



**DOWNER & CO**  
LETTINGS & PROPERTY MANAGEMENT



NOTES AND A  
GUIDE TO LANDLORDS



As professionals we want to offer home owners a comprehensive letting and management service. To avoid the many pitfalls and potential problems of letting your property we have compiled these notes to provide a guide for prospective Landlords. We are, of course, more than happy to discuss these and any other matters at our offices or by a mutually convenient appointment at the property.

The requirements of a Landlord are very often personal to him or her – which is why our service is tailored to suit your individual needs. We communicate regularly with Landlords who like to be kept informed just as we make decisions on behalf of Landlords who prefer to be less involved. Whatever your requirements,

our objective is for you to be able to relax in the knowledge that your property is being looked after as though you were living there yourself.

At DOWNER & CO we aim to exceed all of your expectations and help you achieve financial security and peace of mind throughout your career as a landlord. It is with our people however, that you see the greatest difference. Our lettings department is run by personnel with years of invaluable experience. They are thoughtful professionals who ensure that we have access to the most up to date information regarding legislation and regulations. We are also backed by a team of solicitors who are specialist in Landlord and Tenant law. Unlike the majority of lettings agents that have one person doing everything, the lettings department at DOWNER & CO is a professional team of specialists including experienced negotiators, a Property Manager, book keeper, administrative staff and a team of experienced established trades people, who are committed to looking after your investment. We do not consider this to be a luxury- we consider it to be the service that you are entitled to expect. We are a well established firm of Chartered Surveyors and are bound and governed by bodies such as RICS and ARLA so you can be sure that our advice is both professional and thorough.

We understand how to let a wide variety of properties from studio apartments to country houses and through experience are able to offer sound advice on your particular property.

**FINDING THE RIGHT TENANT** One of our most important jobs is to find a suitable tenant so that you have complete peace of mind, knowing that your investment is in safe hands.

Prior to marketing, DOWNER & CO can advise on Energy Performance Certificates and their production. From the 1st October 2008 and under EU directives, it has been compulsory for all Landlords to produce a certificate and offer it to tenants prior to them entering into a contract – this can be implemented in conjunction with immediate advertising and will not hinder bringing your property to market. DOWNER & CO can confirm that the production of this certificate through our chosen DEA (Domestic Energy Assessor) will cost £89 + VAT. Landlords are free to source their own DEA. If, however, the property is withdrawn from the market for any reason, then DOWNER & CO reserve the right to claim their costs for providing the certificate.

**MARKETING** DOWNER & CO has its own marketing department which is constantly at work to promote your property. Our offices are centrally located and we publish frequent property bulletins that feature descriptions and photographs of available properties. These are circulated to a constantly updated mailing list, particularly major local employers, corporate clients and relocation agents with whom we are in regular contact.

DOWNER & CO places advertisements in the key local papers which attract a wide range of possible tenants and also advertise on Internet sites such as Rightmove, Primelocation and our own easy-to-use website. Interior and exterior photographs and an accurate property description highlight the best features ensuring you get the greatest possible exposure and maximum rental.

In addition to this we can place one of our distinctive DOWNER & CO boards at your property. If you would prefer that we market your property in a more discreet way then we can discuss this when we meet you.

**VIEWINGS** The demand for quality rented accommodation is better than ever and we may have someone waiting for just the property that you have to offer. Our dedicated lettings team will look after your property according to your requirements as a Landlord. We will be responsible for viewings, all of which are accompanied and if the property is currently occupied, strictly by appointment with either you the Landlord or your existing tenant, as appropriate.

**REFERENCES** All prospective tenants are interviewed by our experienced staff before we decide to reserve a property, subject to references. At that point we discuss with you details of all interested parties and only commence a full independent referencing procedure when all parties are in agreement.

A professional referencing company will be instructed to undertake the most thorough checks on all applicants which include and are not limited to, identity

checks, extensive financial and credit checks and where appropriate, checks on how previous tenancies have been conducted. In our experience effective referencing is perhaps the most important factor in the creation of a successful tenancy. Once DOWNER & CO are in receipt of this report we will liaise with you to discuss every part of this document and only when all parties are happy will we proceed with the tenancy agreement. The prospective tenants are responsible for the cost of providing these references.

#### **PREMIER LANDLORD SCHEME**

**INCLUDING LEGAL AND RENT PROTECTION** We expect you are aware that, as part of our set-up service, we use an independent referencing company to carry out a comprehensive check of all prospective tenants. Our referencing company "Rentwise" in association with Abbey Legal is able to offer a Premier Referencing service, at an additional cost, that we feel may be of interest to you. This service will include, but is not limited to:

- Indemnity for any rent owed by the tenant up until twelve monthly payments, or £10,000, or vacant possession
- Up to £25,000 worth of legal expenses for the eviction of a tenant after non-payment of rent

Whilst we always hope that as a Landlord you are never put in a situation where a tenant is unable to pay rent, unfortunately these things cannot always be

predicted. The comprehensive referencing service that we use minimises any such risk and along with the Premier Referencing Service may be the most effective way of securing your monthly rental income. Please ask your negotiator for further information. The cover is provided by Abbey Legal Protection, underwritten by Brit Insurance and administered via Hazelton, Mobbs and Mountford Ltd.

**THE TENANCY AGREEMENT** Whilst the referencing is under way DOWNER & CO will deliver draft contracts and formal offer letters to both parties detailing the negotiations. DOWNER & CO have extensive industry knowledge and, backed by our solicitors, can advise and detail an individual tenancy agreement to suit your needs. This is your opportunity as a landlord to make sure all options are covered and to inform us of any further specific clauses in the agreement that you wish included or indeed deleted.

**THE MOVE IN** Prior to your new tenant/s collecting keys DOWNER & CO will arrange for them to sign the Legal Agreement and associated documentation. This Agreement will be witnessed by one of our trained staff and formally exchanged. We will also supply the Tenant with any addenda, safety certificates, Head Leases or any further documentation that they need. Under the new Tenant Deposit Scheme Landlords need to document the condition and contents of properties to protect their interests should a dispute arise. This is essential to retain all or part of the tenant's deposit for circumstances of damage or dilapidation. Prior to your new tenant taking occupation of the property Downer & Co will instruct an Independent Inventory clerk to produce this report at no extra cost to you. This highly detailed report will be signed and agreed by the Tenant and will complete your pack of essential documents at the start of the tenancy. We will arrange for correct standing orders to be set up, utilities to be notified and we also account for any keys released to tenants.

**DURING THE TENANCY** DOWNER & CO's level of involvement depends upon which service you have chosen. In all cases we will:

Monitor the tenancy, writing to all parties to remind them of:

- Safety checks
- Renewals/end of tenancy
- Rent increases yearly etc.
- Produce formal Section 21 notices for end of tenancy
- Produce a formal checkout report and outgoing Inventory
- Hold the deposit under RICS and ARLA guidance

Under our management service we will (but are not limited to) carry out the following:

- Allocate a professional local DOWNER & CO Property Manager
- Allocate a local emergency contractor
- Arrange for utilities companies to be notified
- Be the first point of call in all circumstances for you and your Tenant.
- Conduct quarterly management inspections with a detailed written report on findings
- Collect, remit, monitor and account for monthly rents, including issuing reminder letters in the unlikely event of arrears
- Pay and account for property charges, ground rents etc.
- Liaise with quality contractors to ensure swift repair and maintenance when required
- Negotiate renewals, rent increases and terminations
- Negotiate the check out, deposit and dilapidations with outgoing Tenant/s

Above is a brief overview of management tasks undertaken, however if there are further requirements please do not hesitate to speak to your negotiator.

**THE RENEWAL PROCESS** DOWNER & CO will continue to monitor the tenancy throughout the term and approximately 3 months before the end we will contact both the Tenant and the Landlord to discuss the renewal process. As a Landlord you can either renew on another fixed term, serve notice to end a tenancy or continue under the original terms on a periodic basis. Your negotiator will discuss with you all the options available and advise on the best course of action.

**AFTER THE TENANCY** Once the tenancy has been completed, DOWNER & CO will account for the safe return of your property keys from the Tenant. We will

also arrange for the inventory clerk to attend the property to compile an outgoing report. This report will detail, if any, dilapidations, missing items and damage to the property and will also detail final meter readings. As your Agent we can take steps to put right any issues that may have arisen. At this point we can also instruct cleaners before either you return to the property or the new tenant takes occupation, ensuring that the property remains in the best condition possible.

## QUESTIONS & ANSWERS FOR LANDLORDS

**Energy Performance Certificates - do I need to provide one?** Yes. From the 1st October 2008 all Landlords have had to provide an Energy Performance Certificate (EPC). The Provisions are part of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 SI 2007/991. The requirement is set out in regulation 5 which demands that an EPC be supplied at the earliest opportunity and certainly prior to entering into any contract to rent out the property. An EPC can only be created by a qualified Domestic Energy Assessor. EPC's remain valid for 10 years. The penalty for not providing one will be approximately £200. Downer & Co are in contact with many Domestic Energy Assessors and are in a position to offer the certificate as part of our service.

**Are There Any Rules Regarding Contents Of A Property? Should It Be Fully Furnished, Furnished, Part Furnished Or Unfurnished?** No, there are no strict rules but both expectations and reality can vary in different areas of the country and even within different niche sectors in local markets.

Generally, a property offered as "fully furnished" would contain all the main fixtures, furnishings and fittings, white goods etc., plus the standard crockery, cutlery, glassware, pots and pans etc., that a reasonable tenant would normally use on a day to day basis. At the other end of the scale an "unfurnished" property would normally be provided only with such basics as carpets, curtains, light fittings and white goods.

Clearly, there are infinite variations between these two extremes. Therefore, the critical aspect, whether you are a Landlord or Tenant, is to make sure that everyone clearly understands which main items are, or are not, included before finalising the Tenancy Agreement.

**What About Safety Regulations For Rented Property?** There are specific legal obligations and responsibilities on a Landlord with regard to Fire safety for Furniture & Furnishings, Gas supply and appliances, plus Electrical wiring and appliances. Prior to letting your property we will provide you with all the relevant guidance concerning the following regulations:

The Furniture and Furnishings (fire) (safety) Regulations 1988  
The Furniture and Furnishings (fire) (safety) Amendment Regulations 1993  
The Gas Safety Regulations 1994 (Installations and Use)  
Electrical Equipment (safety) Regulation 1994  
The Low Voltage Electrical Equipment (Safety Regulations) 1989  
Part 'P' Building Regulations (Electrical Safety in Dwellings)  
Building regulations (Smoke Alarm) 1991

**What About Insurance?** Landlords and tenants should take care to review any existing policies when renting a property for the first time as some standard insurance products will either not provide cover, or might place restrictions on cover, for rented property and/or its contents. A failure to inform your insurer that you are renting/letting a property could invalidate any subsequent claim. It is for a Landlord to insure the building and his/her contents, fixtures and fittings. The Tenants are responsible for insuring their own possessions. There are various specialist insurance products designed for Landlords and Tenants and rented property: - Buildings, Contents, Legal Expenses, Emergency Repair cover, Rental Guarantee cover etc.

**What About An Inventory/Schedule Of Condition?** This is an essential document that provides a written benchmark, which should be amended, updated or recreated before the beginning of each new tenancy. A properly constructed Inventory/Schedule of Condition details the fixtures and fittings and describes their condition and that of the property generally. Such a document should be seen as a necessary investment that helps protect the interests of both Landlord and Tenant. This document is included in our fee.

**Is it Necessary to Inform the Bank/Building Society?** Yes. Formal consent must be obtained from your bank/building society if you have a mortgage on the property.

**What Is A Tenancy Agreement?** A Tenancy Agreement is a legally binding contract between a Landlord and Tenant that sets out both the legal and contractual responsibilities and obligations of the two parties. It should be written in plain and intelligible language (no unnecessary jargon!) and its terms and clauses should be fair and balanced, taking account of the respective positions of the parties and should not mislead about legal rights and responsibilities. Landlord and Tenant should take care to individually negotiate any particular terms or conditions that are important to them or especially relevant to the particular let or property.

**What Kind Of Tenancy Agreement Will Be Used?** The most common form of tenancy agreement used is an "Assured Shorthold" (an AST) under the 1988 Housing Act (amended 1996). This type of tenancy offers the most flexibility to

both Landlord and Tenant, has straightforward notice procedures for bringing the tenancy to an end and a special Accelerated Possession court procedure should tenants fail to vacate. If certain specific conditions are met relating to the proposed letting, a "contractual" Non-Housing Act Tenancy must be created. One example of this would be what is commonly referred to as a Company Let where the tenant is a bona-fide registered Company. Another would be where the annual rent equates to over £100,000.

Very rarely, a prospective Tenant may be offered a full "Assured" tenancy that gives very significant and potentially long-term security of tenure to a tenant and, for which a Landlord can only recover possession in very limited circumstances.

DOWNER & CO's professional and legal agreements are much more comprehensive than those bought in a local stationers or Post Office. Our agreements are constantly updated through lengthy consultations with RICS, ARLA and our legal advisors Pain Smith Solicitors.

**Joint And Several - What Does That Mean?** Where there is to be more than one (adult) person living in the property, the tenancy will say they are "jointly and severally" responsible. This expression means that, jointly, the Tenants are liable for the payment of all rents and all liabilities falling upon the tenants during the tenancy, as well as any breach of the Agreement. Individually also, each Tenant is responsible for payment of all rent and all liabilities falling upon the Tenants, as well as any breach of the Agreement until all payments have been made in full.

**What About The Tenancy Deposit?** It is quite common for a deposit of an amount equivalent to a month and a half's rent to be held during the tenancy against the satisfactory performance by the tenant of all the obligations under the Tenancy Agreement - but mainly, those relating to the cleanliness and condition of the property. The relevant clauses in the Tenancy Agreement should set out who is to hold the deposit (e.g. agent or landlord), whether interest is to be paid or not, what the deposit can be allocated for and the end of tenancy procedures and timescales for its refund.

It is recommended that the tenancy deposit (bond) be held during the tenancy by the member agent as "stakeholder" between the parties involved. This means that at the end of the tenancy the agent should obtain the agreement of both sides before making any deductions for damage, cleaning etc.

New regulations came into effect on the 6th April 2007 which made it a legal requirement for all deposits to be covered by a Tenancy Deposit Protection Scheme. DOWNER & CO can confirm that we are official members of the Tenancy Deposit Scheme (TDS) (no. G01652). The negotiator that you are dealing with will be able to elaborate on the legal implications and the schemes available should you wish to hold the deposit yourself.

**What Is A "Break-Clause"?** This is a clause sometimes inserted into a fixed term tenancy, typically if the initial fixed term is for a year or more. A break clause will usually be worded in such a way as to allow either Landlord or Tenant to give two months written notice at any stage after a particular date or period of the tenancy, thus terminating the tenancy earlier than the end of the original fixed term.

**What Happens If Either Party (Landlord Or Tenant) Unexpectedly Wish To End An Existing Tenancy Early?** There are only limited ways in which this can happen. The Landlord cannot make the Tenants move out, nor can the tenants lawfully walk away from their obligations to fulfil the contract. Either party might request of the other that a formal "surrender" of the tenancy be allowed. It would then be up to the parties to agree the terms and conditions of such surrender. This might include some financial compensation for inconvenience or costs incurred.

**How Often Can The Rent Be Increased?** In general terms, rent of an existing tenancy can only be increased once every twelve months. Where an Assured Shorthold Tenancy continues as a statutory periodic tenancy, a specific prescribed form (a Section 13 Notice) must be used to notify Tenants of a proposed increase in the rent. It is usual, if creating a longer fixed term tenancy at the outset, or one with a binding option to renew, to include a clause that allows for an increase of the rent on an annual basis, typically linked to, or as a multiple of, the Retail Price Index (RPIX) or similar.

**Rights Of Access To The Property - What Are The Rules?** A Landlord, or his agent, or someone authorised to act on his behalf has a right to view the property to assess its condition and to carry out necessary repairs or maintenance at reasonable times of the day. The law states that a Landlord or agent must give a Tenant at least 24 hours prior notice in writing (except in an emergency) of such a visit. Naturally, if the Tenant agrees, on specific or odd occasions, to allow access without the 24 hours prior written notice, that is acceptable. A clause in the Tenancy Agreement which tries to diminish or over-ride a Tenant's rights in this respect would be void and unenforceable.

**Repairs & Maintenance Issues** A Landlord, in very general terms, has a legal responsibility to repair the structure and exterior of the property, including drains, gutters and external pipes; to keep in working order the installations for the supply of gas, electricity and water; and, for the installations for the provision of space and water heating. The Landlord also has other legal responsibilities relating to the safety of such items as gas, electricity and furnishings as well as the general standard or fitness of the property for habitation.

(CONTINUED OVER)

A Tenant has an express covenant to act in a "tenant-like manner". Broadly, this means to report disrepair promptly, to take reasonable steps to ensure that neither the Tenant nor guests damage the property, its fixtures and fittings, to do the minor day to day things any home-occupier would normally do e.g. replace light bulbs, fit a new battery in a smoke or CO2 detector, tighten an odd screw which has come loose on a door handle etc.; to keep the property reasonably warm and aired to help prevent condensation or freezing of pipes; to leave the property secure when absent from it; to keep the garden and other areas reasonably tidy and free from rubbish.

#### **Are Tenants Entitled To Know The Name And Address Of Their Landlord?**

Yes, there are many areas of Law covering this and it is a criminal offence for an agent (or whoever is collecting the rent) to fail to provide, without reasonable excuse, this information within 21 days of formal written request by the Tenants.

**What About Renewals And Extensions Of A Tenancy?** This is a very common situation and DOWNER & CO will normally negotiate between the parties and prepare the necessary formal documentation for a replacement tenancy or fixed term extension. If no further fixed term is created to follow on from the end-date of the original term, and assuming notice to end the tenancy has not been served, the tenancy can simply continue as a "periodic tenancy" e.g. rolling on with the same terms and conditions.

**How Is A Tenancy Terminated?** The Law governing ending a tenancy is relatively straightforward as long as the right timescales and procedures are followed, along with the use of the correct format of notice. The timescales, procedures and format will vary dependent upon the type, and the status of the tenancy at the time you wish to end the agreement. DOWNER & CO will be able to provide guidance.

#### **What Happens If The Tenant Does Not Move Out After The End Of A Tenancy?**

First, try to quickly establish the reasons why. However, if a Tenant does not move out after a tenancy has been lawfully terminated then the Landlord can apply to the Courts for a Possession Order. Under the Accelerated Possession Procedure (which can be used where the tenancy was an Assured Shorthold) the process is usually fairly quick and inexpensive. You will need to seek independent advice in respect of any action you wish to take under Section 8 or related litigation. DOWNER & CO will not be responsible for any legal action that may ensue between you and your tenant at any stage during the tenancy. However, we will give whatever advice and assistance we can to reduce the problems.

**Taxation Issues** There are certain taxation issues that relate to the rental of property, especially if you are an overseas landlord. Please ask us about the NRL1 form and refer to your accountant or speak to the local tax office on how these issues are relevant to your personal circumstances.

**Money Laundering** In accordance with recent legislation it is now a legal requirement that we identify all our clients. Your help and co-operation in this will be gratefully received.

**General** Rental income and security deposits are handled or held by DOWNER & CO exclusively through a separate client account. Rental income is disbursed immediately and security deposits are held until the termination of a tenancy, under the provisions of the lease. Being a firm of Chartered Surveyors all our client funds are protected under the insurance scheme regulated by the Royal Institution of Chartered Surveyors. This ensures that any clients' funds are safe at all times. In addition our clients' funds are subject to regular scrutiny by the company's auditors and the RICS. DOWNER & CO pay an annual premium to ensure this safeguard for our clients and we hope, at a time when other property-related bodies have had to abandon their scheme, that this gives an appropriate level of comfort to our clients and tenants.

**Complaints procedure** In the event of a complaint you will be reassured to know that DOWNER & CO operates a Complaints Handling Procedure, approved by the Royal Institution of Chartered Surveyors and this includes the ability for redress by the Ombudsman for Estate Agents, of which we are a Member.

**Stamp Duty on Tenancy Agreements** Due to the delay involved in being able to forward the tenancy documents to the parties concerned we do not arrange for agreements to be stamped by the Controller of Stamps. Stamped agreements are only necessary in the rare event that a dispute between the parties results in a court case and, even if this situation should arise, agreements can be stamped beforehand.

**FEE STRUCTURE** In the case of managed and non managed services the initial fee will include all marketing, accompanied viewings, referencing of the prospective tenants, preparation of legal tenancy agreements and the independent inventory. It will also include serving of all correct notices to terminate the agreement, the check out inventory and subsequent report. Our initial fee will be settled from the first month's rent collected and you will subsequently be accounted to in respect of the balance. It is important to remember that there are no hidden charges or costs.

**FULL MANAGEMENT** DOWNER & CO Full Management Service will give you complete peace of mind. Our fee for the initial setting up of the tenancy will be 50% of one month's rental plus VAT. With effect from month two of the tenancy the ongoing management fee will be 12% plus VAT per calendar month. The property will be regularly inspected and any routine repairs attended to in accordance with your instructions detailed within our Essential Information form. Emergency repairs will be attended to in accordance with our standard procedures. Also, in accordance with our standard management procedures we would ask for your consent to retain £100.00 on account in order that minor maintenance repairs may be instigated on your behalf.

**NON-MANAGED** If it is your intention to manage the property yourselves our fee for the initial setting up of the tenancy will be assessed at the rate of 75% plus VAT of the first month's rent collected.

**RENT COLLECTION ONLY** If you would prefer to consider our rent collection only service then our set up arrangements are as detailed within our full management service. However, with effect from the second month of the tenancy our commission to collect the rent on your behalf throughout the tenancy will be calculated at 6% plus VAT and it will be our responsibility to take all reasonable and proper steps to collect the monthly rent payable in accordance with the provisions of the 1988 Housing act as amended by the 1996 Housing Act.

Alternatively we would be pleased to set up a management service to suit your specific requirements for which we would tender a separate quotation.

**REFURBISHMENT & REPAIRS** The Management fee includes arranging for minor repairs to be carried out. Please note that £100 will be held on account to enable contractors' invoices to be paid promptly. If for any reason substantial repairs in excess of £3,500 or refurbishment are required we would at your instruction obtain estimates and supervise the work, and a fee of 15% plus VAT of the total cost will be charged.

For any major works i.e. over and above what is considered day-to-day repairs we can refer you to a Building Surveyor.

**RENEWAL** If it is your intention to renew the tenancy agreement with a new Fixed Term Agreement then to cover the associated administration and legal document cost there will be a charge of £60 plus VAT – this service is free to our landlords who use our Managed service.

PLEASE NOTE: Payment of fees is not required until the property is let, thus, landlords do not need to find any monies in advance of rent being paid.

We collect monthly rentals from the tenant and promptly credit the net payment to the Landlord's bank. This payment will reflect the deduction of our Management fee together with any other deductions which have been incurred on your behalf.

During the course of the year we will send you copies of monthly statements /accounts, trading invoices and other documentation. This information must be kept in a safe place as we will make an administration charge of £10.00 + VAT for each re-issued document.

Whichever letting service you decide on we would ask that you please complete and return our "Essential Information Form" in order to assist in the smooth letting and management of your property.

**VALUE ADDED TAX** at the standard rate will be charged to our fees where applicable – DOWNER & CO is registered for VAT- No: 892 3260 14

**HMRC** As a data controller (under the Data Protection Act 1998) it is our legal obligation to inform you that we make regular disclosures to the HMRC relating to the rental of properties.

**Disclaimer** The brief information contained in this leaflet is believed to be accurate, however, it should not be relied upon in place of formal legal advice.



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