



COOKE & CO

A MOVE IN THE RIGHT DIRECTION

Guide to your responsibilities as a **landlord**

Come Live By The Sea

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If you have any questions about lettings, rental investments, or property management, please contact us on (01843) 234771.

Landlord *Noun* someone who rents out land, a building, or accommodation.

Responsibility *Noun* the state or fact of having a duty to deal with something.

Welcome,

Hello, my name is Damien Cooke and I'm the Managing Director of Cooke & Co Estate and Letting Agents.

We've been serving landlords across Kent since 1992.

And during that time, we've seen the introduction of a never-ending list of constantly updated rules, regulations, and new laws that impact landlords across Kent.

There are now more than 175 pieces of legislation which landlords with properties in the UK must comply with.

Falling foul of these rules can have severe consequences. Check out page 7 of this guide which goes into greater detail about those penalties.

Landlords must be aware of these laws and run their property portfolios professionally. This approach keeps their investments protected and their tenants safe.

Over the next few pages, we will look at some of the key responsibilities that landlords have.

We'll also dispel some myths surrounding rental property rules and highlight why a good letting agent can be a landlord's best friend.

If you have any questions about your numerous responsibilities as a landlord or anything rental property related, please don't hesitate to contact me or a member of our team.

We're here to keep you on the right side of the regulations, help make your life easier and ensure your rental investments are as profitable as possible.

Thanks for your time,

Damien Cooke MNAEA MARLA
Founder and Managing Director
Cooke & Co Estate and Letting Agents



*Disclaimer: The information in this guide does not constitute legal or financial advice.

Seven key areas of responsibility (part 1)

There are more than 175 rules and regulations that govern what you can, can't and must do when you are a landlord.

Rather than list them all in this guide, we've picked the seven main areas of responsibility that landlords need to think about. We're happy to discuss these and any of the other regulations with you in greater detail.

Electrical

Under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, landlords must get their property electrics checked at least every five years by a properly qualified person. This applied to new tenancies from 1 July 2020 and existing tenancies from 1 April 2021. The electrics must be safe, and you must give your tenant proof of this in the form of an Electrical Installation and Condition Report (EICR).

Gas

A gas safety certificate is legally required for any gas appliance or installation. As a landlord, you must provide your tenant with an up-to-date copy of this certificate before they move into the property. You must also provide the tenant with a copy of the new certificate after each annual gas safety check.

Top Tip:

For further reading on your responsibilities as a landlord, visit the useful:

www.gov.uk/renting-out-a-property

REMEMBER, the rules constantly change, so you need to keep updated or use a letting agent who can do this for you.

Fire and carbon monoxide safety

Landlords must have at least one smoke alarm installed on every storey of a property they let out. In addition, if you have solid-fuel appliances like wood-burning stoves or open fires, carbon monoxide detectors must be provided. This regulation is set to be updated, meaning carbon monoxide alarms will also be required for gas boilers as of October 2022.

Energy

At the start of their tenancy, you must provide your tenant with a copy of the Energy Performance Certificate (EPC), which contains the energy performance rating of the property you are renting to them. As of April 2020, all privately rented properties must have an energy performance rating of EPC band E or above (unless a valid exemption applies) before being let out. The government have proposed that all rental properties will require an EPC rating of C or above by 2025. You can also search online for the property's EPC and check its rating on: <https://www.gov.uk/find-energy-certificate>

EPCs last for ten years. The certificate will also offer helpful advice on improving a property's energy rating.

Seven key areas of responsibility (part 2)

Right to rent

You must carry out a 'right to rent' check on any prospective tenant before they move in. The current (April 2022) government guidance in the form of 'Landlord's guide to right to rent checks' is 86 pages long. That's probably why many landlords hand this aspect of renting out their property to an experienced letting agent. In a sentence, the 'right to rent' check is carried out to confirm that a prospective tenant has the legal right to be living in England. Ignoring this check can lead to significant fines and even imprisonment.

Financial

As a landlord, it is your responsibility to pay the correct taxes (and, in some cases, National Insurance) linked to your income from your property investments. It's a complex area, and one best looked at by an accountant or specialist tax adviser. You'll also need to have a buildings insurance policy in place. We strongly recommend investigating other policies such as rent and legal protection that can cover you for void periods, legal disputes and unpaid rent.

Top Tip:

You or your letting agent must provide your tenant with a copy of the government guide: 'How to rent: the checklist for renting in England'. This needs to be given when a new tenancy starts as a printed copy or, if the tenant agrees, via email as a PDF attachment.

Deposits

If your tenant has provided a deposit (highly advisable), you must protect it in a government-approved scheme within 30 days and give the tenant information about it. We can advise you on what deposit schemes are available and best suited to your needs. Keeping all paperwork linked to deposits safe and easily accessible is very important. It's worth noting that deposits are capped at five weeks' worth of rent. Landlords can no longer hold a higher deposit for things such as pets. The tenant must be provided with the prescribed information document relating to their deposit (talk to us about this).

Other responsibilities to consider include:

- Maintenance of any furniture or appliances you have provided as part of the tenancy.
- Repairing things within the property that may have stopped working, e.g. showers, boilers, taps, etc.
- Ensuring the property is free from serious hazards from the start of and throughout any tenancy.
- Make sure blinds (if provided) are safe by design, and they do not have looped cords
- And in some cases, ensuring the property is not at risk of Legionnaires' disease.



Myth-busting

There are many myths and incorrect information about the responsibilities that landlords must take on board.

The most misleading ones usually surround responsibilities and obligations that landlords **don't** have to follow.

Here are seven common myths we have had to bust.

- 1. MYTH: I own the property, so I can turn up at it whenever I like to check it out.**
FACT: The Landlord and Tenant Act 1985 allows a landlord access to inspect the property, as long as they have given at least 24 hours' notice and the proposed visit is at a reasonable time. However, the tenant must be given the opportunity to refuse the visit.
- 2. MYTH: I can change the locks and take back my property at any time if my rent isn't paid on time.**
FACT: You must follow a strict set of procedures and legal steps including court orders and potentially bailiffs. Call us to discuss this further if you need more detailed advice.
- 3. MYTH: I can leave white goods/items in the property but I don't have to repair them.**
FACT: Anything supplied with the property at the commencement of the tenancy is the landlord's responsibility to repair and maintain, providing any damage has not been caused through misuse or neglect.
- 4. MYTH: I can have a copy of my tenant's referencing forms.**
FACT: You can request this but you will need the tenant's consent before these forms can be provided.
- 5. MYTH: I can chuck a tenant's stuff out if they abandon the property.**
FACT: You must check your original tenancy agreement for an abandonment clause. If no clause is in there, it is usual for a landlord to be duty-bound to hold/store items for three months before disposing of them. Remember, there is a process for regaining possession/surrendering tenancy for abandoned properties.
- 6. MYTH: I can make a profit on utility bills on inclusive rents.**
FACT: No, you can't. You must charge whatever the tenant has used and not put anything on top.
- 7. MYTH: I can make deductions to the tenant's deposit.**
FACT: There's a process to follow before deductions can be made to a deposit. These deductions require agreement from the tenant or arbitration from the authorised deposit scheme being used.



Top Tip:

Create and stick to a budget for maintenance and repair costs. This will help you meet your responsibilities, be financially prepared and provide a good standard of accommodation for your tenants.

The price of getting it wrong

The penalties and punishments of falling short of your responsibilities as a landlord can be severe.

Hefty fines and prison sentences can accompany the most serious breaches. Also, any run-ins with local authorities and government agencies can prove extremely stressful and time-consuming for landlords.

It's the main reason why we created this guide – to help landlords avoid a compliance calamity which is often due to not knowing their responsibilities rather than wilful negligence.

£90,000 fine

In 2021, a landlord in Hertfordshire and his property management company were found guilty of 27 charges linked to the mismanagement of two properties. The penalties were related to multiple fire safety breaches and failure to comply with an improvement notice. It was a costly experience for them as the fines (including legal costs) added up to more than £90,000.

Common cases and penalties

- You could be hit with a 'standard' £6,000 fine and/or six months' imprisonment for failing to comply with gas safety legislation.
- You can be fined up to £30,000 for a breach of electrical regulations.
- 'Right to rent' breaches (where you allow someone to live in your property that doesn't have the legal right to live in England) has an increasing scale of £1,000 – £3,000 fines and possible imprisonment in the most serious cases.

The vast majority of landlords want to do the right thing and take their roles seriously. But the authorities are taking stronger stances against those who break the laws.



Top Tip:

Many landlords are pushed for time and may forget about their responsibilities. Using a good letting agent to manage your properties fully helps you cure this headache and keeps you compliant.

Five ways to spot an exceptional letting agent

An exceptional letting agent can make your life a lot easier and more relaxed, especially when it comes to keeping the right side of rental laws and regulations.

That's the good news. Unfortunately, the bad news is that not all letting agents are client-focused, fully trained and experienced in dealing with the complex maze of rules and red tape affecting rental properties.

So, with that in mind, we created the checklist below, which will help you identify the best letting agents to look after your needs.

- Recommendations and reviews**
Word of mouth from family and friends can be great. But always ask if the person has used the agency they are putting forward. Also, look out for Google and social media reviews of agencies you are looking at. An agency's best (or worst) advert is what their clients say about them.
- Upfront about the small print**
An exceptional letting agency will be transparent and forthcoming about its fees and contract terms. We want our relationships with landlords to be long-standing ones, and that's why we treat everyone honestly and fairly.
- Marketing matters**
Check out how the agency is marketing other rental properties they have on their books. Are you *impressed* or *depressed* by what you are seeing? The best agents know that every aspect of a property's marketing matters if you are to attract great tenants willing to pay value for money rent.
- Embark on a mystery tour**
Unfortunately, this isn't as exciting as it sounds, but it is hugely revealing when seeking out the best agents for you. Mystery shop three agents in your area that you like the look of. Who gives you the best impression over the phone and/or in person?
- Cheap but not cheerful**
The old saying 'you get what you pay for' is never more accurate than when it comes to cut-price letting agents. Established agents who deliver personal and professional services to landlords know their value and charge accordingly. However, cut-price deals from agents usually mean standards of service drop and little/no money is invested into the management and marketing of your property.

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