

“let’s talk” NEWSLETTER

FOR THE PRIVATE RENTED SECTOR

40

ISSUE 40

FREE Private Landlords Forum

East Ayrshire Council is hosting a free private landlord forum. This event will be held at St Joseph's Academy, Grassyards Road Kilmarnock, KA3 7SL on Wednesday 20th March 2019 from 6.30pm until 8.00pm.

The Agenda will be as follows:

6.30 Welcome – Karen Walker Private Sector Housing Unit, East Ayrshire Council

6.40 Simon Roberts, Scottish Government – Presentation covering the proposed changes to the repairing standard

7.10 Break

7.20 Lucy Carroll, Energy Savings Trust – Presentation covering EPC regulation changes.

If you would wish to attend the Forum please contact either Karen Walker, Dawn Cadwell or Liz King on 01563 554584 or 554560 to confirm attendance as places are limited.

Welcome to the 40th edition of “Lets Talk”, the newsletter for the private rented sector in East Ayrshire.

This newsletter contains important information that you need to be aware of as a private landlord or agent. **Please note that all newsletters will now only be sent by e-mail and made available on East Ayrshire Council’s website.** Please therefore ensure that you keep your e-mail address up to date.

If we hold an e-mail address for you all landlord registration renewal notification will be sent by e-mail.



E-MAIL UPDATE: You can check or change your e-mail address by accessing your registration application using your registration number. Please always ensure that your contact name and address held on the landlord registration system is accurate. Please ensure you check your e-mails to avoid important notifications from us being missed.

Please also ensure that you have the correct agent details on the system as this will allow all contact to be more effective and can assist in an emergency situation.

Rent Deposit Scheme

The Rent Deposit Scheme have clients who are waiting for properties in the following areas of East Ayrshire;

1 x 1 bedroom - Kilmarnock TC (accept under 35's rate)

1 x 2 bedroom - Cumnock/Auchinleck - House prefer and would accept adaptations for special needs.

1 x 2 bedroom - Kilmaurs

1 x 3 Bedroom - Drongan



If you have any suitable properties please contact the Rent Deposit Scheme on 01563 521288 or rentdeposit.chap@gmail.com



Get your property winter ready to avoid tenancy deposit disputes



**SafeDeposits Scotland's
Adjudication Account
Manager, Paula Guthrie,
highlights winter-related
tenancy deposit issues and
how to prepare well to
avoid them.**

Winter weather and the impacts it can have on properties can create

headaches for landlords, but thankfully many issues can be easily avoided through careful and thorough preparation.

Landlords should carry out a winter inspection to assess the current state of the property and ensure it is ready for the winter season. If you cannot carry out the inspection or checks yourself, you could ask your agent or instruct a contractor instead. Although your tenants may be required to notify you of any problems, they may not necessarily identify them or in some cases neglect to report them. Letting agents or contractors may have more experience to spot issues and prevent problems worsening further down the line. To ensure your property is winter ready, there are a number of areas that should be checked both inside and outside.

It is important to check all external drains for any blockages and to ensure your tenant is keeping the area around them clear, as remnants of autumn leaves can lead to blocked drains and gutters. In a recent dispute we managed, a landlord claimed £100 to repair blocked drains and gutters from falling leaves but the adjudicators ruled that it was the landlord's responsibility to look after these areas, and awarded the full sum to the tenant.

Exposed pipes should also be suitably insulated to avoid them freezing and bursting in colder weather and it is important to ensure that the boiler has been recently serviced.

Another important check is for any areas of mould, damp or condensation; these problems are common in the private rented sector (PRS) and are easier to treat if picked up early. Your tenant may not notice the early signs however an agent or contractor may be more vigilant or aware of the indications.

Gardens can be contentious in tenancies, so you should make sure that the tenancy agreement clearly outlines where responsibilities for outdoor areas lie. It is also important to consider what equipment is required to properly maintain the external areas and which of these will be provided to the tenant, as part of the tenancy.

If your property has a fireplace or chimney, you should ensure you have agreed with your tenant who is responsible for taking care of it and how it should be maintained.

Regular inspections of your property can help identify any maintenance issues early, ensures your tenants are abiding by their responsibilities and allows you to take measures to keep your property structurally safe for your tenant.

Following any inspection of a property, the tenant should be notified of the findings in writing to ensure that you have an evidence trail in the event of disagreement over the tenancy deposit. You should keep a record of all correspondence and issues highlighted so that if a dispute arises, there is clear evidence to prove any loss you may have sustained.

Winter brings its own challenges for landlords and property investors, but it also presents an opportunity to assess the condition of the property and put preventative measures in place to protect against potential future issues.

UC Universal Credit

Universal Credit: Top tips for landlords

November 2018

The DWP is concerned that there is a lack of understanding of Universal Credit amongst Private Landlords. Of particular concern is the fact that landlords may not be aware that they can apply for a direct payment of housing costs which could protect the tenancy of vulnerable people.

DWP has developed a Landlord Communication Campaign including top tips for private landlords and details of how to apply for a managed payment to landlord. The new products will be housed on the

Understanding Universal Credit Website and we would seek the help of Local Authorities to send the link out to Private Landlords.

www.understandinguniversalcredit.gov.uk/landlords

Ensure your tenants know how much their rent is



Speak to your tenants early to make sure they know how much their rent is, and that they are ready to pay their rent to you directly.

Apply for an Alternative Payment Arrangement



If you have tenants who may struggle to pay their rent or are in rent arrears, you can apply for their housing costs to be paid to you directly from the start of their claim.

Claimants can apply for an advance



Are you aware new Universal Credit claimants can apply for an advance from the start of their claim that can be used to help pay rent and bills?

Additional support for Housing Benefit claimants



Remind tenants moving from Housing Benefit to Universal Credit that they will automatically receive an extra two weeks' Housing Benefit support which they don't need to pay back.

Understand the options



In Scotland, tenants can choose to have their housing costs paid direct to their landlord or themselves. Make sure you understand all the options so that you can give the best advice possible.

Encourage tenants to set up direct debits



They will need a bank account for their Universal Credit payments, and having a direct debit or standing order set up may help them make sure their rent payments are made on time.

Get to know your Partnership Manager



Build strong links with your Partnership Manager - they can share contacts to help you resolve complex matters.

Encourage tenants to claim straight away



Encourage tenants who have a change of circumstances, such as losing their job, to make a claim for Universal Credit straight away so they can continue to pay their rent.

Make sure your tenant has the right paperwork



If you're a private landlord, you'll need to provide your tenants with suitable signed paperwork that confirms how much their rent liability is, as this is required for the verification process.

More information for landlords can be found at [understandinguniversalcredit.gov.uk/landlords](http://www.understandinguniversalcredit.gov.uk/landlords), where you can also find out how to contact the DWP partnership teams.

T A R D I S Youth Group (Age 16-24 years of age)



Come along to Enable Ayr & District SCIO
Sutherland House

123 Prestwick Road, Ayr KA8 8NJ

MONDAY evenings (6.30pm to 8.30pm)
to meet with friends old and new



You are very welcome to join us to take part in lots of different activities including:

- Pool (separate room with 2 pool tables)
- Table Top Football
- Arts & Crafts
- Music Room (guitar & keyboard tuition for fun)
- Gaming (Computer & Wii)
- Board Games
- Tuck Shop / Chill Out Zone
- Disco

Monday Evenings

Drop off time - 6.30pm Pick up time—8.30pm
£2 per week

For more information and details,
please call 01292 266 121
email: enq@enableayr.org.uk

Enable Ayr & District SCIO—helping individuals & families
with Learning Disabilities, Autism and Down's Syndrome
TARgetting DISability
TARDIS!

Applications to the Housing and Property Chamber



If you want to apply for possession and to claim payment for rent arrears please be aware of the following information provided by the Chamber:



How do I do this?

One application cannot be made concerning multiple different issues. You are entitled to submit multiple applications at the same time, and the tribunal has the power to direct that applications can be heard together. For example, you can complete form E for an eviction/possession application, and also form F for civil proceedings arising out of the tenancy (rent arrears). Since there is no specific Rule that governs rent arrears, you should complete an application under the general rule for civil proceedings for the type of tenancy in question.

Can the President reject an application?

The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must decide whether the application can be referred to a tribunal or whether it should be rejected. They must reject the application if:

- (a) they consider that the application is frivolous or vexatious;
- (b) the dispute to which the application relates has been resolved;
- (c) they have good reason to believe that it would not be appropriate to accept the application;
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or
- (e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier

Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined

A decision to reject an application is appealable, unless the application type is one that is excluded from appeal, either by primary legislation or within the Tribunal Rules.

An eviction/possession Order has been granted, when does the Order become enforceable?

Where the tribunal makes a decision to grant an Order for Eviction/Possession, the Order is not enforceable immediately. The Order is not issued until after the time limit for lodging an appeal has expired.

The timescales for appeals are governed by The Scottish Tribunals (Time Limits) Regulations 2016. Regulation 2 provides the appeal time limit.

Time limits for applying to the First-tier Tribunal or Upper Tribunal for permission to appeal against its own decision

2.- (1) An application for permission under sections 46(3)(a) or 48(3)(a) of the Act (application for permission to appeal the Tribunal's own decision) must be received by the Tribunal whose decision is being appealed against within the period of 30 days beginning with the relevant date.

(2) The First-tier Tribunal or the Upper Tribunal, as appropriate, may on cause shown extend the period beyond 30 days if it considers such an extension to be in the interests of justice.

(3) Subject to paragraph (4), the relevant date is the later of the date on which—

- (a) the decision appealed against was sent to the appellant;**
- (b) the statement of reasons for the decision was sent to the appellant.**

(4) But where a decision is given orally at a hearing, the relevant date is either—

- (a) the date on which written reasons were sent to the parties, if—**
 - (i) written reasons were requested at the hearing (or were requested in writing within 14 days beginning with the day after the last day of the hearing); or**
 - (ii) the First-tier Tribunal or the Upper Tribunal, as appropriate, undertook at the hearing to provide written reasons; or**
- (b) the date of the oral decision, if—**
 - (i) written reasons were not requested at the hearing (or were not requested in writing within 14 days beginning with the day after the last day of the hearing); or**
 - (ii) the First-tier Tribunal or the Upper Tribunal, as appropriate, did not undertake at the hearing to provide written reasons.**

The 30 day appeal period can only apply from the last day of the hearing if all parties are present at the hearing; if the written decision is given to parties on that day; and the parties do not request written reasons either at the hearing or in writing within 14 days beginning with the day after the last day of the hearing; or the First-tier Tribunal did not undertake at the hearing to provide written reasons.

If the applicant or respondent are not present at the hearing or the written decision is issued after the last day of the hearing, either party has 30 days to appeal from the date that the written decision appealed against is sent to the parties. If a statement of reasons is not provided with the decision, the appellant can request such a statement of reasons in writing within 14 days beginning with the day after the last day of the hearing. If such a request is made, the written statement of reasons requires to be prepared by the legal member and issue to parties. It may take up to 14 days for the legal member to prepare a written statement of reasons. The 30 day appeal period for the parties starts from the date on which the written statement of reasons is sent to the parties. It is likely in most instances that the written decision will be issued after the date of the hearing.

The above timescales may be affected by any challenge of the decision under the recall, review or appeal provisions, details of which are available on the Housing and Property Chambers website.

Once the Order for eviction/ possession has been issued by the Chamber the enforcement proceedings can commence. The enforcement proceedings involve the giving of a charge to the respondent to remove from premises. This procedure occurs after the Order for Eviction/ Possession is issued by the Chamber.

In what format can I send written information?

You can send information by post, email or fax. Typed submissions are preferable, though handwritten evidence is also acceptable. Any handwritten submissions should be clearly legible, and this may mean it should be written in block letters to aid the Tribunal Members and other parties in understanding your submissions. If we receive a submission that is difficult to read, we may ask if you are able to supply the information in another way, so that your submissions can be considered in full.

I have documents to attach to an email, is there a size limit for emails sent to the Tribunal?

We are only able to receive attachments that total 20MB in size. If your documentation is larger than this, then if possible separate the document to be attached over multiple emails. If your file is too large you may have to consider sending the documentation by other means.

For system security reasons we cannot open zipped files sent to us, or follow links to online document storage sites.

I. APPLICATION TYPE

Before completing application form E, a landlord must first have carried out the prescribed actions under the relevant legislation for the type of possession or eviction application they wish to make to the Tribunal.

You should seek legal advice if you are unsure of this, since the actions that must be taken before possession is sought will depend on the type of tenancy involved. Please note that the Tribunal is an impartial judicial body. We are therefore unable to provide legal advice to a party on (1) the type of tenancy which is in place and (2) the notification procedure which must be followed prior to lodging an application with the Tribunal. The Tribunal administration will provide information only on the application procedure. Failure to carry out the required actions prior to submitting the application to the Tribunal could lead to the application being rejected or dismissed.

A tenancy which began on or after 2 January 1989, and prior to 1 December 2017, is likely to be an Assured Tenancy or a Short Assured Tenancy. This type of tenancy is subject to Rule 65 or Rule 66. For cases under Rule 65 and 66, this requires a Notice to Quit to be sent to the tenant, along with a Notice AT6 or a Section 33 Notice. The Notice to Quit must contain certain information to be valid.

A tenancy which began prior to 2 January 1989 is likely to be a regulated tenancy. This type of tenancy is subject to Rule 77 and 79. For cases under Rule 77 and 79, a Notice to Quit must have been sent to the tenant, as well as a notice of proceedings. The Notice to Quit and notice of proceedings must contain certain information to be a valid application.

Any new tenancy created from 1 December 2017 is a Private Residential Tenancy, and is subject to Rule 109. For cases under Rule 109, a Notice to Leave must be issued to the tenant, and this Notice must set out the grounds on which possession will then be sought, as well as containing other specified information

REQUIRED ATTACHMENTS

There is a requirement under each Rule for further specific information to be included with the application. There are also requirements within the primary legislation for each type of application. Failure to provide the required attachments can result in the application being rejected or not accepted. To complete this section of the form, you should list the documents that you are supplying in the space provided. Listed below are the required attachments for each type of possession/eviction case.

RULE 65(Assured Tenancy possession):

- a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give
- a copy of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy ("AT6")
- a copy of the notice to quit served by the landlord on the tenant (if applicable)
- evidence tending to show that the possession ground or grounds has been met
- a copy of the notice given to the local authority as required under section 19A(1) of the 1988 Act; - KNOWN AS A SECTION 11 Form – example at the end of this article

RULE 66(Possession on Termination of Short Assured Tenancy):

- the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give
- the notice by landlord that the tenancy is a short assured tenancy ("AT5")
- the notice given to the tenant under section 33(1)(d) of the 1988 Act
- the Notice to Quit
- a copy of the notice given to the local authority as required under section 19A(1) of the 1988 Act;

RULE 77(Regulated Tenancy possession)

- a copy of the notice to quit to the tenant;
- a copy of the notice given to the local authority as required under section 12A(1) of the 1984 Act;
- evidence that suitable alternative accommodation is available (if applicable);

RULE 79(Application to evict an occupier upon termination of a tenancy):

- a copy of the tenancy agreement or, if this is not available, as much information about the tenancy as the owner can give;
- evidence that the tenancy has ended or the tenant has died

RULE 109(Private Residential Tenancy Eviction Order):

- evidence tending to show that the eviction ground or grounds has been met;
- a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act;
- a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act

7. SIGNATURE

The form must be signed and dated by the appropriate person(s) or their representative. Below are listed for each rule who the appropriate person is:

RULES 65, 66, 77 & 109: the landlord

RULE 79: the owner

As well as the requirement under the Rules, the definition of the different parties must be taken from the primary legislation that contains the mechanism for the type of application being made. For example, this may mean that where there are multiple joint landlords in a tenancy that one of the application types might require the application be made by all joint landlords, while another could allow that the application be made by any one landlord. You should seek legal advice if you are unsure of this, since if the application does not meet the required standard it may not be accepted by the Tribunal.

Where the application is being signed by a representative, the representative must provide a written authorisation from the landlord/owner. As noted above, this may mean the authorisation should be from all the landlords/owners, if this is required by the relevant primary legislation.

Please see the next page for Notice to be given to the Local Authority when seeking a repossession order from the Chamber:-

HOMELESSNESS ETC (SCOTLAND) ACT 2003

SECTION 11 NOTICE BY LANDLORD OF PROCEEDINGS FOR POSSESSION

To: *(local authority in whose area the dwelling house that is the subject of proceedings is situated)*

Take note that proceedings have been raised as detailed below.

Name and address of landlord who has raised proceedings:

Name and address of landlord's legal representatives:

Contact telephone number of landlord:

Landlord registration reference (*applicable to private sector landlords only*):

Name of tenant/s against whom proceedings have been raised:

Full postal address of property that is the subject of proceedings:

Start date of the tenancy:

Date of raising of proceedings:

Court in which proceedings raised:

The legislation under which proceedings are being notified:

(Various statutes require notice to be given to a local authority where a landlord has raised proceedings for possession of a house. The table below lists some of the legislation under which such proceedings might be raise for possession of a house; please tick in the appropriate box below which describes the proceedings you have raised)

(1)	Section 12A(1) (notice to local authority of proceedings for possession of a dwelling-house let on a protected tenancy or subject to a statutory tenancy) of the Rent (Scotland) Act 1984 (c.58). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a protected tenancy or subject to a statutory tenancy.</i>
(2)	Section 19A(1) (notice to local authority of proceedings for possession of a house let on an assured tenancy) of the Housing (Scotland) 1988 (c.43). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on an assured tenancy.</i>
(3)	Section 14(5A) (notice to local authority of proceedings for possession of a house let on a Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a Scottish secure tenancy.</i>
(4)	Section 36(6A) (notice to local authority of proceedings for possession of a house let on short Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a short Scottish secure tenancy.</i>
(4A)	Section 56(1) (restriction on applying without notifying local authority) of the Private Housing (Tenancies) (Scotland) Act 2016 (asp 19) (tick this box if you have applied to the First-tier Tribunal for Scotland for an eviction order in relation to a property let on a private residential tenancy).
(5)	Other proceedings for possession of a dwellinghouse. <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse and none of the above boxes are appropriate. For these purposes a dwellinghouse is any building or part of a building, which is occupied or intended to be occupied as a separate dwelling, and in particular includes a flat.</i>

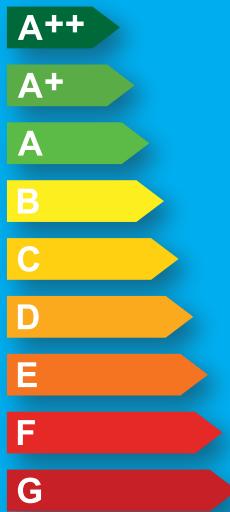
Empty Homes

If you are interested in bringing an empty home back into use the Council can offer you some advice and assistance in the following areas:-

- Safety and security
- Renovation overview
- VAT discounts
- Energy efficiency
- Selling options i.e. estate agents, auction houses, property buying companies
- Private Renting
- Interest free loans provided by EAC
- EAC operate a 'buy back' scheme
- EAC operate a Matchmaker Scheme whereby owners can provide details of their property, this information can be passed to potential purchasers

If you would like further information about this scheme or wish to bring an empty property to our attention please contact:

Liz King, Empty Homes Officer
Private Sector Housing Unit, Civic Centre North
John Dickie Street, Kilmarnock KA1 1HW
Tel: 01563 554583 Email: Elizabeth.king@east-ayrshire.gov.uk



Advertising Private Rented Property

Reminder to all landlords
- you must include your registration number and Energy Performance Certificate rating in all property to let advertisements.

LANDLORDS - ARE YOU HAVING PROBLEMS WITH VACATING TENANTS?

CAUSING PROBLEMS WITH FLY TIPPING?
LEAVING FURNITURE BEHIND?
NEEDING A CLEARANCE?

FREE UPLIFT SERVICE THROUGHOUT AYRSHIRE



Cunninghame
Furniture Recycling Company

A local charity covering all of Ayrshire and saving furniture from landfill

Freephone: 0800-221-8083

EUROPE & SCOTLAND
European Union
gov.scot
Europe's Social Fund
Investing in a Strong, Sustainable and Inclusive Future

Find us on Facebook

This information can be made available, on request, in braille, large print or audio formats and can be translated into a range of languages. Contact details are provided below.

درخواست کرنے پر یہ معلومات ناینا افراد کے لئے ابھرے حروف، بڑے حروف یا آڈیو میں مہیا کی جاسکتی ہے اور اسکا مختلف زبانوں میں ترجمہ بھی کیا جاسکتا ہے۔ رابطہ کی تفصیلات نیچے فراہم کی گئی ہیں۔

本信息可应要求提供盲文，大字印刷或音频格式，以及可翻译成多种语言。以下是详细联系方式。

本信息可慮應要求提供盲文，大字印刷或音頻格式，以及可翻譯成多种語言。以下是詳細聯系方式。

ਇਹ ਜਾਣਕਾਰੀ ਮੰਗ ਕੇ ਬੇਲ, ਵੱਡੇ ਅੱਖਰਾਂ ਅਤੇ ਸਣਨ ਵਾਲੇ ਰਪ ਵਿਚ ਵੀ ਲਈ ਜਾ ਸਕਦੀ ਹੈ, ਅਤੇ ਇਹਦਾ ਤਰਜਮਾ ਹੋਰ ਬੋਲੀਆਂ ਵਿਚ ਵੀ ਕਰਵਾਇਆ ਜਾ ਸਕਦਾ ਹੈ। ਸੰਪਰਕ ਕਰਨ ਲਈ ਜਾਣਕਾਰੀ ਹੋਠਾਂ ਦਿੱਤੀ ਗਈ ਹੈ।

Niniejsze informacje mogą zostać udostępnione na życzenie, w alfabetie Braille'a, w druku powiększonym lub w formacie audio oraz mogą zostać przetłumaczone na wiele języków obcych. Dane kontaktowe znajdują się poniżej.

Faodar am fiosrachadh seo fhaighinn, le iarrtas, ann am braille, clò mòr no clàr fuaim agus tha e comasach eadar-theangachadh gu grunn chànanan. Tha fiosrachadh gu h-ìosal mu bhith a' cur fios a-steach.



Contact the **Private Sector Housing Unit** on **01563 554584, 554560 or 576878**.