

# PENGILLYS

SOLICITORS • MEDIATORS

## Landlord and Tenant Disputes

Bridging disputes, building solutions



[pengillys.co.uk](http://pengillys.co.uk)

# Your guide to Landlord and Tenant Disputes

## Residential

Residential Landlord and Tenant issues are frequently troublesome because of a whole raft of technical compliance obligations with which the Landlord must comply. Failure to comply with these statutory requirements has far reaching consequences and often Landlords are caught unawares.

A Landlord creating a new residential tenancy for a Tenant must provide the following:-

1. An Energy Performance Certificate for the property;
2. An up to date Gas Safety Certificate;
3. A Summary and guide to written Tenancy Agreements, the terms of which should be fair, comply with all statutory requirements and provided in simple language;
4. Additionally, if a deposit is taken it must be protected with a prescribed institution within 30 days of receipt. Failure to comply leads the Landlord vulnerable to a claim to return the deposit and a claim for damages, at the discretion of the Court, at between one and three times the value of the deposit taken.

The Landlord has a further obligation to check that the Tenant has the right to rent the property. This also catches provisions arising from The Immigration Act 2014 with the obligation on a Landlord to ensure the UK residence status of any Tenant. There are substantial fines in breach.

Providing the Landlord complies with his statutory obligations before the tenancy is created, thereafter the Landlord needs to comply with matters to regain possession.

The two common methods of obtaining possession are at the end of a tenancy let as an Assured Shorthold by virtue of Section 21 of The Housing Act 1988 (as amended). This is on the basis the term has expired and the Landlord has given all necessary notices at the appropriate time to ensure the Court grants mandatory possession. Other common grounds at the end of the tenancy (or during its existence) are under Section 8 of The Act where the Tenant is in breach of one of the terms (normally as to the payment of rent). Again, notices need to be in the prescribed form and all obligations complied with before the Court has any power to make a Possession Order.

## Protection from eviction

A Landlord can only obtain lawful possession from a Tenant (even if they are in breach of contractual terms) by both obtaining a Court Order and ensuring an eviction occurs through the Court Bailiff. Failure to do this creates a criminal offence with severe sanctions against the Landlord.

Pengillys LLP offer a range of fixed fee packages to assist Landlords in relation to recovering possession of the property and full details of our fixed fees are available on our website and/or if you prefer please contact us and a copy can be provided to you.

## Commercial

Commercial Landlord and Tenant matters are governed by the provisions of The Landlord and Tenant Act 1954. The existing lease provisions between the parties are also crucial and there are different obligations for both a Landlord and a Tenant.

Common issues arise with regard to the non-payment of rent and also throughout the lease term with regard to ongoing repairing obligations and/or at the conclusion by way of dilapidations. Notwithstanding the strict term of any commercial lease, The Landlord and Tenant Act 1954 gives a statutory right (unless excluded) for the Tenant to seek a new lease after the old lease expires. There are statutory grounds for a Landlord to object which are case or issue specific.

It is important to note that there are formal notice obligations arising under The Act which are fact sensitive and failure to comply will be crucial.

Pengillys LLP have considerable experience in dealing with these matters and are very happy to help either on behalf of a Landlord or a Tenant.

We hope that this short guide has helped you in understanding more about Landlord and Tenant Disputes. We would be pleased to meet with you to discuss any questions that you may have.

**Please call us on 01305 768888**

We will then put you in touch with a member of our experienced Legal Disputes team.

Please visit [www.pengillys.co.uk](http://www.pengillys.co.uk) where full details of our Legal Disputes team are available.

For further details about Pengillys and how we work, please refer to our Terms of Business and Privacy Policy which are available on our website or on request as printed documents.

# PENGILLYS

SOLICITORS ● MEDIATORS

## **Our Offices:**

### **Weymouth**

67 St Thomas Street  
Weymouth  
Dorset DT4 8HB

### **Dorchester**

Challacombe House  
Beechwood Square  
Poundbury  
Dorchester  
Dorset DT1 3SS

## **We can also advise on:**

Private Clients  
Family and relationships  
Business matters  
Property