

30 Mistakes

to avoid when
renting a property

BONALLACK & BISHOP
SOLICITORS

INTRODUCTION

The main reason why people rent in the UK is because they can't afford to buy a property or they do not have enough funds to maintain it. Paying a fairly low rent can help to put money aside for a deposit which in turn could be useful in securing a good mortgage deal. Others may choose to rent if their job moves temporarily to another part of the country. Renting can offer flexibility and the opportunity to try out an area without the hassle of buying a property that needs to be sold in the near future. Renting will also be the sensible option for those who plan to go to college or university away from home but return home for holidays.

Bonallack & Bishop has assembled a team of expert quality property lawyers to help you. They have many years experience and knowledge which helps to ensure transactions proceed as smoothly and quickly as possible and they aim to offer a high quality service which is responsive and competitively priced.

Please contact your nearest office (Salisbury, Amesbury, Andover, Warminster or Verwood) for further information about our services and our costs without obligation. Our **contact details are on the back page of this booklet**. Visit our website www.bishopslaw.com for more hints and tips!

PRELIMINARY MATTERS

1 “I do not need to instruct a solicitor until I have agreed the terms of the lease”

When renting a property, most people often only decide to instruct a solicitor once they have agreed the terms of the Lease. However, instructing a solicitor from the very beginning before any terms have been agreed means that the solicitor is able to advise you on the full terms of the lease and their implications. This will mean that negotiations with the landlord can take place to try to obtain the best possible lease for your circumstances.

2 Not taking time to choose the right solicitor

A sensible way of choosing a solicitor is by personal recommendation. For example a friend, family member or work colleague may be able to recommend a particular firm they have recently used. Alternatively, we would recommend appointing a local solicitor. Whilst it is possible to appoint a solicitor in any part of the country, the local solicitor will have valuable knowledge and will be readily accessible for face to face meetings.

3 Fix your budget

Once you have decided to rent a property you need to sit down and work out what you can reasonably afford. You need to take into consideration not only the rent but also utility bills, council tax, television licence and insurance that may be payable by you.

4 Research other property available in the area

Once you have decided on a budget research the local area to see what you can get for your money. It may be worth considering moving out of a city or town centre to pay cheaper rent although you may then need to pay extra travel expenses depending on your circumstances.

5 Leave yourself plenty of time

Make sure that you start looking for a new rental property in plenty of time as this will give you more chance of negotiating the best deal for yourself.

6 Not taking time to understand the legal terminology

The terms of a Lease can be very complicated and if you have any difficulty understanding them you should contact your solicitor and ask them to explain in more detail. It is important that you understand the terms and obligations of the Lease before entering into it.

7 “I’ll have to pay the other side’s legal costs if I withdraw from the transaction”

Always remember that you can withdraw from a transaction at any time before contracts are exchanged and there is normally NO obligation to pay any fees for the other side whatsoever.

8 Not checking the likely timescale of the transaction at the outset

It is important that you check with your solicitor the likely timescale of the transaction. On average it can take around 4 weeks from first contact with the letting agent to moving in. This period can depend on problems encountered with the legal process and response time from the other side. It is important that you keep in contact with your solicitor to obtain updates.

9 Not taking time to think about your needs

You need to be clear about what you need. For example you will need to consider whether you want to take the property furnished or unfurnished.

You will normally find property that can be let fully furnished, part furnished or unfurnished. Which of these is appropriate to you will depend on your circumstances. It is always a good idea to ask if the owner will provide or take away items, although quite often this is not possible particularly when they have to be stored somewhere.

You should also consider things like how many rooms you require and if you will live alone or with others.

It may be worthwhile making a list of things that you want or need in a property, this list you could take with you as you view properties. If you are going to be sharing the tenancy you should agree the list in advance and arrange viewings together.

10 Not viewing the property on more than one occasion

Before handing over your deposit, it is always important to consider whether or not the property is right for you. The following are a number of points to consider:

• Always view the property at different times of the day

You should always view properties during daylight hours to see any flaws or defects. However, it would also be useful to view the property later in the evening to ascertain whether the road is busy at certain times or to see if there is a lack of street parking in the evening. It will also allow you to check out the noise levels and to see how much light enters the rooms.

• Check out the local amenities

Work out the practicalities of getting to your local supermarket, local transport, to and from work etc.

11 Not examining the exterior and interior structure

Check the visible appearance of the building's exterior. If the exterior is in disrepair then it is likely that the interior will also be in poor condition and there could be problems in the future. You should look for things like the following:

1. Visible cracks, leaning walls, damaged windows, guttering and the drains
2. If there is a shared garden who is responsible for its upkeep?

When checking the interior you should be looking to see

- If there are any signs of dampness.
- If there is central heating
- Whether the radiators work
- If there is double glazing and roof insulation
- Check the taps to see if they produce water
- Check the lights to ensure that they are working

In general you should ask yourself whether the property looks as though it is in good condition and if the property is really worth the rent being asked for.

You should also check if the property has smoke alarms and if so, if they are in working order.

If you dislike the décor the Landlord may agree to it being changed although it is likely that this will be at your own expense.

12 Not making an inventory

It will serve you well to make a full inventory of what is in the property. It should include a full list of everything within the property including furniture, kitchen equipment and other items.

If the Landlord is to draw up the list you should try to be present so that you can agree with what is written on the list. A thorough inspection should be carried out even if it involves looking under beds, kneeling down to examine carpet, lifting up bed sheets to look at the bed etc.

If you are unable to attend the property for the inventory you should check the list against the items in the property with someone else. If something is missing or damaged you should notify the landlord immediately in writing. Take photographs of any damage you notice before moving in and date them.

If your Landlord fails to provide you with an inventory then you should make one yourself, give a copy to the Landlord together with any photographs of defects.

13 Not negotiating the price of the rent

Try and find out the price of the rent as soon as possible.

Then, it would be a good idea to carry out local market research. This way you will get an idea as to the rent charged for the type of property you are interested in and how the rent varies according to the location. You can source this information from obtaining rental lists from local letting agents, local newspapers such as the *loot* and some internet websites (findaproperty.com, lettingsearch.co.uk). This information could be useful to you in negotiating the price down.

Whether you are dealing with an agent or a landlord, it's important to remember you hold the upper hand. They want to rent out the property and if it is empty when you view they will be eager to get someone in as soon as possible. Make an offer below the rent being asked for; typically it is possible to get £20 per month or £5 per week discount, or maybe more.

14 Not enquiring who is responsible for paying the bills

It is not safe to assume that the rent is inclusive of council tax, gas, and electricity and water bills.

1. Council Tax

As a tenant you will normally be responsible for the payment of the Council Tax for the property which is paid direct to the Local Authority. It will be your responsibility to notify the Local Authority when you move in and out of a rented property. Failure to pay council tax on time could result in you facing heavy fines or being sued.

Leaflets on Council Tax should be available from the Registration Officer at the Council together with information on rebates etc. A 25% discount is usually available on Council Tax for single occupancy.

2. TV Licence

It is the responsibility of the tenant to pay for a TV Licence in respect of the property they are renting.

3. Water charges

In most cases water charges are now paid for by Tenants in renting a property.

15 Failing to notify the service providers e.g. gas, electricity etc

Where it is your responsibility to pay for the utilities at the property, it is important to establish who the service providers are. In addition you should ensure that all service meters are read on the date your lease starts. This will ensure that future bills are accurate and any disputes are avoided.

16 Not taking out your own insurance

It is not safe to assume that the Landlord's house insurance will cover theft of any of your personal possessions. More often than not the Landlord's insurance policy will only cover the buildings and his or her possessions. You should therefore look to take out your own insurance policy for any valuable possessions that you will have in the property.

17 Not checking whether the property is safe

You should check and get assurances or certificates from the Landlord that the property complies with the following Regulations.

1. Furniture and Furnishings (Fire) (Safety) Regulations 1988, amended in 1993
2. Gas Safety (Installation and Use) Regulations 1998
3. Smoke Detectors Act 1991, (if the property doesn't have smoke alarms ask if they can be installed)
4. Electrical Equipment (Safety) Regulations 1994.

In addition, you are advised to check whether electrical appliances have been PAT tested (Portable Appliance Testing) by the Landlord.

The Regulations place a legal obligation on the Landlord to supply you with copies of the requisite certificates. If your Landlord refuses to do so then you should write to him informing him of his legal duty under the Regulation to furnish you with a copy at the start of your tenancy. Failing this, you should make a formal written complaint to your local Health Safety Executive which can be found via their website.

From 1 October 2008 all homes being let have been required to have an Energy Performance Certificate (EPC). The Energy Performance Certificate (EPC) is broadly similar to the labels now provided with domestic appliances such as refrigerators and washing machines. Failure to provide an EPC could mean a fine of up to £5,000.00 from Trading Standards.

18 Not checking that your deposit has been placed in a Tenancy Deposit Protection scheme

Since April 2007 Landlords or managing agents are obliged to place a deposit paid by a tenant into Tenancy Deposit Protection scheme.

This is an authorised scheme which protects the deposit and minimises the risk of landlords unreasonably pocketing your deposit at the end of the tenancy.

Your Landlord or agent must tell you within 14 days of you handing over the deposit which one of the three authorised schemes your deposit is protected by and provide you with details of the scheme. The three schemes include

- The Deposit Protection Service which offers a free-to-use system funded from the interest earned on the money deposited;
- Tenancy Deposit Solutions Ltd which is a partnership run by the National Landlords Association (NLA) and Hamilton Fraser Insurance
- The Dispute Service

If your Landlord or agent fails to place your deposit within one of the protection schemes they could be liable to pay you up to three times the amount of your deposit.

THE TENANCY AGREEMENT

19 “I know the person who is letting the property to me therefore I don’t need to sign a tenancy agreement.”

Oral agreements can be difficult to enforce because there is often no proof of what has been agreed. If a particular problem arises it will be difficult to enforce it may not have been discussed.

Never-the-less a tenancy agreement exists even if there is only an oral agreement between you and your landlord. For example, you and your landlord may have agreed at the start of the tenancy how much the rent would be and when it is payable, whether it includes fuel and bills such as water rates or whether your landlord can decide who else can live in the accommodation.

If you have a dispute with your Landlord or you are trying to enforce an oral agreement with your tenant or landlord you should consult an experienced adviser, for example, at a Citizens Advice Bureau.

20 I have not read the tenancy agreement; I can’t be bound to its terms.

The tenancy agreement is a legally binding document. You should be aware that by signing the agreement you will be bound for the full term of the tenancy and will not be released from your obligations (for example, to pay rent) before the tenancy expires without the consent of the landlord.

The Landlord should also sign the tenancy agreement. A landlord, by signing the tenancy agreement will be temporarily transferring possession of the property to you. A landlord will not be able to repossess the property before the tenancy expires unless you give up the tenancy or break the tenancy agreement; in the latter case a court order is required.

Before you arrange a date and time to sign the tenancy agreement, make sure that you (and all the other tenants if you are in shared accommodation) have seen a copy and read it through so that everyone including the Landlord understands their obligations. Ask questions to clarify anything that you are unclear about.

21 I have an Assured Shorthold Tenancy agreement but I don't know what this means.

Since the late 90's, Assured Shorthold Tenancies have been the most common form of tenancy agreement and sets out the duties of both tenant and landlord. The most important aspect of this agreement is that the landlord has the right to repossess the property at the end of the agreed term.

Despite its name, the agreement does not have to be short and can continue as long as both parties are happy to do so. There is no minimum term specified either, although the renter has the right to remain in the property for at least six months.

If the fixed term is for three or more years, however, a deed must be drawn up and a solicitor employed to do so.

There are specific requirements linked to an AST that include:

- The tenant(s) must be an individual (i.e. not a company)
- The property must be the main home of the occupant
- The property must be let as separate accommodation.

The landlord is obliged to provide the tenant with two months' notice if they want to terminate the agreement.

The agreement will most likely contain the following information:

- Your name, your landlord's name and the address of the property which is being let
- The date the tenancy will commence
- The duration of the tenancy from the start to the agreed finish of the occupation
- The amount of rent payable, how often it should be paid, when it should be paid and when it can be legally increased
- The agreement should also state what the payments are expected, including Council Tax, utilities, service charges, etc.

- What services your landlord will provide, such as maintenance of common areas
- Duties that you must comply with whilst residing in the property
- The notice period which you and your landlord need to give each other if the tenancy is to be terminated.

22 The landlord is seeking to increase the rent at the end of the fixed term, I can't be expected to pay the increased rent.

The Landlord is entitled at the expiry of an assured shorthold to grant a new tenancy and set the rent to a level that is compatible with the market.

If you are in an assured (shorthold) tenancy then you have fewer rights with regards to rent control in comparison to a protected tenant.

This is because The Housing Act 1998 allows a landlord to charge whatever he likes. There is no right to a fair and reasonable rent with an assured tenancy. This shouldn't however stop you from attempting to negotiate the rent as referred to above.

23 The new set rent level is incompatible with the market I have no choice but to pay it.

If the new set rent level is incompatible with the market rent then you do have a right as an assured shorthold tenant to appeal to the Rent Assessment Committee. This may be done during the first six months of the contractual term of the tenancy. The Committee will consider whether the rent is significantly higher than is usual for a similar property.

If the Committee assess a different rent from that set by the Landlord then they may set a date when the increase will take effect. The rent cannot be backdated to before the date of the application. Once a decision has been reached by the Committee, the Landlord cannot increase the rent for at least twelve months, or on termination of the tenancy.

Repairs and improvement

24 The duty to keep the property in good repair is the Landlord's sole responsibility

This is not entirely accurate. A tenant has an implied covenant to act in a "tenant-like manner". Broadly, this means to report disrepair promptly; to take reasonable steps to ensure that neither the tenant nor guests damage the property, its fixtures and fittings; to do the minor day to day things any home-occupier would normally do e.g. replace light bulbs, fit a new battery in a smoke or CO₂ detector, tighten an odd screw which has come loose on a door handle etc.; to keep the property reasonably warm and aired to help prevent condensation or freezing of pipes; to leave the property secure when absent from it; to keep the garden and other areas reasonably tidy and free from rubbish. A landlord will be responsible for repairs only if the repair has been reported. It is therefore important to report repairs in writing and keep a copy.

Landlords are required by law to repair the structure and exterior of the property, including drains, gutters and external pipes; to keep in working order the installations for the supply of gas, electricity and water; and, for the installations for the provision of space and water heating.

If you find that any the above is in a state of disrepair you can complain to either your local environmental health department or the tenancy relations office at your local authority.

Grounds for possession of a tenancy agreement

25 I have breached a term of my tenancy agreement the Landlord is threatening to evict me from his property I have no choice but to leave.

It is a criminal offence for a landlord or agent to evict a tenant without following the correct procedures; normally this means that you cannot be evicted without the landlord obtaining a Possession Order from the County Court.

If your landlord puts pressure on you to leave your home for example by any of the following he or she could be committing a criminal offence.

Examples:

- Visiting at unsocial hours
- Changing the locks
- Threatening you verbally or physically
- Disconnecting gas, water or electricity supplies
- Interfering with your possessions
- Interfering in some way with your quiet enjoyment of the property

If you do suffer any form of harassment it is important you keep a written note of any occurrences, and if you have witnesses ask them to do the same.

26 My Landlord has stated that there will be car parking at the premises.

Not necessarily. The lease will need to be checked to establish whether or not there is an allocated parking space or spaces or whether there is only a right to park on a "first come first served basis" in a communal car park.

27 I have signed my lease and not taken legal advice from a solicitor.

Once the lease is signed you will be bound by the contents of it. As most lease contain a number of pages of detailed provisions, which can affect you financially, we would strongly recommend that a solicitor is instructed to interpret and negotiate the terms prior to the lease being signed.

However, under the Unfair Terms in Consumer Contracts Regulations, terms which are regarded as 'unfair' under the regulations will have no effect. You should take legal advice immediately if a landlord seeks to enforce rights against you which you regard as unfair.

28 Promote yourself

If you already have a tenancy and are hoping to extend it speak to your landlord about the advantages of keeping a reliable tenant, especially in a bad market, and the possibility of paying a lower rent which may save your landlord from potential void periods when the property is empty.

29 Work for a discount

Some landlords will reduce the rent on a property in exchange for maintenance jobs. This could be something like clearing the garden or painting the walls.

30 Be a better negotiator

Adopt a winning approach and be confident when negotiating for the best deal. Point out the positives for both parties.

30 Mistakes to avoid when renting a property

BONALLACK & BISHOP
SOLICITORS

Our Offices **Salisbury**

Rougemont House, Rougemont Close, Manor Road,
Salisbury SP1 1LY

Tel: 01722 422300 **Email:** salisbury@bishopslaw.com

Amesbury

Queensberry House, 5 Salisbury Street, Amesbury,
Wiltshire SP4 7AW

Tel: 01980 622992 **Email:** amesbury@bishopslaw.com

Andover

3 Eastgate House, East Street, Andover, Hampshire SP10 1EP

Tel: 01264 364433 **Email:** andover@bishopslaw.com

Warminster

5 Wilson & Kennard Yard, Market Place, Warminster,
Wiltshire BA12 9AN

Tel: 01985 878111 **Email:** warminster@bishopslaw.com

Verwood

Bank Court, Manor Road, Verwood, Dorset

Tel: 01202 834450 **Email:** verwood@bishopslaw.com

Web: www.bishopslaw.com