

SCHEDULE

Letting Agent Code of Practice

SECTION 5

Management and maintenance

73. If you have said in your agreed terms of business with a landlord that you will fully or partly manage the property on their behalf, you must provide these services in line with relevant legal obligations, the relevant tenancy agreement and sections of this Code.

74. If you carry out routine visits/inspections, you must record any issues identified and bring these to the tenant's and landlord's attention where appropriate (see also paragraphs 80 to 84 on property access and visits, and paragraphs 85 to 94 on repairs and maintenance).

75. Breaches of the tenancy agreement must be dealt with promptly and appropriately and in line with the tenancy agreement and your agreement with the landlord.

Rent collection

76. You must have appropriate written procedures and processes in place for collecting and handling rent on the landlord's behalf. These must set out how the late payment of rent will be handled and the legal requirements on tax deductions from rent received on behalf of non-resident or overseas landlords and the subsequent payment and reporting requirements. This should outline the steps you will follow and be clearly, consistently and reasonably applied.

77. If you collect rent on the landlord's behalf, you must, as a minimum, give the tenant a statement of their rent account on request. Where a tenant pays in cash they must be provided with a receipt.

78. You should inform the landlord in writing of the late payment of rent, in line with your written procedures or agreement with the landlord.

79. In managing any rent arrears, you must be able to demonstrate you have taken all reasonable steps to recover any unpaid rent owed to the landlord (see also section 8).

Property access and visits

80. If you hold keys to the properties you let, you must ensure they are kept secure and maintain detailed records of their use by staff and authorised third parties – for instance, by keeping keys separate from property information and holding a record of the date the keys were used, who they were issued to and when they were returned.

81. You must take reasonable steps to ensure keys are only given to suitably authorised people.

82. You must give the tenant reasonable notice of your intention to visit the property and the reason for this. Section 184 of the Housing (Scotland) Act 2006⁽¹⁾ specifies that at least 24 hours' notice must be given unless the situation is urgent or you consider that giving such notice would defeat the object of the entry. You must ensure the tenant is present when entering the property and visit at reasonable times of the day unless otherwise agreed with the tenant.

83. If the tenant refuses access, you, the landlord or any third party have no right to enter the property using retained keys without a warrant.

(1) 2006 asp 1; section 184 was amended by section 25(8) of the 2014 Act.

84. You must make it clear to the tenant or occupier beforehand if a third party will visit the property unaccompanied.

Carrying out repairs and maintenance

85. If you are responsible for pre-tenancy checks, managing statutory repairs, maintenance obligations or safety regulations (e.g. electrical safety testing; annual gas safety inspections; Legionella risk assessments) on a landlord's behalf, you must have appropriate systems and controls in place to ensure these are done to an appropriate standard within relevant timescales. You must maintain relevant records of the work.

86. You must put in place appropriate written procedures and processes for tenants and landlords to notify you of any repairs and maintenance (including common repairs and maintenance) required, if you provide this service directly on the landlord's behalf. Your procedure should include target timescales for carrying out routine and emergency repairs.

87. If emergency arrangements are part of your service, you must have in place procedures for dealing with emergencies (including dealing with out-of-hours incidents, if that is part of the service) and for giving contractors access to properties for emergency repairs.

88. You must give the tenant clear information about who will manage any repairs or maintenance, as agreed with the landlord and set out in the tenancy agreement. This includes giving them relevant contact details (e.g. you, the landlord or any third party) and informing them of any specific arrangements for dealing with out-of-hours emergencies.

89. When notified by a tenant of any repairs needing attention, you must manage the repair in line with your agreement with the landlord. Where the work required is not covered by your agreement you should inform the landlord in writing of the work required and seek their instructions on how to proceed.

90. Repairs must be dealt with promptly and appropriately having regard to their nature and urgency and in line with your written procedures.

91. You must inform the tenant of the action you intend to take on the repair and its likely timescale.

92. Where access is needed for repairs you must give the tenant reasonable notice of when access is required unless other arrangements have been agreed. Section 184 of the Housing (Scotland) Act 2006 is also relevant here.

93. If there is any delay in carrying out the repair and maintenance work, you must inform the landlords, tenants or both as appropriate about this along with the reason for it as soon as possible.

94. You must pursue the contractor or supplier to remedy the defects in any inadequate work or service provided.

Contractors and third parties

95. If you use a contractor or a third party, you must take reasonable steps to ensure they hold appropriate professional qualifications and the necessary public and professional liability insurance. You should hold copies of all relevant documents.

96. On request, you must disclose to landlords, in writing, whether you receive any commission, fee, rebate or other payment or benefit and any financial or other interest you receive from a contractor/third party you appoint.