of gas, water, electricity and drainage, must be kept in proper working order<sup>27</sup>.
- 4.12** Electrical wiring must be in a safe, working condition. All electrical fixtures and fittings must be free from breakages, cracking or defects, and be properly and securely fitted. Electrical work must be carried out in accordance with part P of the Building Regulations<sup>28</sup>.
- 4.13** All electrical appliances provided must be in a safe condition<sup>29</sup>.
- 4.14** Furniture and furnishings provided as part of the tenancy agreement must comply with minimum fire resistance standards, unless exemptions apply<sup>30</sup>.
- 4.15** Gas appliances and flues must be checked for safety within 12 months of being installed, and thereafter at least every 12 months by a qualified gas engineer. Full records must be kept for at least 2 years of the inspections of each appliance and flue, of any defects found and of any remedial action taken. A copy of the safety certificate issued by the engineer must be given to each existing tenant within 28 days of the check being carried out.
- 4.16** Any maintenance or repair work on gas appliances provided must be carried out by somebody who is registered with the *Gas Safe Register*<sup>31</sup>.
- 4.17** Reasonable care must be taken to maintain and repair paths, driveways and car parking areas owned by the landlord so that they are safe to use. Gutters, downpipes, drains and gullies must be maintained and repaired<sup>32</sup>.
- 4.18** Any relevant health and safety information held about the property must be passed over to any contractor, including regarding asbestos<sup>33</sup>.

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<sup>26</sup> Part 1 (Housing Conditions) of the Housing Act 2004.

<sup>27</sup> Section 11 of the Landlord and Tenant Act 1985.

<sup>28</sup> Schedule 1 to the Building Regulations 2010, SI 2010/2214.

<sup>29</sup> Regulation 5 of the Electrical Equipment (Safety) Regulations 1994, SI 1994/3260.

<sup>30</sup> As contained in the Furniture and Furnishings (Fire) (Safety) Regulations 1988, SI 1988/1324.

<sup>31</sup> Regulation 3 of the Gas Safety (Installation and Use) Regulations 1998, SI 1998/2451.

<sup>32</sup> Section 11 of the Landlord and Tenant Act 1985.

<sup>33</sup> Regulation 4 of the Control of Asbestos Regulations 2012, SI 2012/632.

- 4.19** A carbon monoxide alarm must be fitted if a new solid fuel burning appliance is installed<sup>34</sup>.
- 4.20** All requirements regarding mandatory licensing schemes and additional schemes for Houses in Multiple Occupation in Wales must be adhered to, along with all Houses in Multiple Occupation Management Regulations<sup>35</sup>.

### Best Practice

- Landlords should keep the structure and exterior of the property in repair. If an agent is responsible for carrying out the landlord's obligations and is unable to discharge these responsibilities for any reason, they should inform the landlord and give reasons why to enable the landlord to comply.
- If provided, a carbon monoxide alarm should comply with the BS EN 50291 standard, and be installed as the manufacturer's recommendations.
- Be responsive to tenants' requests for repairs and respond within a reasonable timescale. Bear in mind that some repairs which could be relatively minor for some people, could be of greater importance to others.
  - **Emergency repairs:** these should be dealt with, or made safe, as quickly as possible, preferably the same day. Emergency repairs are where there is a risk of imminent danger to the health, safety and security of the tenant or somebody else on the premises. It could also be something that adversely affects the structure of the building.
  - **Urgent repairs:** wherever possible, these should be dealt with within three working days of being notified. These include the failure of functions within the property, such as central heating, hot water, and electrical problems. A repair to a boiler which may be considered urgent in the summer months may be an emergency in very cold weather.
  - **Other Repairs:** Most tenants recognise minor repairs are not a priority but aim to do them as soon as possible and no later than 30 days after the request was made.
- Remind tenants of their responsibility to carry out minor maintenance or repairs, such as replacing light bulbs or clearing pipes or drains they have blocked.
- Care should be taken when choosing contractors who are competent to perform repairs and maintenance on the property. Reasonable steps should be taken to ensure such contractors have:
  - Public liability insurance
  - Professional indemnity insurance, if appropriate
  - Relevant trade qualifications where required
  - Appropriate health and safety risk assessments

<sup>34</sup> J3 of Schedule 1 to the Building Regulations 2010 (SI 2010/2214).

<sup>35</sup> Part 1 (Regulation of Private Rented Housing) of the Housing (Wales) Act 2014 and Part 2 (Licensing of Houses in Multiple Occupation) in Chapter 5 (General and Miscellaneous Provisions relating to Enforcement Action) of the Housing Act 2004.

- A tenant should never be evicted simply for making a reasonable repair or maintenance request.
- A request from a tenant to decorate the property should not be unreasonably refused. A compromise might be reached; for example if the tenant agrees to return the decorated area back to the original at the end of the tenancy.
- Should a tenant require adaptations to be made to a property to aid their mobility or access requirements around the property, then this should not be unreasonably refused. Allowing an adaptation to be made to a property could help to secure a longer-term rental income from the tenant of that property.
- Tenants should be consulted when there is a need to carry out repairs or maintenance at the property, unless there is an urgent need.
- Aim to ensure works are carried out to a reasonable standard so that they do not need to be repeated within a short period of time thus saving money and time.
- Inspect a property periodically to identify any hazards or repairs that require attention. It's a good idea to keep a record of inspections, with a list of any issues identified and action taken.
- Carbon monoxide alarms should be provided in all rooms where a gas, oil or solid fuel appliance is present.
- Properties should be fitted with smoke detectors. Ideally there should be at least one smoke detector on each floor of the property.
- Landlords and agents should ensure the safety of any solid fuel and oil heating installations. They should carry out appropriate routine maintenance, including the sweeping of chimneys and flues, on an annual basis.
- A check on the electrical installation should be carried out at least once every five years by a competent electrician, and the results should be recorded in the form of an Electrical Installation Condition Report (EICR).
- Maintenance of any heating appliances should be carried out by an appropriate registered competent person. Landlords and agents should maintain a record of servicing and work carried out.
- Effective insulation of properties, together with the installation of energy efficient boilers, can minimise heat loss, and reduce the cost of bills for tenants. This can help to make a tenancy more affordable for a tenant.
- Measures such as the installation of extractor fans and adequate central heating can help to prevent condensation and, more seriously, rising and penetrating damp which can be very costly to rectify.

## Renewing or changing a tenancy

### Best Practice

- Any tenancy renewal should always be accompanied by a written tenancy agreement. The tenant should be given sufficient time to review and sign this agreement.
- All fees payable, or potentially payable, to a landlord due to a tenancy renewal or change to a tenancy, should be clearly communicated to the tenant before any new tenancy agreement is made.

## When things go wrong

**4.21** Complying with the requirements of this Code will go a long way to preventing things from going wrong. If, however, difficulties arise, the way they are dealt with can make a difference.

### Best Practice

- When things go wrong during a tenancy, good communication with the tenant is very important. You should ensure that the tenant is kept up to date with any action that is being taken.
- Assistance, such as mediation, could help to resolve problems before they escalate. This can potentially help to save landlords, agents and tenants on the cost of more formal legal proceedings.
- Tenants should be informed of any redress scheme that an agent may be a member of, such as The Property Ombudsman. They can help in situations where a tenant is still unhappy having followed an agent's internal complaints procedure.

## 5: Ending a Tenancy

- 5.1** This section explains what is required when a tenancy is ended, whether by the tenant, landlord or agent.
- 5.2** There are procedures which must be carried out in order to end an assured or an assured shorthold tenancy<sup>36</sup>. If this does not happen, then a tenant must not be evicted without a possession order and by following the correct process. Ideally, a notice is legally served and the tenant leaves as required.
- 5.3** Deductions from a tenancy deposit<sup>37</sup> must not be made without suffering actual losses, and evidence must be provided to support claims, though only if a dispute is raised regarding the deduction. Losses as a result of fair wear and tear must not be deducted from the deposit.
- 5.4** If it is decided that a deduction should be made from a tenancy deposit, then details setting out the reasons must be provided to the former tenant, in writing, if requested. The claim should also be made by following tenancy deposit legislation and also the requirements of the tenancy deposit protection scheme with which the tenancy deposit was registered.
- 5.5** Any balance remaining from the deposit must be refunded within a reasonable time after an agreement is reached between the parties of what is to be refunded.
- 5.6** Should the amount be disputed, any amount must be refunded within a reasonable time or after the decision of the tenancy deposit scheme adjudicator, or by order of a court.
- 5.7** Deposit sums not in dispute must be refunded to the tenant within a reasonable time from the end of the tenancy.

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<sup>36</sup> Chapter I (Assured Tenancies) and Chapter II (Assured Shorthold Tenancies) of Part I (Rented Accommodation) of the Housing Act 1988.

<sup>37</sup> Chapter 4 (Tenancy Deposit Schemes) in Part 6 (Other Provisions about Housing) of the Housing Act 2004.

## Best Practice

- When giving or receiving a notice to end a tenancy, provide the tenant with written guidance which explains what steps they should take to help prepare the property for the end of the tenancy e.g. the handover of keys. Draw the tenant's attention to any specific clauses or obligations within the tenancy agreement relating in particular to proposed deductions from the tenancy deposit but also, for example, to specified standards of cleaning.
- An agent should always inform the landlord promptly, and in writing when they receive notice from a tenant that they wish to bring a tenancy to an end.
- If a tenant does not have accommodation to move into, or is struggling to find alternative accommodation, help them by providing information, such as the Local Authority's Housing Advice Service, Citizens Advice, or Shelter Cymru. Do not wait until the very end of a tenancy to do this, Under Part 2 of the Housing (Wales) Act 2014, Local Authorities have a duty to help prevent homelessness and they work with tenants, landlords and advice organisations to help to find solutions to problems.
- Aim to inspect the vacated property within 24 hours or on the next working day to establish whether it has been returned in the condition specified to the tenant. If this is not possible, then it should be the earliest possible day after the tenancy has ended.
- Inform the tenants of the date of the end of tenancy inspection. Give them a reasonable opportunity to attend the end of tenancy inspection.
- If the intention is to make a deduction from a deposit, when obtaining estimates for restoring the standard of the property and contents following a tenancy, all actions should be recorded. Seek guidance from the tenancy deposit scheme used to register the deposit.
- Notify the Local Authority and utility companies when a tenant no longer lives in a property.
- If applicable, record final gas, electricity and water meter readings and agree them with the tenant.

# Appendix 1: Glossary of Terms

**Agent** – a person, or company, who is licensed by Rent Smart Wales to carry out any of the letting or management duties on behalf of a landlord.

**Credit check** – a financial check which may be carried out on a potential tenant (or guarantor) to establish whether or not they are able to pay the proposed rent.

**Freehold** – the outright ownership of a building, such as a block of flats, and the land it stands on.

**Gas Safe Register** – the gas registration body for the United Kingdom. It is the only official list of engineers approved to work on gas fittings and appliances in residential properties.

**Guarantor** – a third party, which could be, for example, a parent or close relative, who agrees to pay a tenant's rent if they are unable to pay, or haven't paid.

**Landlord** – the owner of a property which is rented by a tenant.

**Leasehold** – the right to live in a property of which somebody owns the *Freehold*, usually for a number of years.

**Possession order** – a court order granted to enable the legal eviction of a tenant.

**Prescribed information** – information which must, legally, be provided.

**Reference** – usually a written statement from a previous landlord or agent about a former tenant. This may be required by landlords or agents as an indication of the suitability and reliability of potential tenants.

**Service charges** – fees that a tenant may have to pay to cover their share of the cost of maintaining the building they rent a property in. Service charges usually cover costs such as repairs to communal areas, and the structure of the building, such as roof, windows, pipes, drains. They may also cover things such as the gardening costs. They are usually chargeable in buildings which contain a few *Leasehold* homes, such as a block of flats.

**Solid Fuel** – various types of solid material which are used as fuel to produce energy, such as wood, coal and biomass pellets.

**Tenancy agreement** – the contract which allows a tenant to rent their home.

**Tenant** – a person who rents a home.

**Utility** – a service provided to, and used in, a home, such as gas, electricity or water.

**Value Added Tax (VAT)** – a charge which is applied to most goods and services provided by registered businesses in the United Kingdom.

# Appendix 2: Other relevant legislation and Codes of Guidance

## Housing acts

- Housing Act 1988
- Housing Act 2004
- Housing (Wales) Act 2014

## Equality acts

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Equalities Act 2010

## Other acts

- Covenant of Quiet Enjoyment (and Protection from Eviction Act 1977)
- The Consumer Protection Act 1987
- Landlord and Tenant Act 1985 and/or Landlord and Tenant Act 1987
- Localism Act 2011
- Consumer Rights Act 2015

## Statutory instruments

- Electrical Equipment (Safety) Regulations 1994
- Gas Safety (Installation and Use) Regulations 1998 (SI 1998/2451)
- The Furniture and Furnishings (Fire Safety) Regulations 1988(SI 1988/1324)
- General Product Safety Regulations 2005
- Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541)
- The Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)
- Control of Asbestos Regulations 2012 (SI 2012/632)
- Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118)
- Water Industry (Undertakers Wholly or Mainly in Wales) (Information about Non-owner Occupiers) Regulations 2014 (SI 2014/3156)

## Guidance

- *A Landlord's Guide to Energy Performance Certificates* (Energy Efficiency Partnership for Homes)
- *Carbon Monoxide Kills* (Welsh Government)
- *Consumer Protection Law Guidance for Letting Professionals 2014* (Competitions and Marketing Authority)
- *Damp and Mould Leaflet* (Welsh Office & Environment, Transport and Regions)
- *Deposit protection schemes and landlords* (Department for Communities and Local Government)
- *Evicting Tenants (England and Wales)* (Department for Communities and Local Government)
- *Fire Safety Guidance* (LACORS)
- *Gas Safe Register Information Leaflet* (Gas Safe Register and Health and Safety Executive)
- *HOMES FOR ALL – Regulation of Private Rented Housing & Pets Good Practice Guide* (Royal Society for the Prevention of Cruelty to Animals – RSPCA)
- *Housing Health and Safety Rating System: Enforcement Guide* (Welsh Government)
- *Landlords – A guide to landlords' duties: Gas Safety* (Installation and Use) Regulations 1998 (Health and Safety Executive)
- *Landlord Guidance on the Housing Health and Safety Rating System* (Welsh Government)
- *Landlord Guide to Electrical Safety* (Electrical Safety Council)
- *Renting out your property* (England and Wales) (Department for Communities and Local Government)
- *Steps to Fire Risk Assessment* (Department for Communities and Local Government)
- *Tenancy Agreements: A guide for landlords* (England and Wales) (Department for Communities and Local Government)
- *TPO Code of Practice for Residential Letting Agents* (The Property Ombudsman)