

## PROPERTY DEFECTS

It is good practise to undertake a property inspection every 3 months, this will allow you to monitor any potential repairs/maintenance issues plus also ensure the property is being looked after in the manner you would expect.

In the case of residential lettings the landlord is under various obligations to repair the structure and exterior of the premises, as well as various installations in the premises. These obligations apply to weekly and monthly tenancies as well as fixed term tenancies not exceeding 7 years in length. Normally, the landlord will only be liable once he knows of the defect, at least in general terms.

This can result either from the landlord being told of the defect by the tenant (written notification is not essential) or because the landlord learns of the defect in some other way. A landlord who is in breach of this obligation is liable to pay the tenant damages and specific orders can be made by the Court requiring the landlord to carry out repairs. In the case of furnished accommodation there is an implied obligation that the premises would be fit for human habitation at the outset of the tenancy.

The landlord may also be liable in the event of defects in the common parts or parts of the building where he retains control (e.g. the roof in the case of a block of flats). The tenancy agreement itself may contain provision under which the landlord contracts to carry out repairs.

The statutorily implied obligation will apply in any event but an express provision may impose a greater liability on the landlord. The landlord has rights of entry to carry out repairs.

### REPAIRS AND THE SAFETY (AND HEALTH) OF TENANTS ARE CLOSELY LINKED.

The duties of the Landlord and the Tenant respectively concerning the state and condition of premises are imposed in three ways: those implied at common law, express contractual obligations and those implied by statute. All may apply to a particular case, although an express agreement will exclude what the common law otherwise implies. A statutory provision may override any agreement between the parties. In addition to the duties imposed by the tenancy relating to repairs landlords and tenants are also affected by the Defective Premises Act 1972 imposing liability relating to the state and condition of the property.

Generally, a landlord who has no express duty to repair only has such duty (if any) as statute imposes, but this is subject to limited exceptions. There are two relevant common law duties imposed on landlords in certain cases: an undertaking as to fitness for human habitation, obligations relating to other property not let under the tenancy but under the Landlord's control.

Such obligations only affect property which remains under the Landlord's control. There are two distinct types of case. The first group relates to work required to remedy defects which have a physical effect on the demised property or the occupation of it. The second group concerns work on property on or over which the tenant exercises rights e.g. a right of way.