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Unfair tenancy terms

don't get caught out



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Are your tenancy terms unfair?

Aim

This leaflet aims to give you guidance on unfair terms in tenancy agreements. It also lists advice centres and other useful sources of information.

Tenancy agreements

A tenancy agreement is a contract between you and your landlord. It means you both have legal rights and responsibilities. The contract should be written in clear language, so you can understand what these obligations are.

Your landlord (or his agent) can't use unfair terms in the agreement or take away your legal rights, even if it says so in the contract. A landlord or agent can't rely on an unfair term in any dispute with you, even though it is in the contract.

The Unfair Terms in Consumer Contracts Regulations 1999 state that you should not have unfair terms in your contract.

What are the unfair terms?

These are terms made by the landlord (or his agent) in advance, in a standard contract which you have no choice about and which give the landlord too much advantage over you. A landlord has to take your interests into account.

Unfair terms are traps hidden in the small print or which impose unfair penalties, restrictions, or obligations on you or are not clear about what you have to pay.

If you enter into a tenancy agreement your landlord has a responsibility to make sure that it doesn't contain any unfair terms. The Office of Fair Trading (OFT) has produced a Tenancy Guidance booklet for assured and assured shorthold tenancy agreements in England and Wales (to obtain copies see page 5).



Plain language

Terms of your tenancy agreement should be written in clear language and should not use:

- legal jargon or words with special meanings you don't know about;
- difficult words you don't understand;
- long complicated sentences.

Who decides what is an unfair term?

Only a court can decide if terms are unfair. One thing a court won't look at is a term stating the rent - provided it is written in clear language. But other terms may be unfair if:

- it makes you pay an excessive interest rate or extra penalty charges for late payment of rent;
- it makes you pay landlord's costs which are unreasonable;
- it makes you pay for repairs which are the landlord's responsibility;
- it allows the landlord complete freedom to decide whether you should pay a penalty;
- it allows the landlord complete freedom to decide whether you have breached the agreement;
- it makes you hand the property back in a better state than you received it;
- it allows the landlord to enter the premises without giving you reasonable notice, and in most cases written notice, except in an emergency;
- it prevents you assigning (i.e. letting someone else suitable take over the tenancy) at all;
- it allows the landlord complete freedom to say how much of the deposit to keep at the end of the tenancy without challenge;

- it does not make it clear that the landlord needs a court order to re-enter or take possession of the property;
- it makes you do something which is not reasonable e.g. drain the water tank every time you are away.

What if I think a term is unfair?

If you think a landlord is using an unfair term to your disadvantage, tell him so. Unfair terms in tenancy agreements are not binding on you and your landlord cannot rely on them.

If you are not sure about a certain term, get advice. And always get advice if you want to challenge a landlord in court and are relying on the regulations.

Remember a court makes the final decision about the fairness of a term.



Who can give me advice?

The Shelterline provides advice and information 24 hours a day.

Telephone: 0808 800 4444

Shelter Cymru provides advice in Wales.

Telephone: 01792 468400

Your local housing advice centre, Citizens' Advice Bureau or trading standards office can also provide advice. You will find their number in the phone book.

You can also contact an independent advice agency. Details available from adviceUK on **020 7407 4070** or email general@adviceuk.org.uk

The advice and information given in this leaflet is only a summary of your rights, it should not be seen as a replacement for legal advice. The OFT cannot take responsibility for advice provided by other organisations.

What if I want to complain?

You can complain to your local trading standards department about a landlord's unfair terms. You will find their number in your phone book under local council or you can visit their website

www.tradingstandards.gov.uk

You can complain to the OFT who may write to the landlord if it believes he is using unfair terms, to ask him to stop using or enforcing them.

However, the OFT cannot intervene on your behalf or help you with your individual case. You can also contact the Consumers' Association with your complaint.



You can complain about landlords' unfair terms by emailing cru@oft.gov.uk or by writing to: **Contract Regulation Unit,**

**Office of Fair Trading,
Fleetbank House,
2-6 Salisbury Square,
London EC4Y 8JX.**

Where can I find more information?

The Office of Fair Trading publishes 'Guidance on unfair terms in tenancy agreements' (code OFT356). Copies can be obtained from the OFT mailing house or you can download it from the OFT website.

OFT publications can be obtained by ringing its mailing house on **0870 60 60 321** or visiting the website at www.oft.gov.uk. You can also contact OFT enquiries on **08457 22 44 99**

The Office of the Deputy Prime Minister (ODPM) produces a booklet called 'Assured and assured shorthold tenancies. A guide for tenants'. Telephone **0870 1226 236** for a copy.

The Legal Services Commission has produced 'Renting and letting - Rights for landlords and tenants' (Community Legal Service Information leaflet number 4). Telephone **0845 3000 343** for a copy.