



TRULY GLOBAL REACH

 [mackrell.com](http://mackrell.com)



# Residential Property – Your coronavirus questions answered

**Like many other sectors, the UK residential rental market has had to respond quickly to the coronavirus pandemic.**

The Government has introduced a number of changes and issued lots of guidance to both landlords and tenants to help them deal with this challenging period and yet it is inevitable that parties will still have important questions about their legal rights and obligations.

To help provide a better understanding of the current situation we have prepared a helpful FAQ section that covers some of the queries you may have.

## Can I evict my tenant?

The Government has imposed new rules freezing repossession proceedings and evictions to ensure that those struggling to pay rent are protected.

These changes were effective for 90 days from 27 March 2020 and reflected the need to protect courts as well.

This measure covers all private and social renters, as well as those with mortgages.

To clarify the rules the Government has released additional guidance which confirms that:

- There is a current backstop for the relevant direction so that it ceases to have any effect on 30 October 2020.
- The delay imposed on possession proceedings does not apply to claims against trespassers, including the ability to make certain applications within certain types of those proceedings.
- Parties to possession proceedings can make applications for case management directions, where the parties agree on them.

The delay does not prevent the issuing of claims, but simply stays (freezes the progress of) claims.

## Can I serve notice?

Temporary laws passed by Parliament require landlords to give renters three months' notice if they intend to seek possession since 26 March 2020. Notice periods have been extended accordingly and this would affect the date when proceedings can be issued.

This protection covers most tenants in the private and social rented sectors in England and Wales including tenancies under the Rent Act 1977, the Housing Act 1985, the Housing Act 1996 and the Housing Act 1988.

Obviously, the provisions may be changed and the progress of proceedings may still be frozen for a longer period.

## What legal requirement is there now for the payment of rent?

Tenants have been told in Government guidance that they should continue to pay rent and abide by all other terms of their tenancy agreement to the best of their ability.

Rent levels agreed in a tenancy agreement remain legally due and so any unpaid rent will be accrued as arrears and should be repaid.

The Government has provided a strong package of financial support to certain tenants, and where they can pay the rent as normal, they should do.

Where a tenant is unable to pay rent, they should contact their landlord at the earliest opportunity to discuss the repayment of rent.

Although landlords may not currently be able to evict tenants quickly, it does not exempt tenants from paying and action can be taken in future for any outstanding rent, including repossession of the property once the moratorium on evictions has ended.

## What can I do about rent arrears?

Landlord and tenants are encouraged to agree to a plan if tenants are struggling to pay their rent, which can include reaching a temporary agreement not to seek possession action for a period of time and instead accept a lower level of rent, or agree a plan to pay off arrears at a later date.

If a landlord and tenant can agree a plan to pay off arrears at a later date, it should be done in writing and all parties should abide by this arrangement. Tenants should talk to their landlord immediately if they are unable to do so.

## I am a buy-to-let mortgage holder, what can I do?

The Government has already agreed with lenders to extend the offer of a three-month mortgage holiday to buy-to-let mortgage holders. If you are unable to cover the costs of your mortgage due to a reduction in rental income speak to your lender to try and arrange a payment holiday to suit your needs.

## Can I continue to market properties and allow new tenants to move in?

The Ministry of Housing, Communities and Local Government (MHCLG) has advised that movement into new properties should be avoided unless already underway and cannot be delayed.

This requirement means a contract must have been agreed to prior to the Government's COVID-19 measures and that it can't be moved to a later date.



This means that it may not be possible to market your property at this time. If a tenant is required to move in still, then they should limit the number of people involved as per the Government guidance.

The rules regarding social distancing also make the viewing process more difficult, as well as the verification of identities.

### How should I arrange check-ins and check-outs during this period?

If a lease is due to begin or end and you are required or planning to conduct checks then these should ideally involve as few people as possible. If possible, it may be advisable to delay the end of a lease or the start of a new lease by written agreement.

At the end or beginning of a lease, you will also need to consider the deposit. The Tenancy Deposit Scheme has published specific guidance on performing check-outs during the coronavirus pandemic, which can be found [here](#).

### Can I perform property inspections during this period?

Landlords are required by law to keep a property in repair and should perform any necessary inspections. However, under the current Government requirements, this may not be possible.

Those who are currently self-isolating or shielding are advised not to have any visitors. Where a tenant informs you that they are self-isolating it may be advisable to cancel any planned inspections and rearrange them for a suitable time in the future.

Even where a person isn't self-isolating or shielding it worth seeing whether an inspection can be re-arranged or conducted while a person is out of the home. If you cannot avoid an inspection make sure you take all necessary precautions and follow Government guidance. Ensure any changes to your normal inspections schedule are clearly documented.

### What if my tenant is self-isolating, and I need to perform repairs?

Tenants have a number of implied rights to certain important repairs. However, it may not be possible to undertake repairs at this time for some tenants, but you should still document the reason you cannot carry out the repair.

Where a repair can be undertaken, landlords need to make a judgment on the urgency of the situation and decide whether the work can be delayed. Make sure the reasons for not undertaking work are documented.

Of course, essential works, such as work on water supplies, sanitation and the supply of electric and heating must be addressed. Urgent health and safety issues should if possible be dealt with and could also include:

- If there is a problem with the fabric of a building, such as a roof is leaking
- White goods such as a fridge or washing machine have broken
- Security-critical problems, such as a broken window or external door
- If equipment a disabled person relies on requires installation or repair.

In this case, landlords, their representatives and tradespeople must follow Government guidance to undertake the necessary repairs.

### I have to perform a right to rent check. Do I still have to meet the tenant in person?

Under normal circumstances, landlords are required to conduct a right to rent check which involves meeting all adult occupiers in person before the tenancy is signed. At that meeting, they check they must check occupiers have a right to rent in England.

Under the Government's current temporary regime, landlords should:

- Ask the tenant to submit a scanned copy or a photo of their original documents electronically.
- Video call the tenant and ask them to hold up the original documents while the landlord checks them against the digital copy sent to them.
- Record the date the check was made and mark it as "an adjusted check has been undertaken on [date] due to COVID-19".

Once the coronavirus emergency ends, landlords who have performed a check in this way will have to perform a follow-up check in-person to ensure they are fully compliant.

### My gas safety certificate is due to expire, do I still need to undertake this check?

It is a legal requirement for a rented property to have an up to date gas safety certificate. In light of this gas safety inspections can go on as they are essential works, as long as social distancing guidance is followed.

To help landlords Gas Safe have published guidance on how safety inspections can be done, which can be found [here](#).

### New electrical safety certificates were due to be introduced, are these still required?

Landlords are still expected to have a qualified person inspect their property and get an electrical installation report before 1 July 2020 for new tenancies.

It has been recognised that this may not be possible due to the current measures and so landlords are being encouraged to keep records of their attempts to arrange inspections and any obstructions to performing a check. The Government guidance on this can be found [here](#).

### My energy performance certificate (EPC) is about to expire, should I renew it?

As it is a legal requirement for marketing a property, a landlord is only required to have a valid EPC at the point a tenancy begins. However, if there is no new tenancy created then you can allow it to lapse until the property is remarketed.

Full guidance on the EPC requirements has been published by the Government, which can be found by clicking [here](#).

### Here to help

While our FAQ section is fairly comprehensive, we appreciate that you may have other questions related specifically to your own needs.

If you are concerned about rental payments or are in a dispute with another party you should seek proper legal advice. Our team of residential property experts are standing by to offer support, so please contact us.

## TRULY GLOBAL REACH



**Tony Kent**  
Partner

[✉ Tony.Kent@mackrell.com](mailto:Tony.Kent@mackrell.com)



**Mary Brennan**  
Solicitor

[✉ Mary.Brennan@mackrell.com](mailto:Mary.Brennan@mackrell.com)

National Awards: 7

Mackrell International Offices: 170+

Years of Experience: 175+

+44 (0) 20 7240 0521 • [mackrell.com](http://mackrell.com)



### Mackrell.Solicitors

Savoy Hill House, Savoy Hill, London, WC2R 0BU  
5 The Wharf, 16 Bridge Street, Birmingham, B1 2JU

