

Key Notes

East Lothian Council's Newsletter
for Private Sector Landlords

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Changes to Eviction Procedures

Scottish Ministers introduced legislation which makes changes to the eviction procedure for tenancies in the private and social rented sector. Initially these changes will apply from 7 April 2020 until 30 September 2020 but there is provision in the legislation for the end date to be changed.

During the period detailed above all evictions will be discretionary, which means that if the tenant doesn't voluntarily vacate and the landlord has to apply for an eviction order at the tribunal, the tribunal may decide to exercise a reasonableness test in deciding whether to evict the tenant or not. In simple terms, this means that the tribunal will decide based on the circumstances of the case whether the tenant's need/right to occupy the property is outweighed by the landlord's need/right to repossess the property. *(cont p3)*



Covid-19 Guidance for Private Landlord and Letting Agents

The following FAQs have been compiled by the Scottish Government, the Scottish Association of Landlords, the Council of Letting Agents and Propertymark

Where can we get advice on responding to the Coronavirus Covid-19 outbreak?

You should keep up to date with and have regard to the latest advice from Government, the NHS and the Chief Medical Officer. The position is changing on a daily basis and therefore it is important to check that advice regularly.

- ▶ [Scottish Government advice](#)
- ▶ [Public health advice](#)
- ▶ Latest advice and information from the [UK Government](#)
- ▶ Health Protection Scotland has published guidance to support those working in non-healthcare settings give advice to their staff and users of their services about COVID-19.
- ▶ [Further public health information](#) for your staff and tenants.

What advice should we give to our tenants on the outbreak?

You should refer tenants to the advice as above.

How can I support my tenants if they are in financial difficulty or are worried about being able to pay their rent over the coming months?

Tenants affected by coronavirus who are concerned about paying their rent can claim Universal Credit from the Department for Work and Pensions which includes support for housing costs, if eligible. The UK Government has [introduced some temporary changes](#) to make this easier.

If a tenant is getting Housing Benefit or Universal Credit, but still can't afford their housing costs, they may be eligible for a Discretionary Housing Payment (DHP). [Further information](#) on DHPs and how to apply.

Further support is available for people on low incomes from the Scottish Welfare Fund if facing an emergency situation.

The Scottish Government has put together information and sources of support for tenants in the private rented sector during coronavirus ([PDF](#)).

The Chartered Institute for Housing Scotland, Homes for Good and the Scottish Association of Landlords have produced guidance on maintaining tenancies and other Covid-19 related advice ([PDF](#)).

Can private landlords receive direct payments for rents from Department for Work and Pensions benefits?

The new [Apply for a Direct Rent Payment](#) service replaces the existing managed payment to landlord (MPTL) request process, that relied on requests to be made by completing a UC47 form which landlords could request online but then had to email or post to the DWP.

In addition, the DWP confirms in updated guidance to landlords that both private sector and social landlords can use the new service.

For more information see [Universal Credit: Landlord request for a managed payment or rent arrears deduction](#) from gov.uk

(continued, from p1)

The legislation also makes changes to the notice period that the landlord is required to give the tenant. The notice period depends on the type of tenancy and the eviction ground being used. This law temporarily extends the amount of notice landlords must give when ending a tenancy. In most cases landlords will now need to give tenants 6 months' notice, unless they are ending the tenancy for certain reasons. This includes antisocial and criminal behaviour and where the landlord or their family need to move into the property.

The new law applies if you are serving notice on your tenant on or after 07 April 2020. If you served notice on your tenant before 07 April 2020, the changes in the new law do not apply.

You can find more information at www.mygov.scot/ending-a-tenancy-as-a-landlord

I understand that the Scottish Government is developing a short-term emergency loan – when will this be available?

The loan scheme opened for applications on 5 May. The interest-free loan will be available to landlords who have five or fewer rental properties and will fund lost rental income from a single property. It is designed to take the pressure off landlords, in the short-term, if their tenants are having difficulty making rent payments. Landlords should still engage with their tenants as detailed above. [Further information on the loan](#), including the application form. Enquiries can be sent to the Scottish Government at PRSLandlordCovid-19Loan@gov.scot.

Should I be visiting tenants and properties?

Please see the most recent guidance from the [Scottish Government](#).

Can I still carry out normal landlord or letting agent business if I follow the health guidelines including social distancing?

We are discouraging any unnecessary or avoidable movement of people be they landlords, letting agents or tenants. There may be occasions where you have to visit a property or meet tenants, such as when carrying out urgent maintenance. In these circumstances social distancing measures should take place.

What happens if the tenant doesn't leave at the end of the notice period?

If a tenant does not move out on or before the date in the 'Notice to Leave'/AT6/section 33 notice the landlord must apply to the First-tier Tribunal (Housing and Property Chamber) for an eviction order and the tenant does not have to move out until they are served with an eviction order granted by the Tribunal.

If a landlord, or their agent, tries to physically or forcefully remove a tenant from the property it will be considered to be an illegal eviction which is a serious criminal offence.

What is an illegal eviction?

- ▶ Changing the locks to keep the tenant out of the property
- ▶ Making life so uncomfortable for a tenant that they are forced to leave their home

Private Residential Tenancy (PRT) Agreement

The online PRT document has been amended and will be in place for the duration of the emergency Covid-19 procedures (until 30 September 2020 unless updated). Do not use any previously saved versions, if you enter into a new tenancy agreement before these measures are lifted.

by for example cutting off water, gas or electricity supplies

- ▶ Physically removing a tenant from the property, only a sheriff officer may do this.

Illegal eviction attempts are not allowed and could result in the landlord being convicted of an offence. On indictment, the court can impose an unlimited fine or imprisonment for a term not exceeding two years or to both. An illegal eviction conviction will also impact on a landlord's registration.

Involvement by an agent in an illegal eviction will also impact on a letting agent's registration.

What about access to a property to conduct viewings or where a move is scheduled?

Please see the most recent guidance from the [Scottish Government](#).

Someone in my HMO has the virus, am I obliged to remove them or find my tenants another place to stay?

The UK Government has issued [specific guidance](#) on what to do if someone in your household has contracted the virus, including self-isolating the whole household for 14 days. Nobody can be removed from their home because of the virus.

Landlords are not obliged to provide alternative accommodation for tenants if others in the property contract the virus.

You may wish to direct your tenants to Scottish Government [guidance on cleanliness and hygiene](#) for non-medical location.

As a landlord, should I stop charging rent during the outbreak?

Rent will still be due under the terms of the tenancy agreement and tenants who are able to pay rent as normal must continue to do so.

There is no 'one-size fits all' approach, as each tenant's circumstance is different and some will be worse affected in terms of their ability to pay than others. It is important for landlords to be flexible, and have a frank and open conversation with their tenants at the earliest opportunity, to allow both parties to agree a sensible way forward.

You should signpost tenants who are concerned about paying their rent to the financial assistance available. The Scottish Government has put together [information and sources of support](#) for tenants in the private rented sector during We are encouraging local authorities and other enforcement agencies to take a pragmatic, common-sense approach to enforcement in these unprecedented times.

What about my legal obligations to provide regular gas safety inspections?

The Minister for Local Government, Housing and Planning has written to the Secretary of State for Housing, Communities and Local Government and the Health and Safety Executive (HSE) urging them to take a pragmatic and proportionate approach by providing a temporary extension of the statutory obligations for gas safety in light of the public health emergency. In the meantime, HSE advice setting out what it considers best endeavours should be followed.

Read the [latest guidance](#) for landlords and Gas Safe engineers and inspectors from the HSE.

What can we do about mortgage repayments?

Mortgage lenders have agreed to offer payment holidays of up to three months where this is needed due to Coronavirus-related hardship. Where a tenant is unable to pay their rent in full the landlord – if a mortgagee – should discuss this with their lender, who can arrange a mortgage holiday where appropriate.

Energy Efficiency

(Domestic Private Rented Property) (Scotland) Regulations 2020

The new regulations due to be introduced 1 October 2020, have now been postponed indefinitely due to Covid-19.



Advice for businesses

How will our businesses get help financially?

The Scottish Government recognises that many businesses, including private landlords and registered Letting Agents, will have very serious concerns over how they will continue to operate during this period of great uncertainty. You will be aware that both the UK and Scottish Governments have outlined plans for to provide businesses with support and we attach links to more detailed explanations of this help below. Find [business support on gov.scot](#)

A helpline providing businesses across Scotland with advice and guidance on COVID-19 was launched by the Scottish Government on 13 March.

The helpline is open Monday to Friday between 8.30am and 5.30pm and can be contacted on 0300 303 0660.

The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020 [grant 100% non-domestic rates relief](#) to retail, hospitality and leisure business, including letting agents who are registered letting agents (within the meaning of Part 4 of the Housing (Scotland) Act 2014), or who had applied to the Letting Agent Register by 21 March 2020.

Support for business – announcements:

- ▶ [Scottish Government](#)
- ▶ [UK Government](#)
- ▶ UK finance has published [information for businesses](#) in recognition that the cash flow of small and medium sized businesses may be disrupted by the impact of the coronavirus (Covid-19) to help you prepare and understand the options available.

What advice should we give to our staff?

Immediate action should include circulating Government Guidance to staff. NHS Scotland have developed a communication toolkit containing a poster, video and social media posts for organisations to print and share. Download the coronavirus (COVID-19) [communication toolkit](#).

What should we do to make sure that the public areas of our offices and other premises are as safe as they can be?

Health Protection Scotland provides [general advice](#) on protecting people from the virus.

What practical steps can I take now to support our business continuity efforts?

First, make sure that you keep up to date with the advice from government and health authorities. It is important that you ensure your business continuity/resilience plan is up to date and accessible to all who may need it. You will want to ensure that all staff fully understand what is required of them. You may want to test your plans, simulating your continuity plan in advance of having to action it to ensure all staff fully understand what is required of them. You will want to engage with your contractors and suppliers to establish contingency arrangements with them. You may want to audit the ability of your staff to be able to adapt to agile or remote working. Establish the contingency arrangements for your contractors and suppliers. Finally, consider how you will communicate any changes to services to your tenants and service users, and how you will respond to any enquiries they may make.

For more information www.gov.scot/coronavirus-covid-19



Grants to Improve Energy Efficiency in the Private Rented Sector

The Scottish Government are currently providing grants to Local Authorities to facilitate Area Based Schemes. The aim of ABS is for properties to achieve an EPC rating of C or better by 2030, and contribute to the eradication of fuel poverty.

What types of energy efficiency measures are we targeting?

The main measures we are looking to carry out as part of this in the coming 2020/21 projects are:

- External Wall Insulation (EWI)
- Cavity Wall Insulation (CWI)
- Under Floor Insulation (UFI)

How do I know if my property requires and would be suitable for CWI, EWI or UFI?

East Lothian Council and Home Energy Scotland have been conducting surveys throughout East Lothian and have left contact details with some of the properties landlords / tenants who might be eligible.

If you haven't been contacted and want to find out if your property is eligible, contact us using the links below and we will complete a survey of the property.

I own 3 or more properties, am I eligible for scheme?

Unfortunately, landlords who own 3 or more properties, not including their own, do not qualify for ABS grant, and will be required to contribute to the overall costs. This could be:

- Between £600 and £1000 for CWI
- Between £8000 and £10,000 for EWI
- Around £4000 for UFI

Do I have to contribute to the costs?

Yes, although there may be interest-free loans available to help with the cost of the works through Home Energy Scotland (HES) – check with HES on 0808 808 2282 to see if you meet the criteria.



What are the benefits for me as a landlord?

The Scottish Government have committed to introducing minimum energy efficiency standards for private rented properties in Scotland. This was due to come into force on April 1st 2020 but has been delayed due to COVID-19 crisis.

- If a new tenant moves into a property, it will need to have an EPC of at least Band E (previously by October 2020,) new date is yet to be announced.
- All rented properties need to have an EPC of at least band E by 31 March 2022 and band D by 31 March 2025.

By participating in the program now, you will ensure that you meet the required standards ahead of time. Improving EPC rating will also mean a more efficient system for tenants, reducing the likelihood that they will fall into fuel poverty.

Could my tenants be in fuel poverty because of their lifestyle choices?

The negative effects of living in fuel poverty can be seen across tenant's physical and mental health and education outcomes for children.

Fuel Poverty is not caused by 'lifestyle choices' but by a mixture of the following:

- High fuel costs
- Inefficient heating systems
- Poor or uninsulated properties
- Low income

Both household needs and prices of fuel also influence whether a household falls into fuel poverty. For example, to maintain a particular minimum temperature in a home will reflect the energy efficiency of a dwelling, its size and the size of the household, the energy system in place and the amount of time during which a dwelling is occupied.

Contact Details

More information or to find out if you are eligible please contact:

**John Durkin – Strategy & Development Team,
East Lothian Council – 07836574510**

**East Lothian Energy Advice Service
Changeworks – 0131 555 4010**

Home Energy Scotland – 0808 808 2282

Contact Information

Landlord registration / Housing in Multiple Occupation licensing

Sheila Fitzpatrick T 01620 820623
landlordregistration@eastlothian.gov.uk
hmo@eastlothian.gov.uk

Housing Benefit and Council Tax

01620 827730/7729 (Benefits)
01875 824314 (Council Tax)
www.eastlothian.gov.uk/info/210559/council-tax-and-benefits

Useful websites (click text to link to website)

Private Residential Tenancy	Landlord Accreditation Scotland
Tenancy Deposit Scheme	Scottish Association of Landlords
My Deposits Scotland	Health & Safety Executive
Letting Protection Service	Electrical Safety Council
Safe Deposits Scotland	Gas Safe
Landlord Registration	Energy Saving Trust
The Repairing Standard	East Lothian Council
Housing and Property Chamber, First Tier Tribunal	

To make a comment, suggestion or complaint about a council service,
visit our website at www.eastlothian.gov.uk



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