

Sample Chapter

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Introduction

1

Subjects covered in this chapter include...

Student housing: the issues

Types of student accommodation

Providers of student accommodation

Types of letting

Current issues

Student housing: the issues

This book is essentially about the legal issues involved with the renting of accommodation to students. However, the law is only part of the relationship between a student and her/his landlord. Where there is good will on both sides, issues and problems can be resolved by discussion and negotiation. The last thing anyone wants is to go to court. Nevertheless, the law provides a framework for those discussions and a mechanism for resolving problems where there is no other alternative.

The law that affects landlords and tenants has long been regarded as complicated and subject to frequent change. While much of the law applying to student lets is merely the specific application of landlord and tenant law, there are particular issues that affect student lets, not least the fact that a large proportion of lets are made by the university or college where the student is studying. Most educational establishments will provide, or at least arrange, accommodation for first year students. This will be either their own accommodation, or they will have an arrangement with other landlords under which students are guaranteed accommodation in their first year. A smaller number of institutions will provide accommodation for the entire duration of a course, though it's more likely that the student will have to find their own accommodation in later years. In a few places, students may have to find their own place to live from the start.

Students' rights and obligations can be affected by:

- the type of accommodation they live in
- the kind of provider or landlord involved
- the type of letting that is used.

Types of student accommodation

College and university halls of residence

Hall residents almost invariably have their own rooms. Traditionally these rooms, often termed 'study bedrooms', did not contain washing or cooking facilities. Instead these facilities were provided 'communally' with typically one kitchen per floor with a nearby shower/bathroom/toilet 'block'. Older halls are often

still of this type. However, newer halls more commonly provide either self contained 'en suite' accommodation, or are organised around a collection of flats each with a bathroom and kitchen. Most modern halls are self-catering, though some still include the provision of meals and other services such as cleaning and the provision of bed linen. Many 'halls' today are really collections of bedsits or small flats with communal facilities but no catering or services. The majority of halls are still run by the college or university but things are changing. In many universities all newer halls are owned and managed by private companies. Unite plc, the largest provider, now claims to have over 35,000 student rooms. This is likely to become ever more common.

Private halls of residence

There is an increasing trend for new halls to be built and run by private companies such as Unite. They may appear to be college halls and may be on land owned by the college, but they are owned and managed by private companies. There is a variety of arrangements but a typical one would be where a college entered into a formal arrangement with a private company under which rents and services are regulated by a long-term agreement with the college. The college determines room allocations but the company manages and maintains the accommodation, and collects the rents.

Accommodation managed by the college

Some private landlords and housing associations lease property to colleges who then sub-lease them to students. The accommodation may be let directly to groups of students or to student families. These are often called **head tenancy** properties. For housing law purposes, these will be treated as let by the university or college.

Living in an owner's home

Some students choose to live with a resident family as a lodger. The student would expect to have their own room or a room shared with another student but may eat with the family and share their facilities. This can work out well if everyone gets on together. Alternatively, the arrangement could involve having

a relatively separate existence. In this case, the student may not be so enthusiastic about having to walk past the owner as they come home very late at night. In either case, this is the most insecure form of accommodation and the student can be required to move out with as little as a week's notice (depending on the contract). However, the student can also leave at short notice, which could be useful for someone looking for accommodation elsewhere.

Solo accommodation

Some students living on their own in self-contained accommodation will not share any sleeping, eating, washing or toilet facilities. Others who rent a bedsit – a single room often found in large houses – may have self-contained accommodation with their own cooking facilities, but share bathroom and toilet facilities. Bedsits are overwhelmingly found in the private sector. As long as a student has some self-contained accommodation in a property where the landlord is not living, they are most likely to have an **assured shorthold tenancy**.

Shared accommodation

Many groups of students get together and jointly rent a place from (usually) a private landlord. Sharing with friends can be an attractive idea and is generally a cheaper proposition. In the private sector, these arrangements are likely to be **assured shorthold tenancies** provided the landlord is not living in the same property. The search for accommodation is also easier (and possibly safer) when shared with other people. However, sharing can also create problems and having a manageable number of occupiers is likely to help the situation (see Chapter 6). While shared houses and flats are mainly found in the private sector, they may be available from a university or college, housing associations or (less commonly) local authorities.

Providers of student accommodation

Universities and colleges

Many educational establishments will provide accommodation for students. However, a considerable amount of 'university accommodation' built or refurbished over the last few years is in fact run and managed by private companies. Most, but not necessarily all, universities and colleges, will send accommodation information automatically when offering a place on a course.

Private sector landlords

A large proportion of student lettings are provided by private landlords. While this will clearly cover owner-occupiers and buy-to-let arrangements, it also covers large companies such as Unite who provide rented student accommodation.

Registered social landlords (housing associations)

A small proportion of students may rent property directly from housing associations. As far as housing law is concerned, housing associations fall into a hybrid category, as they are regarded as providers of social housing, but the law about security of tenure that applies has more in common with that used for private landlords. However, as independent non-profit making organisations, housing associations' behaviour has to follow circulars and guidance issued by the Tenants Services Authority (formerly the Housing Corporation).

Local housing authorities

It is fairly unusual for students to be let accommodation by local housing authorities (councils), though council tenants can be students. Where a council letting is made to a person specifically because they are a student, the letting can fall outside the normal 'secure tenancy' arrangement that councils have with their tenants (see Chapter 10).

Types of letting

Non-assured lettings

Virtually all lettings made by universities and colleges fall into this category. This is because they are designated 'specified educational institutions' by the Housing Act 1988. This form of letting would also apply where a student has self-contained accommodation but their private landlord lives in the same house.

Exempt lettings

This specific category would apply where a private landlord not only lives in the same house as the student, but also shares some of the accommodation other than that necessary for means of access. The rights and obligations of the parties will be dependent on the terms of the tenancy agreement (see Chapter 10).

Assured tenancies

Since a change in the law in 1997, an **assured tenancy** has become an uncommon form of letting for private landlords as it now requires a specific 'election' in the tenancy agreement. Even then, it is not possible to have an assured tenancy where the landlord is resident in the same 'dwelling'. Assured tenancies remain a common form of letting for property let by registered social landlords. A student with an assured tenancy will normally be able to continue with a tenancy or extend a let beyond the fixed period even against the wishes of the landlord. The landlord will only be able to recover possession against an unwilling tenant where the tenant has broken the terms of the tenancy agreement, though this is not guaranteed (see Chapter 10).

Assured shorthold tenancies

This is by far the most common form of letting made by private landlords (not housing associations) where the landlord is not resident in the same house. The letting is usually for a fixed period of time though it can run from week to week or month to month. Neither the landlord nor the student can end the letting unilaterally before the period expires, unless the tenant has broken the terms. However, the tenant will not normally be

able to continue the tenancy or extend the let beyond the fixed period without the agreement of the landlord.

Licences

Some students living in halls of residence may only have a licence rather than a tenancy. The implications of this are that they have very little security. It isn't always clear whether a licence exists, even where there is an agreement that is headed 'licence' (see Chapter 2).

Current issues

Deposits

Many of the problems that student tenants face occur when they rent from private landlords. These often concern money and the state of the accommodation. A major problem that has been around for many years has been the difficulty of getting a deposit back from a landlord at the end of a tenancy. There can be disputes about whether the tenant has damaged the property, or quite simply the landlord just not returning the deposit. Introduced in April 2007, the **Tenancy Deposit Protection Scheme** now provides a mechanism that involves an independent person deciding whether the deposit should be returned, rather leaving it up to the landlord. It involves either the deposit being held by an independent person rather than the landlord, or the landlord taking out an insurance policy which guarantees to repay the tenant in appropriate cases (see Chapter 3).

Housing conditions

The problem of poor housing conditions or defective services and appliances may also be difficult for a student to deal with. The law is not straightforward here and there is also the risk that making complaints could lead to tension or even eviction. Where a landlord refuses to deal with a problem, low level actions could involve the involvement of a university housing officer. More serious action by the tenant could be based on the contract in the tenancy agreement or on the landlord's duty to keep the accommodation in a safe state of repair. The local authority's

environmental health department can step in where the problem involves a statutory nuisance, involves a health hazard, or where the property is (or should be) licensed by the authority. Taking action beyond complaining and negotiating needs some thought. Most students with private landlords will have assured shorthold lets for a fixed period of time. One implication of pursuing a landlord is that s/he may decide not to renew the let after it has expired. Where the letting is on a monthly or weekly basis, the landlord may seek to bring it to an end (see Chapter 10).

Houses in multiple occupation/Licensing

Where students live in a house or flat on a 'multi-occupancy' basis, the accommodation may be what is legally termed 'a house in multiple occupation' (or HMO). A 'typical' HMO is a building consisting of numerous 'bedsits', but multi-occupied private sector accommodation and even 'private' halls may come within the definition.

'Bedsit' HMOs in particular have often been notorious for displaying poor housing standards, and being prone to serious fire and other safety risks. However, until the Housing Act 2004, there was considerable uncertainty as to which properties should be regarded as HMOs, and effective regulation even of properties that were clearly HMOs, was patchy.

There is now a clearer definition of HMOs in place and a comprehensive licensing structure. Most 'multi-occupied' student houses and flats will now be HMOs, although university operated halls are excluded. However, the licensing requirements only apply to larger properties. If they do apply, the building's suitability has to be vetted by the relevant local authority, and the 'management' arrangements (including the manager) have to be satisfactory (see Chapter 3).

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