

Landlords' Agents Face Jail: Are You at Risk?

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This is the stark reality emphasised by a case in which the author acted for the Health & Safety Executive (HSE) at Peterborough Crown Court on 12 October 2009 when a custodial sentence was given to the agent of a landlord of domestic premises who had failed to comply with gas safety legislation.

In October 2007 Inspectors from the HSE and CORGI (now Gas Safe Register) visited the house in Huntingdon which was occupied by 8 tenants including a young couple with a baby. The Inspectors discovered ten defects with the gas appliances. Three of these defects were classified as "immediately dangerous" (an appliance or installation which, if operated or left connected to the gas supply, is an immediate danger to life or property) and three were classified as "at risk" (an appliance or installation where one or more recognised faults exist and which, if operated, may constitute a danger to life or property). The defects included two gas leaks and a very poorly maintained open-flued gas fire in a room where the young couple and a baby slept.

There was no evidence that an annual landlord's gas safety check had been carried out and the HSE served an Improvement Notice on the landlord requiring the landlord to provide a Landlord's Gas Safety Record to the tenants and the HSE or to arrange for the gas safety check to be carried out and the Gas Safety Record be provided to the tenants and the HSE.

The landlord failed to comply with the Notice and was prosecuted for that failure and for the various breaches of the gas safety regulations. However the offences were committed as a result of the act or default of the landlord's managing agent who was also prosecuted and although pleading guilty was sent to prison for 4 months. The agent had also made the mistake of producing a false, back dated Landlord's Gas Safety Record for which he received a further 12 months' imprisonment, to be served consecutively, for attempting to pervert the course of justice.

Landlords' duties apply to a wide range of accommodation, occupied under a lease or licence, which includes, but not exclusively:

- residential premises provided for rent by local authorities, housing associations, private sector landlords, housing co-operatives, hostels
- rooms let in bed-sit accommodation, private households, bed and breakfast accommodation and hotels
- rented holiday accommodation such as chalets, cottages, flats, caravans and narrow boats on inland waterways



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A landlord's duties under the Gas Safety (Installation and Use) Regulations 1998 include the duty to arrange maintenance by a [Gas Safe Registered engineer](#) for all pipe work, appliances and flues, which the landlord owns and has provided for the tenants' use. The landlord must also arrange for an annual gas safety check to be carried out every 12 months by a Gas Safe Registered engineer. The landlord must keep a record of the safety check for 2 years and issue a copy to each existing tenant within 28 days of the check being completed and issue a copy to any new tenants before they move in.

Landlord duties for LPG appliances are the same as for natural gas. The landlord must arrange maintenance by a Gas Safe Registered engineer for all LPG appliances which they own and provide for tenants and have a Gas Safe Registered engineer carry out a safety check at least once every 12 months.

In addition to maintenance, there are some further safety precautions to take with LPG heaters:

- be aware that cabinet heaters need a good supply of fresh air to burn properly so the room must be well ventilated;
- ensure any heaters have an atmosphere sensing device – it will shut the appliance off if the air quality is poor;
- Ensure that the correct size and type of gas bottle is being used.
- Be aware that outdoor heaters are not designed for use indoors.

Any gas appliance that the landlord owns and has provided for the tenant's use is included in the legal duties. If a tenant has their own gas appliance that the landlord has not provided, then the landlord has responsibilities for parts of the associated installation and pipe work but not for the actual appliance.

Landlords who use agents to manage properties need to ensure that the management contract clearly specifies who is responsible for carrying out the maintenance and safety check duties, and keeping associated records. If the contract specifies that the agent has responsibility then the same duties under the Gas Safety (Installation and Use) Regulations 1998 that apply to a landlord apply to the agent.

In this situation an agent must arrange maintenance by a Gas Safe Registered engineer for all pipe work, appliances and flues, which the landlord owns and provides for the tenants' use. The agent must also arrange for an annual gas safety check to be carried out every 12 months by a Gas Safe Registered engineer and must keep a record of the safety check for 2 years and issue a copy to each existing tenant within 28 days of the check being completed and issue a copy to any new tenants before they move in.

Gas Safe Register offer lots of [advice and guidance to landlords](#) and advice on landlords' duties from the HSE is contained in [HSE's guidance to landlords and letting agents](#) Tenants can obtain advice at [HSE's guidance for tenants](#)