



Home Office

# A short guide on right to rent

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# Contents

What is the right to rent?	2
Who should make right to rent checks?	2
What is a right to rent check?	2
Are any types of property exempt from the requirement to make checks?	2
What about existing occupiers?	2
What about lodgers and sub-lets?	3
Can an agent be appointed?	3
Who should be checked?	3
What about discrimination?	3
Should children be checked?	3
What should be included in tenancy agreements?	3
What is a conditional agreement?	4
How are initial right to rent checks conducted?	4
What are 'reasonable enquiries'?	5
What are reasonable steps to verify a document?	5
What about expired documents?	6
How should documents be copied, retained and disposed of?	7
What are acceptable documents for right to rent checks?	7
How can a right to rent check from the Home Office be requested?	7
What if a tenant has permission to rent?	8
When will a tenant have permission to rent?	8
How can an individual enquire about their permission to rent?	9
When are follow-up checks required?	9
How is a report to the Home Office made?	10
What about occupiers who no longer have the right to rent?	10
What about members of visiting armed forces?	11
What about members of the 'Windrush Generation'?	11
Who is liable for a civil penalty?	12
What is a 'statutory excuse'?	12
What is the civil penalty process?	13

Can a civil penalty be objected to?	13
Can a civil penalty be appealed?	13
How can a civil penalty be paid?	14
Is civil penalty information shared?	14
How is a civil penalty debt enforced?	14

### **What is the right to rent?**

People who are allowed to be in the UK have a right to rent. People who are not allowed to be here do not have a right to rent.

### **Who should make right to rent checks?**

Right to rent checks should be made by landlords, agents or householders who are letting private rented accommodation, or taking in a lodger. Anyone who lives in a property as a tenant or occupier, and sub-lets all or part of the property, or takes in a lodger, should also make the checks. This applies to people living in both private and social housing.

### **What is a right to rent check?**

This is the check a landlord, agent or householder renting out property should make to ensure that the prospective tenants or occupants have a right to rent. If the check is not made and the occupier has no right to rent there may be a civil penalty to pay.

### **Are any types of property exempt from the requirement to make checks?**

Yes. Some properties and types of living arrangements are exempt from the requirement to make right to rent checks. A comprehensive list of [exemptions](#) can be found in the Code of Practice on illegal immigrants and private rented accommodation.

### **What about existing occupiers?**

Landlords, agents and householders do not have to check the right to rent of existing occupiers who moved in before the requirement to conduct checks was introduced in the property location area. The right to rent scheme was introduced on 1 December 2014 in Birmingham, Wolverhampton, Dudley, Sandwell and Walsall, and on 1 February 2016 in the rest of England. The scheme has not yet been extended to the rest of the UK.

Where the start of a tenancy pre-dates the scheme being introduced and it is renewed between the same parties and at the same property without a break, there is no requirement to conduct checks.

### **What about lodgers and sub-lets?**

Anyone who takes in a lodger should check that they have a right to rent before allowing them to move in. If a person sub-lets a property, they will have responsibility for making the checks and will be liable for a civil penalty if this person does not have the right to rent. The person who is sub-letting can agree in writing with the main landlord that they will be responsible for checks. If a sub-letting occupier wants to transfer responsibility for checks to their landlord, and the landlord agrees, both parties should keep written evidence of the agreement.

### **Can an agent be appointed?**

Landlords or householders may appoint an agent to carry out checks on their behalf, but should keep a written agreement which should also make clear if the agent is to be responsible for any follow-up checks and reports necessary. Landlords and householders are advised to agree the timescales the agent should follow when making the checks and the form that the agent should use to communicate these (written or verbal). Liability for the checks cannot be transferred beyond the agent.

### **Who should be checked?**

Landlords, agents and householders should check that all adults who will live in the property have a right to rent in the UK. This includes everyone over the age of 18, regardless of their nationality, who will use the property as their only or main home, even if they are not named on the tenancy agreement and regardless of whether the tenancy agreement is written, oral or implied.

### **What about discrimination?**

The right to rent scheme applies to all prospective adult occupiers, regardless of their nationality. Landlords, agents and householders will not be acting in a discriminatory way provided they make checks on all prospective adult occupiers. Please see the 'Code of practice for landlords: avoiding unlawful discrimination when conducting 'right to rent' checks in the private rented residential sector', available [here](#).

### **Should children be checked?**

A landlord, agent or householder does not need to check an occupier's children, but they should satisfy themselves that they are under the age of 18 at the time the tenancy begins and keep evidence of this. Further checks on a child will not be needed if the child turns 18 during the tenancy, unless and until the tenancy is renegotiated, or a repeat right to rent check is required.

### **What should be included in tenancy agreements?**

There is no requirement to create a written tenancy agreement listing all those who will live in the property, but landlords, agents and householders may find it advisable to do so. If the tenancy agreement is oral or implied, the checks should still be made on all adults

living at the property. If there is evidence a landlord, agent or householder was aware of a person living in the property but did not check them, they may be liable to a civil penalty, regardless of whether the agreement is written, oral or implied.

It is advisable to record the following:

- the full name and date of birth of all adults who will live in the property
- the names and dates of birth of all children under 18 who will be living with them in the property
- whether each of the adults named has current permission to be in the UK

### What is a conditional agreement?

In some cases it may not be practicable to check the documents of someone who will live in the property before making a tenancy agreement, for example if a person lives overseas or far away and wishes to arrange accommodation before travelling. A landlord, agent or householder may enter into a conditional tenancy agreement with such a person, agreeing to rent to them provided the person(s) produce evidence they have a right to rent **before** they move in.

### How are initial right to rent checks conducted?

A landlord, agent or householder should **obtain** and **check** an adult's original acceptable documents **before** allowing them to live in the property. The landlord, agent or householder should make a dated paper or electronic copy of the document and **retain** it securely for the duration of the tenancy and for twelve months after the tenancy ends. The copies should then be securely disposed of.

Reasonable enquiries to find out who will live in the property as their only or main home should be made, and a record kept of the questions asked. All adults who will live in the property, whether or not they are named on the tenancy agreement, should be checked. A landlord, agent or householder who does not make reasonable enquiries may be liable for a civil penalty for any other adult occupiers, irrespective of whether or not they are named on the tenancy agreement and even if rent is only collected from the named tenant.

Where reasonable enquiries are made and an occupier moves someone in without the knowledge of the landlord, that occupier will become the landlord responsible for making the checks and liable for any penalty.

If an agent establishes that a person does not have the right to rent they should report the matter to the landlord prior to a tenancy being granted. The landlord will then become the person liable to a penalty if a residential tenancy agreement which authorises occupation

by a person who does not have a right to rent is granted. In these instances, an agent should keep written records and copies of their actions.

### **What are 'reasonable enquiries'?**

Questions a landlord, agent or householder may want to ask to establish who will live at a property will depend on the specific situation involved. In some circumstances, limited enquiries may be needed, for example, if a single room is being let within a home or a studio apartment, and a person says they will be living alone, no further enquiries may be required.

In other cases, a landlord, agent or householder may want to ask more detailed questions to ensure they are aware of all adult occupiers. Factors to consider include, but are not limited to, whether the reported number of people is proportionate to the size and type of the property.

A landlord, agent or householder should assume that a person intends to use the property as their [only or main home](#) and make right to rent checks unless there is evidence to suggest otherwise. If the landlord or householder believes that a person will not be using the property as their only or main home, they are advised to keep a record of the address which the person reports is their only or main home, along with the reasons why they believe this to be the case. More information on only or main home can be found in the Code of Practice on illegal immigrants and private rented accommodation.

### **What are reasonable steps to verify a document?**

Once a landlord, agent or householder has obtained an original document, it should be checked in the presence of the holder (in person or via live video link) to verify that the document is genuine and the person presenting it is the rightful holder.

A landlord, agent or householder is not expected to be an immigration expert or to have a detailed knowledge of immigration documents or visas. It is recognised that forged documents are difficult to detect and that those who use them are setting out to deceive. Anyone who is given a false document will only be liable for a civil penalty if it is reasonably apparent it is false.

Obvious causes for suspicion include:

- photographs that do not look like the holder
- a date of birth that is clearly implausible
- documents that are damaged, tattered, or show signs of wear, to the extent that no reasonable person could have confidence they have not been altered

- indications of an attempt to change photographs, expiry dates or personal information on a document

In all cases, a landlord, agent or householder should undertake basic visual checks to ensure the document or documents relate to the person in front of them by:

- comparing any photographs in the documents, and comparing dates of birth against the appearance and apparent age of the holder
- checking names, photographs and dates of birth are the same on each document presented

If a person presents two documents which are in different names, the landlord, agent or householder should ask for a further document to explain the reason, for example a marriage certificate, a divorce decree or a deed poll document.

It is not possible to give comprehensive details of all travel and identity documents but there are some features in many documents that any person can look for and which may give confidence that the document is likely to be genuine. Most international travel documents contain security features such as holographic images, watermarks and images that fluoresce under ultra violet light. Laminates are used to make it difficult to change information printed on the documents and high quality and expensive printing processes are used. Anyone checking a document should take time to look at the document properly by feeling it, tilting and turning it to see how it reacts, consider whether the printing is blurred, and that forged documents may be deliberately battered and dog-eared to provide an explanation for their poor quality.

Further information [on checking EEA passports/ID cards](#) can be found on the Prado website.

Where there are obvious grounds to suspect that a document is false and a landlord, agent or householder believes there may have been attempted deception, the landlord, agent or householder should not let property to the person presenting the document. Landlords, agents or householders will not be able to rely on a statutory excuse if they knew the documents were false or did not rightfully belong to the holder.

Landlords, agents or householders can report concerns about potential immigration abuse or deception by calling 0800 555 111 or on the '[Report an immigration crime](#)' service on GOV.UK.

### **What about expired documents?**

A current or expired British, EEA or Swiss passport with a recognisable photograph of the person is enough to show that a person has the right to rent. A current or expired passport



from another country is also acceptable, if the holder can show that they have the right to be in the UK indefinitely.

Any document which is used to demonstrate a right to rent which is time-limited, rather than indefinite, should be valid. Expired documents are not acceptable as evidence of a right to rent for a time-limited period. It should be noted however that an expired passport does not invalidate any visas or passport stamps contained within it if those visas or stamps have not yet expired.

### How should documents be copied, retained and disposed of?

Landlords, agents and householders should **retain** a paper copy or a scanned and unalterable electronic record of the document. All copies should be legible, and it should be possible to clearly see any dates, personal details and photographs on the copy. Landlords, agents and householders are not entitled to retain the original documents presented and should return these to the occupier. More information on what [parts of a document should be copied](#) can be found in the Code of Practice on illegal immigrants and private rented accommodation.

Landlords, agents and householders should also make a record of the date on which the check was conducted. This can be by either making a dated declaration on the copy or by holding a separate record, securely. Copies of the documents should be stored securely throughout the tenancy and for 12 months after it ends. The copies should then be securely disposed of. Landlords, agents and householders should be aware of and comply with the requirements of the Data Protection Act.

### What are acceptable documents for right to rent checks?

There are two lists of [documents which are acceptable](#) as proof of someone's right to rent. List A contains documents which provide evidence the holder has the right to rent indefinitely. List B contains documents which provide evidence the holder has the right to rent for a limited period of time. [List A and B](#) documents can be found in the Code of Practice on illegal immigrants and private rented accommodation.

### How can a right to rent check from the Home Office be requested?

If a person cannot show any of the acceptable documents listed, but claims to have an outstanding immigration case or appeal with the Home Office, or claims their documents are with Home Office, or has provided information to indicate that they have been resident in the UK since before 1988 (e.g. evidence of employment or a civil registration), the landlord, agent or householder can request that the [Home Office carry out a right to rent check](#) by completing an online form. A landlord, agent or householder who does not have internet access or requires assistance in completing the form may call the Landlords Helpline on 0300 069 9799.

The landlord, agent or householder will receive a clear 'yes' or 'no' response to any request for a check within two working days.

### What if a tenant has permission to rent?

In some limited circumstances, when a migrant does not have the right to be in the UK and therefore does not qualify for a right to rent, the Home Office may grant permission to rent to that migrant.

If a migrant informs a landlord that they have permission to rent, the landlord should always verify this through the Landlord Checking Service (LCS) before agreeing the tenancy. This can be done [here](#).

### When will a tenant have permission to rent?

The circumstances in which permission to rent is granted are very limited as we expect those without the right to be in the UK to leave the country voluntarily. The Home Office can assist individuals with this through its [voluntary departure scheme](#).

Permission to rent will normally be granted where the following circumstances apply:

- Individuals with an outstanding protection claim, Article 3 ECHR medical claim, or an outstanding appeal against the refusal of such a claim.
- Individuals who have lodged further submissions against the refusal of a protection claim and the submissions have been outstanding for more than five working days.
- Individuals who have an appeal outstanding which cannot be pursued from abroad.
- Individuals whose judicial review application has been given permission to proceed and where the judicial review would as a matter of policy be treated as being suspensive of removal. This would continue until any reconsideration required of the Home Office as an outcome of the judicial review had been undertaken.
- Individuals who have been granted bail by an immigration tribunal or the courts which contains a residence restriction and/or electronic monitoring restrictions.
- Potential victims of modern slavery from the date of a positive reasonable grounds decision from the National Referral Mechanism up until two weeks after either a positive or negative conclusive grounds decision.
- Recognised victims of modern slavery with an associated outstanding application for discretionary leave.
- Families with one or more children under the age of 18 who are cooperating with the Home Office's Family Returns Process.

- Individuals who are complying with the Home Office's voluntary departure process. This includes those with genuine obstacles to return, providing that they are taking all reasonable steps to address these.

If an individual does not meet the above criteria, the Home Office may consider granting permission to rent in exceptionally limited circumstances for the following reasons:

1. It would allow the Home Office to better progress a migrant's case if they were allowed permission to rent.
2. The migrant is considered to be a vulnerable person or unable to make their own decisions.
3. In order to avoid a breach of human rights.

### **How can an individual enquire about their permission to rent?**

A migrant without leave who is looking to take up a new tenancy and considers that they meet the criteria set out above can enquire whether they have permission to rent through their established contacts points with the Home Office, such as at a reporting event, interview appointment or through the team dealing with their case. If somebody without leave is not in contact with the Home Office then they should rectify this by contacting the [voluntary returns team](#); or by making an application to remain in the United Kingdom.

The granting of permission to rent is discretionary and is dependent on a migrant being compliant with requirements which have been set down by the Home Office.

### **When are follow-up checks required?**

When an occupier presents evidence that they have the right to rent for a time-limited period, landlords, agents and householders will need to carry out follow-up checks later in the tenancy to retain an excuse against liability for a civil penalty. Repeat checks should only be conducted on a tenant if that tenant has time-limited permission to be in the UK. You are not required to conduct a check in respect of a tenancy that commenced before the right to rent scheme was introduced.

When carrying out the initial check, landlords, agents or householders should note the expiry date of the person's right to be in the UK, then diarise a follow-up check for a date shortly before whichever is the longer of either the expiry date of the person's right to be in the UK; or shortly before 12 months from the date of the initial check; or as soon as reasonably practicable afterwards.

Where a further check has been made after the expiry of the statutory excuse, and the landlord claims to have done so as soon as reasonably practicable thereafter, they should

be able to provide evidence that the circumstances which prevented them making the check earlier were exceptional, such as serious illness or a family bereavement.

In addition to notifying the Home Office, agents working on behalf of landlords should also notify the landlord as soon as reasonably practicable and before the statutory excuse expires.

If an occupier states at the time of a follow-up check that they have made an application to extend their stay and are awaiting a decision, the landlord, agent or householder can request that the [Home Office carry out a right to rent check](#) completing an online form.

### **How is a report to the Home Office made?**

If follow-up checks indicate that an occupier no longer has the right to rent, the landlord, agent or householder should [make a report to the Home Office](#) in order to maintain a statutory excuse against a civil penalty.

The landlord, agent or householder must make the report as soon as reasonably practicable after discovering that the occupier no longer has a right to rent, and before their existing time-limited statutory excuse expires, in order to renew their statutory excuse which will then last for as long as the illegal renter continues to occupy the premises. The original statutory excuse will expire one year after the initial checks were made, or when the occupier's evidence of their right to be in the UK expires, whichever is longer.

The Home Office can also be notified if a landlord considers that the prospective tenant has not provided any acceptable documents, but presents other information indicating they are a long-term resident of the UK who arrived here before 1988. The Home Office has established a Windrush taskforce which handles applications for British citizenship or indefinite leave to remain from these individuals, including those who have yet to obtain official documentation allowing them to evidence their status. Please refer to the further section in this document entitled 'What about the Windrush Generation?' for more information.

### **What about occupiers who no longer have the right to rent?**

If the Home Office finds that an occupier does not have a right to be in the country, they will lose any right to work and to receive benefits. The Home Office may take action to remove the individual from the country. During this process, the tenancy agreement remains in force.

Although landlords, agents and householders should make a report to the Home Office if follow-up checks reveal that an occupier no longer has the right to rent in the UK, there is no requirement to evict an occupier, and landlords, agents and householders may continue to collect rent. Landlords, agents and householders may however wish to

consider bringing tenancies to an end. Any eviction action taken must comply with the requirements relating to lawfully regaining possession of the property.

Landlords, agents or householders can report suspected immigration abuse or deception by calling 0800 555 111 or on the [‘Report an immigration crime’](#) service on [GOV.UK](#).

### **What about members of visiting armed forces?**

Certain members of visiting armed forces deployed in the United Kingdom are not subject to immigration control. Some individuals may have an endorsement in their passport or travel document which explains that they are exempt from immigration control: in such cases right to rent checks apply as normal, and this document can be used to satisfy the check.

Other military personnel will travel to the UK using documentation which is not recognisable to many, and which, for security reasons cannot be photocopied. These people will therefore not be able to satisfy a right to rent check in the manner set out in the Code of Practice. If such a person wishes to take up residence in the private rented sector as their only or main home, then they can provide the landlord with a letter from the military unit or base which they are attached to or stationed at.

This letter should confirm the prospective tenant’s name, date of birth, nationality and exemption from immigration control. The landlord should ask to see an identification document to ensure that the letter relates to the holder and, if satisfied, they can let to them. The letter – or a copy – should be retained by the landlord as evidence that they have acted in the proper manner.

**Where a landlord can provide a copy or original of this letter and has made reasonable enquiries to confirm the identity of the holder of the letter, the Home Office will not seek to pursue a penalty against a landlord.**

The letter may also include the details of any adult dependants of the holder who are exempt from immigration control and who will be living with them. Any other adult on the same tenancy agreement is subject to right to rent checks as normal.

### **What about members of the ‘Windrush Generation’?**

Some individuals of ‘the Windrush Generation’ (i.e. Commonwealth citizens who arrived in the UK before 1973) and some non-EEA nationals who arrived in the UK between 1973 and 1988, may not be able to provide documentation from the acceptable document lists to demonstrate their right to rent in the UK. The Home Office has established a Windrush taskforce which will handle applications for British citizenship or indefinite leave to remain from these individuals, including those who have yet to obtain official documentation allowing them to evidence their status.

In these circumstances, you should not refuse permission to rent. Instead, you should contact the Landlords Checking Service in the usual way.

In these circumstances, a Positive Right to Rent Notice (PRRN) issued by the Landlords Checking Service will provide you with a statutory excuse against a civil penalty. The statutory excuse relates to the individual in respect of whom the PRRN was issued, and it will last indefinitely

### **Who is liable for a civil penalty?**

If a landlord, agent or householder does not make the correct right to rent checks and is found to have let property to someone who does not have a right to rent, they will become liable for a civil penalty.

### **What is a 'statutory excuse'?**

A landlord, agent or householder will have a statutory excuse against a civil penalty if they can show that they have correctly carried out right to rent checks, including any follow-up checks if necessary, and made any required report to the Home Office.

A landlord, agent or householder will not have a statutory excuse if they:

- did not carry out right to rent checks before renting the property
- cannot show that they made reasonable enquiries to find out which adults will be using the property as their only or main home
- cannot provide dated evidence of having checked the documents of all prospective adult occupiers before the tenancy commenced
- have accepted a document as evidence of right to rent which clearly does not belong to the holder, and, or it is clearly apparent the document is false
- have conducted a check and it is apparent the occupier's right to be in the UK has expired
- have accepted a document that clearly shows the person does not have a right to be in the UK
- cannot show that they made follow-up checks at the appropriate time, where an occupier had a time-limited right to rent
- did not make a report to the Home Office in the prescribed manner where follow-up checks reveal that an occupier's right to rent has expired

The right to rent checking requirements and civil penalties do not apply in respect of tenancies that commenced before the introduction of the right to rent scheme itself, i.e. before 1 December 2014 in Birmingham, Wolverhampton, Dudley, Sandwell and Walsall, and before 1 February 2016 in the rest of England.

### **What is the civil penalty process?**

If a person does not have the right to rent and is found living in a privately rented property during a visit by officials, the landlord, agent or householder will be asked at that time to show they made the necessary checks (including any follow-up checks and reports necessary). A civil penalty will not be issued in respect of a tenancy entered into before the right to rent scheme commenced. Landlords who cannot show the checks were made, or are not present during the visit when the suspected breach of the law is identified, will be served with a Referral Notice explaining that liability for a civil penalty is being considered.

The landlord, agent or householder will then be sent an Information Request. This provides an opportunity to present further information and evidence, for example evidence of a statutory excuse against a penalty, evidence that the checks were in fact carried out or that they are not the liable party. After considering the case the Home Office will issue either a Civil Penalty Notice or a No Action Notice, together with a Statement of Case explaining the decision.

### **Can a civil penalty be objected to?**

A landlord, agent or householder who receives a Civil Penalty Notice can object in writing within 28 days of the due date specified in the notice. Details of the reason for objecting must be supplied along with evidence supporting one or more of the acceptable grounds for objection as set out on the Objection Form.

The Home Office will send an Objection Outcome Notice if the penalty is to be cancelled, reduced or maintained. If the penalty is to be increased, a new Civil Penalty Notice will be sent. Each of these notices will include a Statement of Case.

### **Can a civil penalty be appealed?**

An appeal against an objection decision may be brought to a County Court on the same acceptable grounds as for an objection, and must be made within 28 days of the due date given in the notice.

An appeal must be filed using Form N161, which can be obtained from any County Court office or on the HM Court Services website. The completed appeal form will need to be submitted with the relevant fee. Landlords, agents or householders are also required to serve the appeal papers on Secretary of State for the Home Office. This can be done by sending a copy of the papers by recorded delivery to: Government Legal Department, 1 Kemble Street, London, WC2B 4TS.



Landlords, agents and householders should be aware that if their appeal to the court does not succeed, the court may order that they pay the reasonable costs/expenses of the Home Office in defending the appeal. If, however, the appeal is successful, the court may order that the Home Office pay the landlord's, agent's or householders' reasonable costs/expenses.

### **How can a civil penalty be paid?**

If a landlord, agent or householder is unable to pay the full penalty in one payment, a request may be submitted (by the payment due date) to pay the penalty in instalments by direct debit. This will be over an agreed period of time, usually up to 24 months. The Home Office will not reduce the penalty amount. Landlords who wish

to take up this option should contact Shared Services Connected Limited (SSCL) using the contact details given on the Civil Penalty Notice.

SSCL will inform the landlord of the decision and state when the payment or payments are due. A request to pay by instalments does not affect the time limits within which an objection against the penalty must be brought. If an instalment is not paid on the due date, debt recovery enforcement action will be taken.

The fast payment option reduces a penalty amount by 30% if payment is received in full and final settlement within 21 days of it being due. This option is only available for a first penalty and may not be paid by instalments. If an objection is made before the deadline, eligibility for the fast payment option will continue. If liability for a civil penalty remains following the objection, a fresh notice will be given providing a new payment deadline at the lower amount under this option.

### **Is civil penalty information shared?**

The Home Office may routinely share information with other government departments as required in administering civil penalties under the right to rent scheme.

### **How is a civil penalty debt enforced?**

Landlords, agents or householders who do not pay any penalty for which they are liable in full, take the fast payment option or object or appeal by the deadline dates, will have enforcement action taken against them.



