

THE LANDLORD LAW 20TH ANNIVERSARY SERIES

Checking and Referencing Tenants

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**Landlord Law
Services**



This is the first in a series of ‘anniversary’ eBooks written to celebrate the 20th anniversary of the Landlord Law service at www.landlordlaw.co.uk.

Landlord Law is brought to you by [Landlord Law Services Ltd](#), and written by CEO and solicitor Tessa Shepperson.

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Introduction

It is arguable that checking and referencing tenants is the most important thing that you do when managing your tenancy.

If you have a good tenant, you will (hopefully) have few problems, and if any do arise you will normally be able to resolve them amicably with your tenant (assuming you behave reasonably yourself).

However, if you have a bad or difficult tenant all sorts of problems may arise - rent arrears, failure to treat the property well, failure to allow you access for inspections and property checks, disrupting neighbours, and so on. Or they may just be a nightmare to work with.

Then you may also be unlucky enough to find you have a tenant who uses the property for criminal purposes and who may leave the property badly damaged and expensive to put right.

How can you ensure that these people be avoided? *The answer is by careful checking.*

I should start by saying that even careful checking does not mean you are assured 100% of a trouble-free tenancy. People's circumstances change. For example, someone who was perfectly able to afford your rent may lose their job and get into difficulties.

However, there is no doubt that careful checking and referencing will weed out the most problematic tenants.

Be aware also that it is something that will be expected by your insurers who may well refuse to pay out on claims if they learn that you failed to carry out any referencing or other checking before you allow the tenant into occupation.



First things first - Make sure you are compliant with the law



Before I talk about the checks you need to make, I first want to mention some of the rules which apply when advertising for and choosing tenants.

Be truthful in your advertising. You must not misrepresent the property or make it out to be better than it is. For example,

- ◆ Don't say it is 'quiet' if it is on the school run (or arguably if it is situated anywhere in a city)
- ◆ Don't say it is near good schools unless you have checked the performance of all schools in the area ([which you can do here](#)).
- ◆ Make sure that photographs accurately reflect the property and are not taken from the one angle that excludes the factory next door!

In some circumstances, if you can be proved to have lied, your tenants may be able to end the tenancy and recover all money paid.

You also need to be very careful when taking photographs and creating virtual tours, that you do not inadvertently include confidential information about the existing tenants.

Finally, be aware that you need to be very careful indeed about excluding types of occupier

- for example 'No DSS policies' as tenants may be able to claim compensation for indirect discrimination. To find out more you can listen to [this webinar](#) with the barrister in a recent case on this point.

So let's now move to steps you need to take when checking tenants. What is the first thing you should do?



Prepare a Tenant Information Form

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This is a form that you get prospective tenants to complete as part of their application process. It will serve several useful purposes, for example:

- ◆ It will give information about the tenant to enable you to carry out credit checks
- ◆ It will let you prove that a tenant has lied, for example if they fail the credit check – allowing you to retain the holding deposit (if you have taken one)
- ◆ It will contain the information needed to draft the tenancy agreement
- ◆ It will contain information you need for the tenancy deposit prescribed information form (if you take a deposit)
- ◆ It will serve as the tenant's authority to keep records on him/her under the Data Protection legislation (see our separate eBook on Data Protection for more on this)
- ◆ It will provide information you can use later to trace a defaulting tenant and enforce any money judgment you may obtain
- ◆ If you word it correctly it can also serve as a 'statement of truth' from the tenant should you wish to use it in court proceedings

So far as the second point on holding deposits is concerned, see the [video here](#) where David Cox advises speaking to your referencing company so you can adapt the questions asked on your information form to match the questions asked by them.

Once you have your tenant information form - use it!

You can find draft forms online (we have one for our Landlord Law members) but you will probably want to adapt it over time so it suits YOUR needs.



You may decide to do this at your meeting, but if you want to minimise the number of meetings you have, it is often a good idea to collect information from the tenant in advance.

This will normally be:

- ◆ Completing your application form
- ◆ Three months of bank statements (tenants often object to this, but you are entitled to check to make sure your tenants can actually afford to pay the rent), and
- ◆ ID documentation - in particular for your right to rent checks (if you are unfamiliar with this you will find information on [the government website here](#)).

Have a meeting with the tenant

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In these days of covid, you may decide to skip this, but if possible it is a good idea. You will be better able to sum someone up if you meet them face to face. If this is impossible then at least you should have a Zoom or other online meeting.

It's best to have a list of questions you will want them to answer, for example:

- ◆ Why are you moving?
- ◆ When are you looking to move?
- ◆ How many people will be living at the property, and will there be any children?
- ◆ How long do you plan to stay?
- ◆ Will you want to keep a pet?
- ◆ What are your work patterns?
- ◆ Do you or anyone at the property drive (and if so what sorts of vehicles will you want to park nearby?)
- ◆ Do you smoke?

- ◆ Have you ever been evicted in the past?

You may also want to discuss issues such as

- ◆ Whose name will be on the tenancy agreement - particularly if more than one person attends the viewing. Ideally, you will want all adults named
- ◆ Payment of bills - you will need to explain your arrangements for this
- ◆ Are they happy with the property as it is or will they want to make any changes (ie to pre-empt anything they may ask after they have moved in)
- ◆ House rules - these are often a good idea (although you may want to call them something else) particularly if the property is an HMO where tenants rent individual rooms
- ◆ Lifestyle issues - for example, do they play a musical instrument, do they work from home, will they want to instal large children play equipment in the garden?

Don't forget to allow time for them to ask you questions. The questions they ask will also give you a 'feel' for how they will be living in the property.



This sounds horrible, but it is best to assume that everything the applicants tells you is a lie until you have double-checked and verified it.

For example, the telephone number given for their employer - is that really their number or is it the number of a friend primed to give a good reference? You can often check a telephone number by putting into a Google search box.

Then you should also check the applicant/s themselves online, for example by a search against their name on

- ◆ Google
- ◆ Facebook
- ◆ Twitter
- ◆ LinkedIn

You may be surprised at what you find!

There is nothing illegal about this (so long as you are not hacking into their account!), and it is not a breach of data protection.

If the applicants (for example) want to keep information on their Facebook account private, there are ways that they can do this.

Be aware though that people often have similar names. So be careful about this



EXAMPLE

You may have found an Andrew Smith on Facebook who has three Alsations dogs. But is he the same Andrew Smith who has applied for your tenancy?



People often skip doing this but it can be a very useful exercise. For example:

- ◆ A bank reference will at least confirm that the applicant has a bank account where he says he has
- ◆ An employers reference will confirm that they have a job and the salary they receive (important as this will be paying your rent!)
- ◆ A landlords reference may give you useful information but remember that if the current landlord is anxious to get rid of them they may be economical with the truth. A phone call here may be helpful as you can tell a lot from people's tone of voice and what they don't say. Or try to speak to previous landlords too.
- ◆ A personal reference will be helpful if you trust the referee to be truthful and impartial.

Note by the way that you will need to send a 'letter of authority' to referees signed by the applicant, authorising the referee to speak to you. So make sure the applicant signs sufficient for you to use.

Get a credit check done

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This will involve a fee paid to the credit reference company (which under the Tenant Fees legislation you can't charge to the applicant) and again some landlords may decide to trust to their judgement and skip this.

However skipping this step is a bad idea - if your application is being followed around by a trail of County Court Judgements - you need to know about it!

On the other hand, beware of trusting solely to the credit reference report recommendations.



EXAMPLES

See [my report here](#) of a case where the letting agents simply relied on the credit report, only to find out later that the tenants had lied.

In this case, the landlord was able to obtain substantial compensation against the agents through the courts.



One big reason why checks are really important is that landlords are often targeted by criminals who will want to use your property for illegal purposes.

So be very wary of applicants who offer to pay a substantial payment of rent in advance, particularly if this is in cash and particularly if they seem keen for you to leave them alone in the property once they have moved in.

They may be looking to convert your property into a cannabis farm. This is far more common than many people think. You can see [an article about this here](#).

You should also be aware of the various scams around, for example:

Bogus advance rent cheques

This is where a cheque is sent to a landlord or letting agency (although it is most often an agency) ostensibly to pay for rent in advance for a letting, and the agency is then put under pressure to cash the cheque and pay out against it before it has cleared. However, the cheque is forged and does not clear. The landlord or agency is left out of pocket, as the bank will probably not reimburse the loss.

Warning signs are:

- ◆ Cheques for amounts larger than are actually needed
- ◆ No, or few, contact details provided
- ◆ Cheques sent in envelopes with no postmark, and no proper covering letter
- ◆ 'Urgent' demands for payments to be made before the cheque could have cleared
- ◆ Cheques apparently from large organisations where no invoices or purchase orders have been issued

The moral is - never pay out against a cheque until it has cleared.

Bogus prospective tenants copying the keys

One quite common scam is for people viewing a property to ask to be allowed to visit unaccompanied. This gives them the opportunity to have the keys copied. They can then pretend to be the owner and use the keys to show round prospective 'tenants' – and maybe even let them into occupation, after having taken upfront rent and deposit.

The hapless tenants will then have the shock of finding that they have been scammed and you may find it hard to get them to leave.

NEVER allow unaccompanied visits or allow anyone who is not a signed up tenant to take away the keys.

And finally

If the tenant looks all right but you are still not sure, many landlords recommend visiting them in their current home. You can create some excuse for this – maybe say you want them to sign an extra reference letter and ‘happened to be in the area’.

This will give you an opportunity to see how they treat their current home. Which may resolve your doubts or confirm them!

Further Information

This short ebook just gives a brief overview of the things you need to do. We have more help, guidance and resources for landlords on [Landlord Law](#).

For example:

- Our tenant information form
- Our [‘New Tenant Checklist’](#)
- Articles on checking tenants and the questions to ask them at meetings
- Draft letters you can use when taking references, and
- A draft letter of authority for applicants to sign.

Plus I am always available on the forum to answer members questions.

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