

Summer 2011

Housing News

for landlords across Torbay



torbay housing
partners ip

Welcome to Housing News, an information guide for landlords across Torbay. This housing newsletter includes news, issues and events from Torbay Council's housing services and housing benefit team, as well as information on trading standards, fraud, the latest legislation and news from partner organisations.

What would you like to see included in the newsletter? Have you got any housing-related news that could be shared with others? If you would like to have your say, please e-mail housingnews@torbay.gov.uk

ENERGY PERFORMANCE CERTIFICATES

As reported in the Spring edition of Housing News the Housing Standards staff and Trading Standards have recently carried out a joint project researching how landlords and letting agents are complying with the Energy Performance of Buildings Regulations 2007.



The legislation was introduced in October 2008 and requires landlords to ensure that an Energy Performance Certificate (EPC) is carried out on each of their rental properties when a tenancy changes. The EPC should be made available for any prospective tenant to view, free of charge, upon request and prior to entering into an agreement to lease the accommodation. Once obtained these certificates are valid for a period of 10 years. The aim is to enable tenants to make a decision about renting a property considering its energy efficiency and running costs, which is important to help them decide whether they will be able to afford to properly heat their home. The price of gas and electricity is predicted to rise by 25% this year.

Encouragingly a positive level of response was received from the letting agents in Torbay, with most of them reporting compliance with the legislation. 75% of respondents followed the correct procedure. In the 25% where errors were being made the agents were visited and appropriate advice was provided. This was mainly advising agents that were obtaining EPCs when tenants were found for the property and the tenancy signed, that this was too late in the transaction. The EPC should be available at the point of marketing to enable tenants to make an informed decision on their possible next home on the property's energy efficiency, running costs and any improvements that will assist these.

Whilst legislation outlines that it is the landlords responsibility to provide EPCs, the letting agents do have a duty of care to ensure that their clients are compliant. Letting agents should also actively encourage their clients to act upon recommendations made in the certificate to improve the energy efficiency of their properties.

Unfortunately the response from individual landlords was extremely disappointing with only 25% responding despite the questionnaire being quick and straightforward to complete and a stamped addressed envelope being provided.

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TORBAY
COUNCIL

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Obviously this is an area that Trading Standards will now need to focus on. Awareness of the requirements of the legislation will continue to be raised with both landlords and tenants.

Heating and Insulation Grants may be available to provide financial assistance in carrying out some of these improvements and further information can be obtained at www.torbay.gov.uk/housinggrant_booklet.pdf or by contacting the Housing Standards team on 01803 208025.

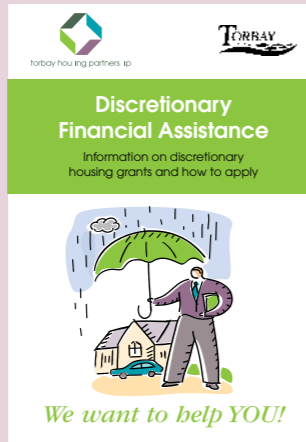
Many of the agents consulted advised that they also encouraged their landlords to carry out the efficiency measures identified in the EPC.

Since 30th June 2011 properties let as holiday lets now also require EPCs, as well as those let on Assured Shorthold Tenancies (ASTs).

In late 2012 the government is intending to introduce a new initiative called 'Green Deal'. This is designed to help the meet the upfront costs of making a home more energy efficient, with the repayment of the cost of these works being spread over a period of time and paid back through a charge on the occupants' fuel bills. This removes the need for any upfront payments and the financial savings from the new energy efficiency measures installed must be equal to, or greater than the additional charge on the occupants' energy bill. The person/s benefiting from the more energy efficient homes are those paying for the works through their energy bill.

Powers are also proposed to require landlords to honour reasonable requests from their tenants for energy efficiency improvements (as long as there are no upfront costs to the landlord) and to enable local authorities to enforce energy improvements in the worst performing rented properties (probably those with an F or G rating).

Now may well be the time to look at carrying out energy efficiency improvements to your rental property, if you haven't already done so!



Do you have tenants that are getting more infirm as they get older?

The council spends about £700,000 on helping people adapt their homes to allow them to remain independent as they get older. For example many people find getting up the stairs dangerous and are at risk from falling. Some people who suffer from conditions such as arthritis find it increasingly difficult to have enough movement in their hips to get their legs over the bath. In these cases we regularly fit stair lifts and take out the original bath and provide a flush floor shower or full wet room. This not only helps people remain able to live in their own homes but also carry on with normal life such as washing and going up stairs themselves. This reduces the need to rely on partners, who are often elderly themselves or the need to have paid care on a regular basis. The type of grant is known as a Disabled Facilities Grant and is subject to a test of resources. However, 42% of households with a disabled resident have an income of less than £10,000 so most people have no contribution to make.

An application can be made for any property including tenants in the private rented sector. Last year, 14 grants were given in this sector. Any application needs to have the consent of the landlord. The landlord would be provided with full plans so they could assess what impact it would have on their property. There has not been a case over the past few years when a landlord has not agreed to work being done. Sometimes, if the proposed works were extensive and the tenant was on a short term tenancy, the council would request the tenant find more suitable accommodation rather than spend up to £30,000 adapting a property.

Nationally great changes are due to take place to overhaul the entire social care system which would include Disabled Facilities Grants. It is proposed that funding is replaced by various financial products such as equity release are developed by the market to provide the options for people to fund their own works.

Contacting the council

You probably know the council is shifting towards a customer contact centre. Several parts of the council already have their calls handled by them, these are council tax, housing benefits, housing needs and TOR2. The call numbers have increased over the last year, mainly due to the changes in benefits and concerns people have about their housing and security.



Last year the council handled 253,146 calls (in person and phone). Approximately 25,000 extra calls have been handled by the call centre about benefits and council tax. This is likely to mean a slightly longer delay in people getting a response. What most people don't know is that they can contact the council with the same queries by email to connections@torbay.gov.uk 75% of messages can be responded to by return emails. A few will be responded to by telephone as they are the more complex or unusual issues, such as, 'how old is the block of toilets at Maidencombe beach?'

If you use this medium, you will get an automated response stating that:-

'We aim to deal with this directly or forward to the relevant department within 2 working days, confirmation of which will be sent to you. If however your enquiry is urgent please telephone our call centre on (01803) 207201, where you can speak directly to a customer service advisor.'

However, we believe most get answered that day. Some landlords have moved towards this system, mainly for chasing benefit claims and advising the council of a change in tenants circumstances. For example, one of the biggest landlords in Torbay used to contact the council about several times a day. However, since they started to use this system, this seldom happens.

Why not give it a try?

Housing Benefit Changes

There has been lots of coverage of all the changes to benefits in the national and local news. There is a radical overhaul of the entire benefits systems taking place which will see most people affected in some way who receive benefits of any kind. Whilst there is a stereotype of a person who may claim benefits, if this is thought through more, many people will find it also applies to them. For example changes to child benefit and changes to disability benefits such as disability living allowance. Whatever the economic or political arguments which have led to these proposals, they are now starting to come into being.

Since April 2011, the government has been making changes to housing benefits which will affect tenants and consequently landlords who have tenants who receive housing benefits. Many landlords may be unaware whether their tenants receive payments or not.

It is likely that the level of benefit will be reduced and could lead to a situation where the amount falls short of the rent due to the landlord. The tenant faces several options:-

- Negotiating a rent reduction with their present landlord
- Getting money and budgeting advice to adapt and cope with the extra cost due as a result of the shortfall in benefits.
- Moving to a cheaper property or a cheaper area.

For tenants whose tenancies are coming up for renewal or thinking of moving they should review whether they will be able to afford the rent before any new tenancy agreement is signed.

However, nearly every client claiming HB will be affected by the changes, and will see a decrease in the HB they are receiving by December 2012.

The concept of discretionary housing payments should not be relied on for the local authority to meet any shortfalls for the tenant as these are also to be reduced. However, in the first year the council will receive funding for this area to help smooth the transitional period. This will need to be carefully targeted to support the most vulnerable clients.

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Housing Benefit Changes... If any of your tenants have had or in the future do have a reduction in their HB, you can advise them to ask if they are eligible for discretionary housing payments by contacting the council on 01803 208723.

Unless tenants are active in considering various options, they may get into debt and all the associated problems for both landlord and tenant which that brings. The council has been active in planning for these changes including writing to all tenants about how the changes will affect them individually; working with tenant support advocates for vulnerable clients; providing training for all agencies involved in this sector and providing training for landlords and managing agents.

Feedback from landlords to date shows there to be a mixed response from a landlord who will reduce the rent for his tenant as they are a long term tenant. This is valued by the landlord who states it isn't in his interests to serve notice for a difference of £60 a month, to a larger landlord who is revisiting his entire business plan as it is heavily dependent on young, single people on benefits.

If you have any tenants who you think are going to be affected financially we would advise you to be proactive and ask them to contact the Housing Options Team or the Housing Benefit Team as soon as possible.

ANTI SOCIAL BEHAVIOUR (ASB)

Following on from the overview of ASB in the last newsletter, this short update gives an idea of the level of activity dealt with by the team and partner agencies such as the police, probation and schools. ASB covers a huge range and usually starts with very low level events and activities. The council uses a range of escalating interventions to nip this in the bud. For example, following confirmed domestic issues such as noise or suspected under age drinking, the family will be visited and any help or advice which may be needed, would be given. Usually this would then go no further as families are generally able to deal with the issue. In other cases additional family support would be offered.

Although the stereo type of persons causing ASB tend to be young and male, this is not borne out by the statistics in Torbay. The ages range hugely but there is not an ASBO on anyone under 18 years of age and the average age tends to be over 30.

If the initial intervention is not successful, a series of further steps are taken which would result ultimately in an acceptable behaviour contract (ABC) being agreed to. This would clearly outline what was expected and the consequences of not following that contract. There have been 15 ABCs in Torbay and 4 full ASBOs this year. Last year there were approximately 168 potential cases which shows that the initial interventions can be successful in helping to prevent the escalation of issues. Various other services are essential to run along side this work such as drug and alcohol programmes.

The team has dealt with issues that have arisen across various private rented and owner occupied properties and have been liaising with numerous landlords across the Bay. In most instances we have a positive relationship with landlords who are keen to ensure that their tenants adhere to their tenancy agreements. It is a minority who we have to take a firmer approach with, who fail to take such matters seriously. Often matters can be dealt with through exploring supportive measures, without the need for formal enforcement.

One of the factors which needs to be taken into account should the council consider types of licensing of privately rented properties, is the management standards of landlords and how they either support the attempts to address ASB in an area, or contribute to it.

As usual a lot of work has gone into addressing incidents of anti-social behaviour, such as street drinking and shoplifting in Torquay town centre. This has resulted in several anti-social behaviour orders having been issued that has prohibited individuals from entering shops within Torquay and Paignton town centres. They have also been banned from drinking or being drunk in public places. One ASBO was issued after a landlord possession of their property. This followed a catalogue of complaints at the block of flats that had housed the problem tenant. They are no longer allowed to return to that block of flats.

EMPTY PROPERTY

Twelve months ago this one bedroom ground floor flat was, like approximately 1,300 others in Torbay, registered as long term empty and falling into disrepair. A completely wasted resource that was costing the owner substantial sums of money whilst stood there doing nothing. Council tax, buildings insurance and mortgage payments need to be met even if the property is not in use as well as the potential lost rental income. This is even more significant considering that there were about 4,000 people on the council's register seeking a home. The flat had actually been empty since January 2008 due to the flat being gutted ready for refurbishment but the owner unfortunately had a change in personal circumstances that reduced his available funds and therefore he would have been unable to complete the project. This change of circumstances also diverted his attention away from this issue.



In November 2010 Torbay Council started to actively operate its empty properties programme, contacting the owners of long term empty properties encouraging them to bring these properties back into use and offering financial assistance to do so where applicable, subject to certain criteria being met.

Towards the end of December 2010 contact was made with the owner of the flat and information was provided about the possibility of financial assistance. Encouraged by this the owner responded and an appointment was made to meet at the property in mid January to enable an inspection to take place and to discuss the possibilities further.

The inspection showed it was evident that the property was an ideal candidate for an empty property grant. It had been basically stripped back to an almost bare shell and then left. Re-wiring, re-plumbing, damp proofing, new windows, heating system, kitchen, bathroom and the installation of a mains linked smoke alarms were just some of the requirements before the property could be considered habitable again.

During this meeting the application process for the empty properties grant was explained to the owner. It is quite straightforward really! At the same time potential VAT savings were also explained. Not only were we able to provide a sum of financial assistance we were also able to identify other ways in which important cost savings could be made.

On the same day as the inspection was carried out the formal application form was issued to the owner and approximately one month later these were returned, completed, along with the two competitive quotations for the work required. These were in the region of £34,000. Only four days later the funding was agreed and the grant approved, this was for £5,000. The owner had one year in which to have the necessary work completed. By this time it was the middle of February 2011.

At the end of March the owner advised that contractors had been appointed, with the refurbishment programme due to commence the following week. Also at this point relevant information was provided by us to enable to owner to seek his reduction in VAT for the building work, therefore reducing his VAT liability from 20% to 5%.

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Empty Property... Regular communication with the owner has continued whilst the work is being carried out and the flat is due to be completed in the middle of August. Subject to the work having been completed satisfactorily then the grant payment will be made and a newly refurbished one bedroom ground floor flat will be available for somebody to make their new home. Already a potential tenant has been identified and is eagerly awaiting the completion of the refurbishment programme.

This process demonstrates that in a relatively short period of time, with a little encouragement and assistance, what was a wasted resource can be turned into a valuable asset. A property that was actually costing the owner money can now be seen as a highly regarded investment, producing £450 per calendar month, as well as saving the owner council tax payments of about £90 per month. By bringing the property back into use he is at least £540 better off each month.

The owner is extremely pleased with the outcome and states "I would like to congratulate the 'Empty Properties Office' for their professional assistance in helping me bring an empty property back to the rental market. Not only have I created additional income, but I have created a valuable asset for my business. Needless to say, I am also proud that I have created a comfortable home to help meet local shortages.

The process put in place by the council to provide a grant towards the work and the invaluable advice regarding VAT savings, was simple from start to finish. The application and decision process was quick and the ongoing advice and support helpful. Final inspection is due next week, and then I will receive my grant. Many thanks!"

For further information about empty properties grants please contact the Housing Standards team on 01803 208025 or email housing.private.sec@torbay.gov.uk

What happens when the council serves a notice on a landlord?

The council will only serve a legal notice under the Housing Act only if it has exhausted the informal approaches taken with landlords and major improvements still need to be made. The other type of situation when this may happen is when the case is urgent. In these cases a notice would be served straight away.

In 2010, the council served 25 notices, yet it worked with landlords to get over 171 properties improved. Most of these would have required money to be spent by the landlord but this hopefully would have been factored in by the on-going maintenance and investment in their properties. Some funding was provided by the council with financial assistance towards improvements to heating systems. This is a particular issue in Torbay.

What type of notices are served?

Several types of notices can be served. These range from prohibition notices to emergency remedial works.

Most notices which are served were improvement notices. These clearly state what is wrong and suggest what needs to be done. If a landlord wanted to carry out other works which would address the particular issue, we welcome a discussion on how to achieve the same outcome by different means. Most notices are also charged for. This cost can be up to £300. This represents the additional cost that a particular case has incurred in serving the notice. Serving notices is seen as a last resort. Reasonable amounts of time are given in all notices for them to be complied with.



Above is an example of where the council asked for works to make the stairs safe to use. The council only became aware of it when the postman refused to deliver mail.

Occasionally the situation means that the local authority would undertake works in default. This usually means that both the situation and the physical condition represents an urgent problem where there is no likelihood of that landlord resolving it themselves. For example, two recent cases involved properties which had gone into receivership. This caused problems with finding anyone to take responsibility for the works. In one case there was a missing front door which left the elderly, female occupant vulnerable to crime.

What can a landlord do who is served with a notice?

It should come as no surprise to any landlord if they receive a notice. Usually the landlord and an officer from the council would have visited the property together. The officer would usually be an Environmental Health Officer or a renewal surveyor. This would have followed by an assessment of the inspection. If there were issues which needed to be addressed, a schedule of works would have been given. A letter would have also outlined what would happen if the works were not done, or if the landlord didn't come back with his own proposals.

To the right is a case that the council considered doing works in default on.

Any notice comes with the right of appeal. Appeals are heard by Residential Property Tribunal. This is an independent body and the process is designed for individuals to deal with their own appeals and not have the costs associated with using a solicitor.

Since the introduction of the Housing Act 2004 there have been 16 appeals in Devon and Cornwall. These have been mainly for appeals by landlords against improvement notices and three appeals against some form of licensing for Houses in Multiple Occupation (HMO).

What happens if a notice is not complied with?

Any notices which are not complied with and there is no appeal, the notice will be reviewed. The council would then consider whether to prosecute or not. Another action which could be taken would be for the council to do the works itself and recharge the landlord. An additional administration fee would be added to the costs of any works. There has only been a small number of occasions when this has happened.



Press Release 31/03/11

A landlord was sentenced to a fine of £135,000 and ordered to pay £23,000 costs for breaching fire safety regulations when he appeared at Exeter Crown Court on 29 March 2011.

Joseph Ernest Draper, as the then owner of the premises at 9 Hillsborough Terrace Ilfracombe, pleaded guilty to four offences under The Regulatory Reform (Fire Safety) Order 2005.

On 14th February 2008 a fire occurred at the premises which was sub divided into flats up to four storeys high. The fire, which started on the ground floor, spread throughout the building, in total 13 persons escaped with some of them having to clamber over the roof to get away from the flames and smoke.

Following this incident officers from Devon & Somerset Fire & Rescue Service carried out a fire safety audit of the premises. They found that the premises did not have adequate fire precautions for the type of use that it was being put to.

Area Manager Nick Manning, Community Safety Manager of Devon & Somerset Fire & Rescue Service, said: "Landlords and owners of properties used as flats should take notice of the outcome of this case- it has sent a clear message with the level of the fine awarded.

A building which has people living in self-contained flats with communal areas clearly counts as a house of multiple occupation in law and therefore has to have adequate fire precautions, which are maintained in a condition that ensures they will work when required.

We always strive to work closely with businesses to help them with their duty to comply under the Regulatory Reform (Fire Safety) Order 2005, but where their responsibilities are not taken seriously, and persons are put at risk of death or serious injury, the Service will consider prosecution. This case clearly demonstrates how our fire safety officers are applying the law to help ensure the safety of our community and helping to make Devon and Somerset safer."

Further information for landlords of houses in multiple occupation on the requirements of the fire safety law can be found on the Devon and Somerset Fire and Rescue Service Website – www.dsfire.gov.uk/yoursafety.

Specific guidance on the standards of fire precautions required in this type of property can be found here:

<http://www.communities.gov.uk/documents/fire/pdf/151339.pdf>

<http://www.lacors.gov.uk/lacors/upload/19175.pdf>

Useful telephone numbers:

Benefit Fraud Hotline:
0800 731 2731
(free, confidential and open 24 hrs a day)
Torbay Council's
Benefit section:
Tel: 01803 207201
Fax: 01803 292866

Supporting People team:

01803 208377
Housing Advice
Enquiry Line:
01803 208723
Housing Grants/
Enforcement/
Standards & Advice:
01803 208717

Energy Efficiency:

Energy Saving Trust
(Insulation Grants):
0800 512012
Warmfront
(Heating Grants):
0800 3162814

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