

Right to Rent – what can your scheme do?

From 1st February 2016, landlords will need to check that all prospective adult occupiers have the 'right to rent' in accordance with the Immigration Act 2014.

Who has the right to rent?

Anyone residing in the UK legally has a right to rent. This includes British citizens, EEA and Swiss Nationals, and those with indefinite leave to remain. Some people will have a time-limited right to rent, for example if they have limited leave to remain. For full details of who has the right to rent check the [Code of Practice](#).

What are the checks and how are they completed?

Before letting to someone, landlords will need to complete the following steps:

- Check who will be occupying the property
- Take copies of accepted identification documents
- Check the validity of the documents with the occupier present
- Keep copies of documents and record the date of the check. Documents should be kept for a year after a tenancy has ended.
- Complete follow up checks for those occupiers with time-limited right to rent

Who has to complete the checks?

- All private rented sector landlords
- Hosts, including those in social housing, who are letting to a lodger
- Tenants who are subletting, unless there is an agreement with the landlord that they will complete the check
- Agents where the landlord has transferred liability through written agreement. The Code of Practice states: *"The agent appointed for this purpose must act in the course of a business, but does not have to be a letting or*

managing agent." The meaning of this statement is open to interpretation. We would suggest that if your scheme charges for your services then you may be eligible to take responsibility for the checks. You should think carefully about whether your scheme should take this responsibility, as you would also be liable for any penalties incurred.

- Landlords do not need to complete checks if the accommodation has been arranged through the local authority. They should, however, ask for confirmation in writing from the local authority that the person has the right to rent.

Accepted documents

Full details of acceptable documents can be found in the [Home Office's User Guide](#). The list includes single documents that confirm a right to rent; documents such as a UK/EEA passport, Biometric Residence Permit or a travel document endorsed with leave to remain.

The list also includes documents which can be used in combination to prove a person's right to rent. PRS access schemes should study this list carefully as they are well placed to support clients to access these documents. Examples of documents included in this list are a letter from Probation, a letter from an employer or educational institution, benefits paperwork as well as a letter from a PRS access scheme.

A letter from a PRS access scheme should be issued no more than 3 months prior to the check, be signed by a staff member of the scheme, and confirm the client's name and the address of the property which the scheme is supporting them to access. The User Guide includes a template letter on page 31.

What are the penalties?

Landlords, or others responsible for the checks, can be fined up to £3,000 if they fail to complete the checks or knowingly let to someone who does not have the right to

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rent. They will establish a 'statutory excuse' from the penalty if they have completed the relevant checks.

If a prospective occupier has a time-limited right to rent, landlords, or others responsible for the checks, will need to complete a follow up check. This should be done before the occupiers leave to remain expires, before the validity of the document they used to prove their right to rent expires, or within 12 months, whichever is later.

If, as a result of the following checks, the landlord believes the occupier to no longer have the right to rent, they should report them to the Home Office in order to retain their statutory excuse.

Help available

Landlords can use the following resources to help with the checks:

- [User guide](#) which outlines the accepted documents and their necessary content, images of how they should look, guidance on checking their validity and FAQs
- [Code of Practice](#) and [Landlord's guide](#)
- Home Office's [online tool](#)
- Call the helpline on 0300 069 9799
- [Request a Home Office right to rent check](#) if the prospective occupier is a non EEA national and has no documents because they are being held by the Home Office. They will need to provide their reference number. A response should be given within 2 days. If a landlord has not heard within 2 days, they are able to proceed with letting and will obtain a statutory excuse.

How can you support your clients?

- Help them to understand their immigration status and conditions of their stay
- Help them to apply for and renew applications for identification documents

- Support with funding for identification documents through accessing social funds or benevolent funds, or by using your own budgets
- Provide advice on the right to rent scheme and help them to recognise discriminatory practices
- Advise clients that they can also use the helpline
- Support them with developing their organisation skills to ensure that identification documents are kept safe and applications for replacement documents are completed on time
- Store copies of identification documents on their behalf
- Write a letter from your scheme confirming their details to be used in conjunction with another accepted document
- Help them to access accepted documents from other institutions

How can you support your landlords?

- Put forward prepared clients who are in possession of the relevant documents
- Provide advice on the scheme and help them to understand their responsibilities
- Ensure they are familiar with and utilise the guidance and help on offer
- Facilitate meetings between landlords and clients to ensure that checks are done in person
- Prompt them with reminders when follow up checks need to be completed
- Facilitate communication with other institutions who can provide accepted documents
- Support them to create systems to accurately store documents and record checks
- Support them to understand their obligations according to the Data Protection Act
- Support them to understand their responsibilities regarding anti-discriminatory practices
- Offer to take responsibility for checks, if you are confident that your scheme 'acts in the course of a business'

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