



Guernsey Private Residential Landlords Association

A Landlords Guide to Residential Lettings and Code of Good Practice



The Guernsey Private Residential Landlords' Association (GPRLA)

Introduction

The GPRLA was formed in 2006 and has conducted considerable research into the private residential rental sector. There are approximately 4,250 privately owned rental properties that represent about 16% of the island's housing stock.

The aim of the Association is to simplify the process of lettings and management and to establish a Code of Conduct, so enabling a good relationship between Tenants and Landlords without the need for overly restrictive legislation. The Association works closely with the relevant Government offices and has influenced current and future legislation.

Part of the work has been the construction of a plain language lease, which is fair to both Landlord and Tenant and was developed by members of the GPRLA for use in Guernsey. It has been approved by members of the legal profession and the Housing Department.

The GPRLA Guide to Residential Lettings has been drawn up to provide some essential tools to help Landlords develop effective tenancy agreements and establish codes of best practice.

The private rented housing sector plays a vital role in meeting local housing needs. The World Health Organisation defines health as a state of complete physical, mental and social wellbeing. Residential accommodation should, therefore not only offer physical shelter but also make provision for the privacy, dignity and comfort of the occupants.

The GPRLA encourages Landlords to provide living conditions which fully comply with the above definitions. Landlords have a duty of care to tenants in accommodation they own and let to others eg. making sure they do not fall down the stairwell through either leaning against a rotten bannister or catching their heel in a hole in the stair carpet. Conversely, Tenants have a duty of care regarding a Landlord's property.

The guide is designed for both existing and prospective Landlords, and provides information and advice on letting property. This guide is not a substitute for taking advice from a professional, such as an advocate, or a suitably experienced person before making important decisions.

Because of the many changes in the Rules and Regulations affecting the duties of Landlords and the Requirements for rental properties, the GPRLA 2009 Guide is now a useful but rather incomplete source of information. As a voluntary organisation, time and cost considerations prevent the Association from re-publishing this guide every time there is significant new legislation. The GPRLA Council will however, try to keep members up to date by regular newsletters detailing changes. These will then be available for reference on the website. Anyone using this booklet is advised to check the website to see if the information they have is completely up-to-date.

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Professional Lettings and Management

There are a number of options that should be considered for managing a rental property, depending on the owner's own experience, skills and available time.

Self-management is an option for Landlords who are confident they know their responsibilities and what constitutes best practice in letting property. This may save money on agents' fees, but can involve advertising costs. It also requires a commitment to time and may not, therefore be the best choice for Landlords who are away from Guernsey for significant periods.

If help is required to manage the property, then the use of a reputable Lettings and Management agent may be the option a Landlord should take. An agent can market the rental property, advise on rent levels, find suitable tenants, carry out reference checks, carry out credit reference checks in the UK, provide a tenancy agreement and check the tenant in. Agents also offer rent collection, and a full management service. The agent charges the Landlord fees for these services, usually a percentage of the rent.

A Lettings and Management agent can also prove to be invaluable if rent needs to be chased from a Tenant. It needs to be considered that if a Landlord should come across a 'bad payer' then this can take up a considerable amount of time but if an agent has already been instructed to manage a rental property, then they will do the chasing of rent on behalf of the Landlord.

If a Landlord wishes to employ an agent then it is wise to compare fees and services offered before making a decision.

Leases

Key Elements of a Lease (Tenancy Agreement)

A Lease is an agreement between a Landlord and a Tenant. It allows the Tenant to reside in a property owned by the Landlord for a certain period of time, subject to various conditions and duties agreed by both parties.

A Lease is a contractual document and can be used in Court as evidence should either the Landlord or the Tenant breach the contract.

GPRLA has produced a 'Plain Language Tenancy Agreement' that has been in use by many of its members for a number of years. Unlike many Leases, the terms are easily understandable and there are some guidance notes in the margins. Many other Leases are complex documents that require a full understanding of various legal terms before either Landlord or Tenant should sign the document. Like any good lease, the GPRLA Tenancy Agreement is a permanent work in progress and can be updated following Court comments or judgements.

The GPRLA recommends all parties entering into a Lease should first seek professional advice.

A Lease should be agreed for the entire unit of accommodation being let by a Landlord regardless whether it is a room, wing, flat or house. This documents that the Landlord and the Tenant understand and are aware of their rights and obligations under the terms of the Lease. It is wise to remember that a verbal agreement, even between trusted friends, cannot be used in a court of law should the relationship break down.

Leases are usually granted for an initial fixed period of time negotiated between the parties ahead of signing the document. This period (known as the 'Term') for Leases in Guernsey, is usually one year. Shorter or longer terms can, of course, be agreed between Landlord and Tenant.

At the end of the Term many Leases make provision for the tenancy to extend automatically on a month to month 'rolling' basis. Should this be the case and assuming the Landlord and Tenant are happy with the arrangement, the Lease may continue without the requirement to produce a whole new document. It is even more important than with other leases that one with a 'rolling' provision should detail how and when the rent will change.

If no 'rolling' provision is made in the original Lease, it is essential to draw up a new Lease or a Lease Extension document that determines the extra time that the Tenant may continue to live in the property. This may be for a fixed period or an unspecified time subject to the Landlord or Tenant giving the other a reasonable period of notice (normally not less than two months) when either party wishes to end the Lease.

All Leases should include the following essential content:-

- The names of all parties entering the Lease (Landlord and Tenant)
- An accurate description of the premises including garden and parking (if applicable)
- The start and finish dates plus extension arrangements (if applicable)
- The rent details including how and where the rent is to be paid
- A description of when and how the rent may be reviewed
- The amount and purpose of the deposit paid and how and when it will be returned to the Tenant assuming there are no deductions
- A schedule of the obligations and requirements of the Tenant
- A schedule of the obligations and requirements of the Landlord
- A schedule of events should the Tenant default on rental payment or other obligations
- A schedule of events should the premises be damaged or destroyed
- Detail of how and when the premises will be returned to the Landlord at the end of the tenancy and in what condition
- The signatures of all parties and the date of signing the Lease

Inventory

It is important to include an inventory with any Lease. This should accurately describe all furnishings, appliances, and equipment that are included with the property. It should be checked, agreed and signed by the Landlord and the Tenant at the start of the tenancy. The inventory should include as much information as possible as this will provide evidence for any discrepancies when a Tenant vacates.

Any item added to the contents or replaced by the Landlord, should be put on the inventory and then signed and dated by all parties.

It is advisable to take **photographs** of specific areas of the property and to confirm the condition of the property and its contents at the commencement of the Lease. These photographs should be signed by both Landlord and Tenant at the commencement of the term. This action should avoid disputes between parties at the end of the term.

Common details to include in an inventory are:-

- a description of each room in the house including all furnishings
- the condition of the curtains (e.g. pair of floral curtains. Small tear in the lining of left-hand curtain)
- the condition of the carpets (e.g. fitted beige carpet. Large stain in front of fireplace)
- the condition of the furniture and any damage or serious wear and tear
- the amount of oil in the oil tank.(The Landlord and Tenant are advised to sign for this)
- when the boiler was last serviced and a copy of the Gas Safe Certificate or oil boiler service, if the Tenant is responsible for this service
- any obvious damage to the fabric of the building (i.e. cracked window in shed)

It is wise to note down as much detail as practicable. Signed photographs of the above can avoid disputes e.g. if it has been noted there is a door-stop to the lounge door and, when the Tenant vacates, the stop has gone and the wall has been damaged by the handle, the repair will be the responsibility of the Tenant.

By providing a comprehensive inventory both the Landlord and the Tenant safeguard their own interests

General Requirements of the Landlord under the Terms of a Lease

The Landlord should meet various obligations under the terms of a Lease.

These include:-

- To provide the Tenant with uninterrupted possession of the unit of accommodation, (excluding communal areas in shared buildings) provided the Tenant meets the terms and conditions of the Lease
- Keep the property in good general repair and undertake to maintain the structure wind and watertight as may be necessary from time to time
- Keep any boilers in good repair
- Keep the property insured against fire and other risks
- To pay Tax on Real Property (TRP) for the property
- To comply at all times with the Health and Safety (Gas) (Guernsey) Ordinance 2006 (or any subsequent modifications) regarding any gas appliances at the property
- To comply at all times with any other Health and Safety standards required by Guernsey Law
- To refund any rent that has been paid for that period or provide alternative accommodation, should the property become uninhabitable through fire, flooding or any other incident or a declaration of unfitness for habitation by an official body
- To include a reasonable notice period (e.g. two months) should the Tenant be required to leave the property at the end of the term
- To notify the Tenant of any service charge or other payments for which the Tenant is responsible under the terms of the Lease.

General Requirements of the Tenant under the Terms of a Lease

Terms and conditions should include:

- To make rental payments regularly, as detailed in the Lease, usually by direct debit unless otherwise specified by the Landlord
- To pay Parochial/Refuse rates and all utility bills
- To pay for the annual service of the boiler
- To keep the inside of the property in the same condition it was on commencement of the Lease, fair wear and tear excepted and maintain the garden
- At the end of the term to leave the property and contents as detailed in the Lease and Inventory
- To insure or risk the loss of all personal possessions (not covered by the Landlord's insurance)
- To agree with the Landlord the repair of any damage caused by the Tenant e.g. blocked drains, broken windows, stained carpets etc.
- To allow the Landlord reasonable access to the property to conduct necessary repairs, inspections or viewings. Access for emergencies should be granted immediately
- To ensure the property is adequately secured
- To make the Landlord aware of any necessary structural, health, safety or other repairs e.g. electrical, plumbing or heating installations
- Not to change colour schemes without written permission
- To respect the neighbours and not act in any way that they may perceive to be intrusive of their privacy
- Not to sublet the property nor assign the Lease without written authority of the Landlord
- Not to use the property for any other purpose than that specified in the Lease
- To comply with the notice period set out in the Lease at the end of the term

Guernsey Population Management

The States of Guernsey has established a method by which they grant documentation to those who do not have local status, thus enabling them to live and work in Guernsey.

Tenants must apply for and be granted the correct paperwork to live in Guernsey. It is a legal requirement for a Landlord to check that a prospective Tenant has a valid document for the Landlord's property.

Contact Housing for clarification.

Go to www.gov.gg and click on 'Population Management'.

Property Standards

Ensuring the Property is Habitable

Landlords are under an obligation to ensure their properties are kept in a habitable condition and that their tenants can reside there in comfort. One of the first things Landlords should consider is if they personally would live in the accommodation and, if not, why?

The majority of requirements are simple common sense.

Minimum standards to consider are:-

- Is the condition of the property satisfactory, both externally and internally?
- Is there damp in the property?
- Is there adequate ventilation?
- Is there adequate natural light and artificial lighting in the property?
- Is there a supply of cold running water suitable for drinking directly off the mains water supply?
- Are there adequate personal washing facilities with hot and cold water?
- Are the toilets and drains in good working order?
- Are the facilities for the storage, preparation and cooking of food adequate and clean?
- Is there adequate heating?
- Is there an adequate and safe electricity supply and electrical wiring with sufficient sockets for tenant's own heaters if the premises are unheated?
- Is there adequate refuse storage and are the refuse disposal arrangements satisfactory?
- Are the gas fittings and flues maintained in a safe condition?
- Is there adequate sound insulation?
- In multiple occupancy accommodation, who is designated to keep the common areas clean and free from obstruction?
- Is there adequate space for the number of occupants?
- Is there adequate fire protection and some documented means of escape from a fire?
- Is there a cesspit? (if the property is not on main drainage)

If there is a cesspit the Landlord should ensure that the tenant is aware of the importance of having the cesspit regularly emptied. This may seem very obvious to a resident of the island, but for those coming from the UK or elsewhere, cesspits are not common.

Landlords may wish to consider additional information provided by the local Office of Environmental Health and Pollution Regulation, '*Code of Good Practice for Renting Accommodation*' booklet, available online at www.gov.gg under 'Information for Landlords', 'Document Downloads'.

Responsibilities of the Landlord and the Tenant

A Landlord should keep the property and appliances in good repair and working order. This obligation should be laid out in the terms and conditions of the Lease and if the Landlord fails to comply with this he is in breach of the Lease. It is important to remember that carrying out regular maintenance on the property and fixing problems as they occur is safeguarding a Landlord's investment.

Landlords are not expected to be liable for the costs of any damage repair if such damage is caused by the act or negligence of the Tenant. For example if the Tenant allows the water pipes to freeze and as a result they burst or he blocks the WC and doesn't then clear it, he will be liable for the cost of repairs. Basically the tenant is expected to maintain the property by carrying out preventative measures such as clearing the drains and gutters of debris to avoid greater problems.

Generally if the house falls into disrepair as a result of wear and tear or for any reason not caused by the Tenant the Landlord is liable.

Should the Landlord fail in his duty to keep the property in a habitable condition the Tenant should give the Landlord written notice of such deficiency and as a last resort may withhold his rental payments. However, it is important to underline to the Tenant that as soon as necessary works have been completed he will be required to pay all withheld monies immediately in accordance with the terms and conditions of the Lease. It should be noted that Guernsey Courts have traditionally taken a dim view of tenants who have withheld rental payments.

As long as the property is habitable and the Landlord is carrying out his duties the general décor of the property is unimportant. A tenant may not withhold rent because he is unhappy with the aesthetic appeal of the accommodation.

With regard to entering the property to execute any repairs, save in emergency, the Landlord is normally obliged to give the Tenant a minimum of 24 hours' notice. Under the terms of almost all Leases, a Tenant is obliged to allow such access.

Insurance

The most important insurance policy a Landlord should have is one covering Public Liability. This provides cover for the Landlord in case a Tenant or guest is injured as a result of an accident on the property.

Buildings insurance covers the risk of damage to the structure and permanent fixtures and fittings of a building, for example in the case of fire.

Tenants are usually responsible for providing their own contents insurance to cover their personal belongings.

Landlords should take out contents insurance to cover loss or damage to household goods that have been supplied by them, e.g. carpets, curtains, washing machine or other furniture (in the case of furnished lets).

The insurance company should be informed that a property is occupied by Tenants. Failure to do so may invalidate the insurance.

There are specific policies for Landlords that provide cover for additional risks such as the loss of rental income and the cost of temporary accommodation where a property has been made uninhabitable as a result of one of the insurable risks.

Health and Safety Procedures

In addition to securing the structure of the property Landlords need to make sure that they have observed all the laws and regulations relating to health and safety when letting a property. There are various codes of best practice and some legislation relating to fire safety, gas and electrical goods and the responsibilities that a Landlord has in these areas.

The GPRLA believes the details supplied are correct at the time of publication. However, it is important to check all this information with the relevant departments or experts (see Useful Contacts). Each of the relevant departments will be able to assist with information and details of current legislation.

Fire Safety

The GPRLA strongly advises members to take advantage of a free survey offered by the Fire Department. A Fire Safety Officer visits the premises and produces a comprehensive written report specifying appropriate appliances and advises where to site them in each part of the building. Clearly an official report such as this would provide peace of mind and also be useful in the event of an insurance claim being made for fire damage.

Guernsey building regulations already state that all new-build properties must be fitted with adequate fire alarm systems and these are usually installed at the same time as other fixtures and fittings. Landlords of older buildings should ensure their Tenants are equally well protected. UK legislation already requires a mains powered smoke alarm with battery back-up on every floor of a property and some members have installed these.

Similarly, many members have installed fire extinguishers and/or fire blankets in each kitchen. Fire extinguishers in corridors/communal areas of larger buildings, smoke detectors and fire doors also add to safety.

Fire is always going to be a danger in any property and it is in the best interests of the Landlord to take any precautionary measures necessary to minimise a large blaze. If the property is being offered semi or fully furnished the Landlord should consider whether the furnishings are fire-resistant.

The introduction of the Furniture and Furnishings (Fire) (Safety) Regulations 1988 in the UK meant that all furniture manufacturers were obliged to meet certain safety standards. Before then furniture ignited more easily and often produced toxic gases. Therefore if a property is furnished with items manufactured after 1989 it is very likely they will be fire-resistant. All fire-resistant furniture and cushions usually have an information label. A Lease can state the Tenant may only provide furnishings that are fire resistant.

There is legislation in place that deals specifically with Houses of Multiple Occupation (HMO's) and properties which include accommodation at basement and/or above first floor levels. In these instances the Landlord is required by law to register with the Fire Department. More information can be sought from the Fire and Rescue Service.

Gas Safety

It is vital that Landlords clearly understand their legal duties in relation to gas supply and appliances.

If gas appliances are not properly fitted, checked and ventilated they can be dangerous. Gas appliances can give off carbon monoxide, a clear, odourless and poisonous gas, which can kill within a short time of exposure.

To avoid death or injury due to carbon monoxide poisoning, or other potential hazards, strict legislation has been put in place. The Health and Safety (Gas) (Guernsey) Ordinance 2006 specifically deals with the installation, maintenance and use of gas appliances, fittings and flues in domestic premises. It places duties on Landlords to ensure that all gas appliances, fittings and flues in rental accommodation are safe.

Some insurance companies now ask for an oil boiler safety certificate which can be issued by an OFTEC qualified firm.

The Requirements of the Landlord are:-

- To ensure gas fittings and flues are maintained in a safe condition
- To ensure an annual safety check is carried out on each gas appliance and flue. It should be noted that an annual service is NOT a safety check
- Have all installation, maintenance and safety checks carried out by a Gas Safe registered technician
- To keep a record of each safety check for a minimum of two years (it is recommended as best practice to keep these for longer)
- To issue a copy of the safety check record to existing tenants within 28 days of the check being completed or to the new tenant on the day they take up residence

Failure to comply with The Health and Safety (Gas) (Guernsey) Ordinance 2006 puts Landlords at risk of prosecution and could result in a fine of over £2,000 for each offence. If the case is referred to the Royal Court the Landlord may be subject to an unlimited fine and imprisonment.

The Health and Safety Executive have published a leaflet: 'Gas Appliances, A Guide to Landlords' Duties'. Any Landlord not familiar with the contents of this can view it online at www.gov.gg, then typing 'gas safety booklet' in the search window. Alternatively copies are available from Commerce and Employment.

NOTE: The GPRLA recommends that Landlords do not permit LPG cabinet heaters to be used in rental properties as these not only exhaust carbon monoxide into the atmosphere, but also create condensation. Any portable gas appliance supplied by the Landlord must undergo the same safety checks as listed above.

Electrical Safety

Landlords should have a clear understanding of their responsibilities in relation to electrical installations and appliances.

Landlords should comply with up to date electrical standards as guided by Guernsey Electricity. These state that all electrical equipment, including the installation of plugs, sockets and electrical supplies, must be safe and installed by a competent person.

Unlike the UK, in Guernsey it is not mandatory to have all electrics checked annually. However we would recommend a qualified electrician checks all electrical equipment on a regular basis in line with the amount of use each item undergoes to ensure it is safe and in good working order.

Landlords should consider the following when letting their property:-

- The condition of flexes and cables and whether there are badly fitted plugs, cracks and chips in casings, charring, burn marks or any other obvious fault or damage
- That all appliances have a manufacturer's rating plate
- That copies of all instruction booklets (user and safety manuals) are at the property
- That the fuse boxes are stocked with extra fuses
- Regular checks should take place and the records kept on file
- Plugs should be fitted with the correct type and rating of fuse
- That the appliances supplied do not create a greater electrical load than the wiring of the house allows

For further information contact a qualified electrician or Guernsey Electricity.

Failure to comply with Health and Safety legislation could result in the loss of life

A House in Multiple Occupation (HMO) or Lodging House

If you are thinking of entering the HMO market then before purchasing or sub-letting any property it is worth considering:-

- The current status of the building with building control? Over the past few years it has come to light that several houses operating as HMO's have not in fact ever applied for change of use from a private dwelling to an HMO.
- If the proposed property does not have the correct status, what is the likelihood of a retrospective application being successful?
- Does it meet the current fire regulations? If not, what is the cost of upgrading?
- Are there any environmental health issues under the new law?
- If a new venture, the GPRLA advises obtaining the relevant permissions before proceeding.

Fire Regulations

In most cases all HMO's will need to be registered with the relevant fire department.

The criteria for having to be registered are:-

- If you have 10 people or more housed in the building
- If anyone lives above the first floor
- If anyone lives in basement or semi-basement accommodation

As a general rule, if a building requires registration it will be necessary to have the following:-

- Fire doors fitted with the resistance of not less than 30 minutes
- All fire doors to be fitted with a self-closing device
- All fire doors to have Intumescent sealing strips, incorporating smoke seals
- A mains wired linked fire alarm system with emergency lighting
- Fire extinguishers of various types and fire blankets
- In some cases a fire escape

The Fire Department are very helpful and are willing to visit a property prior to any purchase or alteration, to give advice as to what is required. Upon completion of works a further inspection by the Fire Department will be necessary to ensure compliance with the regulations. It is recommended that the requirements are discussed with the Fire Department prior to any commitment.

Environmental Health

Environmental Health introduced new laws for HMO's and lodging houses in 2011. They were introduced primarily to raise the standards within this sector and to address the problem of overcrowding. To achieve this there is now a minimum size for a single and double room and a method to calculate this in a room with a sloping ceiling. A maximum of 2 people per room is allowed regardless of its size. The new law also deals with the requirements for personal washing and cooking facilities and the provision of communal areas. The full law and requirements can be viewed in the Environmental Health and Pollution Regulation's booklet: *Code of Good Practice for Renting Accommodation*.

Housing / Population Management Laws Compliance

Landlords have a legal duty to make sure all tenants have valid Housing documentation.

The following wording applies to the old Housing Law which has been replaced with the 2016 Population Management Law, currently (Nov 2017) under review. Some of this will still apply, so once the position becomes clear this section will be amended

There are two types of tenants:-

- **Locally qualified** - these are tenants that hold a local qualified residence licence, in the form of a **status declaration** issued to them. This is also their valid **Right to Work** document. Once issued there is no requirement to renew this type of licence.
- **Non local qualified residence** - tenants who are in this category need to apply for a local qualified licence. These can be short term (up to 9 months), 3 years, 5 years or 15 years. Generally speaking the type of person who would wish to live in a HMO are short term licence holders, up to 9 months. To make the application the form must be signed by the householder, who must be locally qualified. Therefore, each HMO is required to have at least one locally qualified person residing in the premises who becomes the head of the household for the purposes of signing any short term housing licences.

Any short term licence that is issued will have conditions attached, usually that the holder of the licence does not change their employment or the address at which they live without making a new application for a licence. Any licence issued becomes that person's Right to Work document.

Open Market Properties, even if in multiple occupation, are inscribed on a different register and have different regulations regarding facilities and particularly in respect of housing licences.

Lease Agreement or Rent Book?

Before deciding 'lease versus rent book', it is best to decide what type of tenancy is most suitable for both Landlord and Tenant.

In the case of locally qualified tenants or long-term licence holders, the GPRLA would recommend using a lease agreement as Tenants will usually be in occupation for a year or more.

In the case of short term licence holders, they tend to come and go more frequently and are more suitable Tenants for a rent book.

Rent and How It Is Collected

Standing Order - This is the traditional method of payment on a monthly or quarterly basis direct from the Tenant's to the Landlord's bank account. This avoids having to call on Tenants regularly to collect rent. It is important that Landlords regularly monitor their bank accounts for receipt of rent as an early warning mechanism should a Tenant's payments cease.

Rent Book - If a rent book is issued to each Tenant and a weekly visit is made to collect rents, this involves time and effort, but it does have the following advantages:-

- Getting to know your tenant
- Finding out the good payers and more importantly the bad ones. Timely action can then be taken
- Checking that the property is being looked after
- Providing the Tenant with an opportunity to report any problems

What a Rent Includes

When setting a rent a Landlord may wish to set an all-inclusive price, which includes basic rent, electric, gas, heating, rates, water, refuse and furnishings. Alternatively one may decide to charge a basic rent, which may not include some of the above and then a monthly levy on top, based on the charges for electricity, gas etc. If this varies, depending on actual bills, it encourages tenants to be economical with utilities and not leave appliances on while out at work.

Commencement of a Lease

Showing a Property to Prospective Tenants

When showing a property to prospective Tenants it is important to remember the old adage 'First impressions count.'

It is important to remember that a Tenant is more likely to keep a property in good order – clean and tidy and well maintained if that was its condition when they moved in. If the house is in poor condition when prospective Tenants view, it is likely that they might feel that as the Landlord does not care much, why should they?

Should existing Tenants still be in residence when the property is being viewed, it is important to advise the viewers of any deficiencies to be remedied before the beginning of the next tenancy.

Likewise trust your instincts with regard to the people to whom you are showing the property. First impressions are very important and if you feel uncomfortable with a prospective Tenant there is often a good reason.

Indicators to keep an eye out for are:-

- How does the prospective Tenant behave in the property? For example do they allow their children to run riot around the house? (This could indicate that they would not expect their children to show respect for the property or its contents)
- Are they late for the viewing or cancel a couple of times before finally arriving? (Everyone is late sometimes, but is this an indication they may not be punctual when paying the rent?)
- How do they present themselves to you personally and physically?

These first impressions obviously cannot form the basis of a final decision, but can play a part.

Dealing with Applications and Offers

A property sitting empty is not good for a Landlords income. However, a Landlord should not be tempted to rush into making a decision on who to rent the property to. Renting to unsuitable Tenants just to avoid having the property empty and not carrying out proper checks on Tenants could prove a much more costly mistake in the long term.

It should also be considered that some tenants are likely to be higher risk to causing damage to the Landlords property than others. Students are possibly more likely to have parties and very young children are more likely to possibly cause damage than older children or adults.

It is best not to be railroaded into a decision regarding the tenancy. Many prospective Tenants will decide the property is for them and try to pay a deposit there and then.

Take time to make the right decision. If there are a number of interested parties show all of them the property and then, from the offers received, decide how best to proceed.

Several offers for the property may have been received.

Some things to consider:-

- Have they agreed to the asking rent or have they offered a lower amount?
- Do they match all the criteria? (advert specified no pets and they have one?)
- What is the proposed term of tenancy and have they agreed to it?
- Are they employed? If not how do they propose to meet the rent?
- Do they have full local residential qualifications or a housing licence?
- How many people are going to reside in the property? Are they a family or a group of friends sharing?

Landlords should interview prospective Tenants carefully, in order to choose one who will be trustworthy and reliable. Taking up references from a prospective Tenant's current or previous Landlord, employer and bank can aid this process.

Guarantors

Some Landlords are reluctant to let property without the Tenant providing a Guarantor, particularly where the Tenants are young people or are on benefits.

This is a separate contract between the Guarantor and the Landlord stating that the Guarantor will pay any sums due under a Lease, which the Landlord has been unable to collect from a Tenant, whether for unpaid rent or damage.

Points which should be noted are that a Lease extension does not cancel a Guarantee but causes it to continue unless the extension calls for a new Lease. The Landlord must take all steps (short of going to court) to recover the money from the Tenant before calling on the Guarantor for payment.

UK courts will only enforce a Guarantee where the signatures have been witnessed. Legal advice on this subject is prudent.

Collection of References

References help provide the following:-

- Confirmation of identity
- Confirmation of employment or if receiving benefits, whether these benefits will continue
- That they can afford the rent
- That they have lived in rental accommodation before and have maintained it to an acceptable standard
- That they are of good character

When a tenant has been chosen, advise them of this, but make sure they are aware that any offer is still subject to satisfactory references and final contractual agreement.

The GPRLA recommends you take the following references:-

- A bank reference or alternatively the last three months' bank statements (if approaching the bank a Landlord should state how much the annual rent will be and provide the full name and postal details of the Tenant. A Landlord will also require the Tenant's signature as consent to the request)
- An employer's reference. If the Tenant is moving to Guernsey to take up a new position it is wise to receive notification of his new position, but to also ask for a previous employer's reference as they will have a better knowledge of the Tenant's character. A Landlord can also ask to see salary slips for the past three months
- A personal reference, from a third party that can vouch for the character of the Tenant. This should not be a member of their family or a close friend. Personal references are often supplied by members of an association in which the Tenant is involved or by a professional, such as a doctor
- A previous landlord's reference

If the Tenant was previously living in the UK, then they will be known to the UK Credit Reference Agencies. Carrying out credit reference checks should flag up if a Tenant has missed repayments on credit cards or mortgages. It will not however flag up missed rent payments, so a Landlord should ask for the details of their Landlord or Letting Agent in the UK and check if they paid their rent on time. These checks are useful as an extra safeguard.

Once all references and suitability of the Tenant is established, a Lease can be prepared.

Holding a Deposit

Once a prospective Tenant's application has been accepted, it is traditional to take a deposit (usually the equivalent of one month's or one quarter's rent) to secure the property while references are collected. This is refundable should a Landlord decide not to proceed. The deposit will be held by the Landlord for the term of the Lease against damage to the property and will be returned, subject to inspection of the property, after the Tenant vacates at the end

of the term. It is important the Tenant understands the deposit cannot be used as the final rental payment. This should be clearly stated in the Lease.

It should be remembered that the deposit is unlikely to be enough to cover any serious damage.

The GPRLA recommends holding deposits in a separate account from other monies.

Handover of the Property

When handing over the property, the Landlord should ensure the Tenant has all the information he or she requires.

Information for Tenants

- A copy of the Lease signed by all parties and witnessed
- A copy of the Landlord's bank details for payment of rent
- Keys for all doors in the property
- A copy of all documentation (such as gas safety checks) and operation manuals for all appliances and boilers. It is advisable for the Landlord to keep the 'originals' of these documents so that further copies can be made when necessary
- The Landlord's, or his appointed agent's, contact details, to include postal addresses, telephone numbers and email addresses
- The Landlord should also advise the Tenant if he will be away from the island and whom to contact in his absence

Checklist for Landlords

The Landlord has received all the following:-

- The deposit, if not already paid
- The first month's rent, either in cash on the day, payment via Internet Banking or by cheque (five working days to clear) prior to the Tenant commencing occupation
- A copy of the Lease signed by all parties and witnessed
- The contact telephone numbers and email addresses of the Tenant
- Confirmation that a direct debit for rental payment has been drawn up
- Where a Guarantor was required, a signed and witnessed Guarantee contract

The Tenant should also advise if they will be away from the property for a period exceeding two weeks or any period where notification is specified in the Lease.

It is also the responsibility of the Landlord to ensure all the utilities have been contacted and the services have been changed over into the name of the Tenant. The various utilities will take final readings and start a new account.

The utilities to check and change obviously vary with the property, but the following services should be advised:-

- Gas
- Electricity
- Water
- Oil Provider
- Cesspit (States Sewage Department)

The tenant is responsible for the following:-

- Setting up a telephone land line
- Installing broadband services
- Television licence

Collection of Rents

A Landlord should regularly check that the Tenant is paying his rent and not falling into arrears. By asking a Tenant to pay the rent direct into a bank account via standing order this reduces, but does not entirely eliminate, the chances of non-payment.

Tenants who do not pay rent on time can be stressful and financially crippling for a novice Landlord who does not realise that these pitfalls can occur and make the necessary financial allowances for them.

Dealing with Rent Arrears

If your Tenant does fall into arrears it is wise to send a letter (usually 7-10 days after the payment is due) to remind them that the rent is overdue. It can also be of benefit to phone the Tenant prior to sending the letter. There is often a valid reason for the delay in rent and contacting the Tenant personally can help build a good relationship between the parties. Financial matters should only be discussed with the Tenant and not with other family members or work colleagues as this would be a breach of the Tenant's rights.

Accurate accounts of any arrears, payments or part payments that have been made, must be kept. If the terms and conditions of the Lease state that the Tenant will be charged interest on late payments, this should be calculated and taken into account. Should any arrears result in legal action these details will be required.

Assessing Rent Increases

It should be clearly stated in the Lease when the rent will be reviewed and by which method the calculation will be made. It should also be stated that rent will not be decreased at any time.

The GPRLA recommends the Landlord informs his Tenant of any increase not less than two months prior to the annual anniversary of the Lease.

Grounds for Possession and Protection from Eviction

It is always hoped that a tenancy will run smoothly, but occasionally the Landlord may wish to reclaim his property before the Lease agreement expires. It is important to remember that the Landlord and Tenant have entered into a legal agreement and therefore are bound to comply with its terms. Any variation of these terms can only be by the agreement of both parties. This may involve making a payment to the Tenant.

Breaking of Lease

If either the Landlord or the Tenant breach any of the terms of a Lease the Lease should contain appropriate provisions to cover any such breach. This includes if the rent is in arrears for longer than the number of days specified in the Lease or if the Tenant is declared 'en desastre' (bankrupt).

It is not unusual for a Tenant to decide to purchase a property of their own and so wish to terminate their Lease. Most Leases are initially for a set term and then rolling with a notice period. Should the Tenant wish to vacate before the end of the initial term, some Leases contain an Assignment Clause.

An Assignment Clause means that the Tenant may vacate the property, but the Tenant will normally be responsible for finding an acceptable replacement tenant, to take over the existing Lease and rental payments. It is up to the Landlord to go through the relevant checks to ensure that the replacement Tenant is acceptable. If no suitable Assignee is found the Tenant must continue to pay the rent until the end of the term. Any associated costs in finding an Assignee will normally be the responsibility of the Tenant.

If the Tenant decides to vacate the property, whilst still paying the outstanding rent as per the Lease agreement, the Tenant must notify the Landlord that the premises are not being lived in and the Landlord must inform the insurers if this absence is for longer than is allowed by the policy.

Unlawful Eviction

The terms and conditions of the Lease outline the grounds under which a Landlord may lawfully terminate the Lease and require the Tenant to vacate. It is not lawful for a Landlord to simply turn his tenants out because he requires use of the property.

In the UK the Protection from Eviction Act (1977) was specifically introduced to protect tenants from unlawful eviction and harassment from a landlord. Such a specific law does not exist in Guernsey; the GPRLA encourages and promotes Landlords to adopt this as best practice. There are other Guernsey laws in place to protect the Tenant's interests.

The law set out by the States of Guernsey states that if the Tenant has complied with all the terms and conditions in his lease the Landlord has no grounds through which to evict him and must wait until the end of the agreed term before he can serve notice. Such notice should be provided in good time to allow the Tenant opportunity to find alternative accommodation. Again this is usually stated in the Lease agreement.

A Landlord will be perceived to be unlawfully evicting someone if they:-

- Try to reclaim the property despite the Tenant following the terms of the Lease Agreement
- Change the locks so the Tenant is unable to enter the property
- Prevent access to certain areas of the property
- Remove a Tenant's belongings from the property

Harassment

The Landlord will also be deemed to be harassing his Tenants if he interferes with their peace and comfort or removes services reasonably needed for occupation.

Harassment is a broad term and can be used to cover a broad range of activities such as:-

- Threats of violence or unlawful eviction
- Disconnecting relevant services e.g. gas, electricity or water, thus making occupation of the property difficult
- Changing the locks without notification
- Entering the property without permission
- Deliberately disruptive repair works
- Frequent visits, at unreasonable hours
- Refusing to undertake essential repairs, such as a broken boiler or leaking roof

If the Landlord is in breach of the covenants in the Lease the Tenant has the right to also break the terms of the Lease and serve notice as stated in the Lease.

Securing Possession

Securing possession can be a lengthy procedure and despite frustration caused it may be more efficient to adhere to the terms of the Lease and take guidance from an Advocate or the Sheriff's Department.

There are only two situations when a Landlord can legitimately repossess a property:-

- If the Tenant has surrendered the Lease Agreement
- If the Landlord has been granted a court order granting possession

The Tenant usually surrenders the Lease at the end of the term of the Lease Agreement. The Tenant may also agree with the Landlord to terminate the Lease earlier than originally stated subject to negotiation and circumstance. The Landlord is within his rights to negotiate an earlier vacation date if the Tenant is in breach of the terms of Agreement, but he must remain aware of the Tenant's rights.

If the Landlord has been granted a court order he must adhere to the terms of it. Quite often the Landlord will be granted possession, but after a certain period of time, this is known as a Stay of Eviction. The Tenant will be granted this period during which he will be required to secure alternative accommodation, provided he pays rent for this period. At the end of the Stay of Eviction the Landlord will be within his rights to repossess the property.

End of a Lease

When a Tenant vacates the property it is important to check the contents of the property against the inventory and assess the state of the property. This should be done at the time the Tenant vacates or as soon as possible after. Ideally a deposit should be returned within 14 days of the Tenant vacating.

Assessing Damage and Standard Wear and Tear

Any changes to the property that have taken place during the term of occupation, to which the Landlord has agreed, will have been noted either on the inventory or via a letter of permission from the Landlord. Such changes include permission to decorate a room, or cover a water stain on the ceiling as the result of a leaking water tank. The Landlord should review the inventory (preferably containing photographs) carefully and ensure all is as it should be. All items should be checked carefully.

Principal things to check are:-

- Interior and the exterior of the oven - have all the trays been cleaned properly?
- The extractor fan - has this been cleaned?

- The state of the carpets and curtains - are there any stains on these that weren't there before? Have they been professionally cleaned?
- The washing machine and the tumble dryer - are the filters clean? Has the soap drawer been cleaned?
- The inside of fridges and freezers - have they been defrosted and cleaned thoroughly?
- Has the property been adequately cleaned? Including dusting and vacuuming and thorough cleaning of the bathroom
- Have the windows been cleaned inside and out?

Damage to the property and/or items included in the inventory that have not been reported to the Landlord will be the responsibility of the Tenant. Remember that some damage will be caused by normal wear and tear and not the responsibility of the Tenant. For example; fading of wall decorations, carpets and curtains etc.

Consideration should be given to the length of time the Tenant has been living at the property when assessing fair wear and tear.

It is advisable to do a final inspection in the presence of the Tenant so you can discuss the various issues that arise and they will understand the charges, if any, that might be levied and deducted from the deposit. If the deposit is unlikely to cover remedial work it is advisable at this point to inform the Tenant that there may be a liability for further charges.

Return of Deposit

Once a final inspection has taken place and any matters arising dealt with, the Landlord must return the full or, if deductions have been made, the remainder of the deposit. The Landlord, as part of best practice, should be able to provide receipts or quotes for any works that need carrying out and the costs of which will be deducted from the deposit.

Possessions Left Behind

In some cases Tenants will leave items behind when they leave premises. These items may often be no more than rubbish but sometimes they may leave items that may have some value. In these cases the Landlord is therefore left with the often difficult task of deciding how to deal with them.

Generally, when a Tenant leaves goods behind on vacation of a property, these goods remain the property of the former Tenant. They do not become the property of the Landlord.

Unfortunately, the GPRLA is unable to give clear guidelines on how to deal with this issue as the law, as it currently stands, is not clear. A Landlord may therefore choose to seek legal advice. UK law can be referred to as a guide.

Therefore, a Landlord needs to exercise caution when deciding whether goods have been abandoned or not and how they are going to deal with the matter.

Reasonable steps should be taken to try to contact the former Tenant, for example at their place of work or at their parents address. A record of this written correspondence should be kept. Taking contact details at the start of the tenancy may prove to be invaluable in situations like this.

Occasionally a Tenant will disappear leaving a considerable amount of personal property on the premises. The law is unclear on how a Landlord should deal with this. The best advice the GPRLA has received is that the Landlord should be able to show reasonable behaviour regarding these possessions.

It is suggested that letters should be sent (perhaps by recorded delivery) to anywhere the Tenant might be found, eg. employer's address, boyfriend/girlfriend's address, warning that in the absence of contact within a fortnight, the possessions will be disposed of. After this fortnight the Landlord is probably in the clear. It may be reasonable behaviour to keep valuable items eg. a laptop, for a while longer. There is UK law on this subject that will provide further information.

If the Landlord believes the goods may have been abandoned and all reasonable efforts have been made to contact the Tenant to ascertain the situation, without success, then the Landlord needs to assess the value of the goods. It is also a good idea to take photographs of any items left behind, to show the nature and condition of the items left at the property and perhaps having the photos agreed and signed by an independent party, would provide further proof.

If there is any doubt as to the value of the items, then the Landlord may consider obtaining valuations from professional experts.

The wording of the Lease at the start of the tenancy could minimise problems and assist the Landlord when dealing with situations where a Tenant leaves belongings behind. The Lease could state, for example, that if goods are left behind for 7 days, the Landlord has authority from the Tenant to dispose of, or sell the goods as the Landlord sees fit, and that the Landlord can deduct the sale costs from the proceeds and donate these nett monies to Local Guernsey Charities.

The GPRLA believes that good communication between the Landlord and the Tenant will avoid most of the problems and disputes which could otherwise arise.

Dispute Mediation

The GPRLA often assists with impartial advice on Landlord and Tenant disputes, quite regularly at the instigation of Citizens' Advice Guernsey.

Taxes and Tax Allowance

A Landlord is entitled to some tax allowances. Any Landlord not familiar with these is recommended to discuss them with an accountant or tax advisor.

The States of Guernsey approved legislation (2007) that Statutory Repairs Allowances (SRA) would be reduced to 10% of the annual rent on unfurnished property and 15% on furnished.

The entitlement for Excess Repairs Allowances (ERA) remains the same. Therefore if a Landlord spends more on the property than the SRA allowance they will be able to make an ERA claim with back up receipts, but averaged over a five-year period.

Therefore Landlords cannot claim Excess Repairs Allowance unless they keep receipts for 5 years and are able to prove that more than the tax allowance for 5 years has been spent repairing the property.

Keeping Records for Tax Purposes

In accordance with The Income Tax (Keeping of Records, etc) Regulations 2006, for those people who have income from letting property there are specific rules about what type of records have to be kept. For more information you are advised to contact The Income Tax Authority.

The records have to be retained for at least six years from the end of the year in which the relevant return was submitted.

Suspension of Dwellings Profits Tax

In March 2009 the States of Guernsey suspended legislation in respect of tax payable on any profits made on dwellings sold within five years of purchase or owner occupied dwellings lived in for less than one year. While the GPRLA hopes that its Landlord members are holding property for the longer term, the suspension of the legislation gives Landlords the flexibility to alter their property portfolios without incurring Capital Gains (Property) Tax. However, in certain circumstances the Income Tax Department has the right to impose 20% tax on sales profits and so the GPRLA recommends professional advice should be taken prior to the sale of any property.

Frequently Asked Questions (FAQ's)

The Association's website www.guernseylandlords.gg has a section on FAQ's. This is updated on a regular basis in the light of experience and new regulations.

Useful Contacts

Guernsey Private Residential Landlords Association (GPRLA)

C/O Jeff Guilbert (Chairman)

Mob: 07781 115 585

Les Bouleaux

Email: info@guernseylandlords.gg

Rohais de Bas, St Andrews GY6 8YZ

Building Control Advice and Planning Matters

Environment Department

Tel: 01481 717200

Building Control Section and Planning Section

Sir Charles Frossard House

La Charroterie, St Peter Port GY1 1FH

Bulk Refuse Removal Scheme

Sir Charles Frossard House, St Peter Port GY1 1FH

Tel: 01481 717227

Citizens Advice Bureau

Bridge Avenue, The Bridge, St Sampson GY2 4QS

Tel: 01481 242266

Electricity Supply and Safety

Guernsey Electricity Ltd

Tel: 01481 200700

North Side, Vale GY1 3AD

Environmental Health and Pollution Regulation

Longue Rue, St Martins GY4 6LD

Tel: 01481 711161

Fire Prevention and Fire Safety

The Fire Safety Department

Tel: 01481 724491

Fire and Rescue Service

Fire Station, Town Arsenal, St Peter Port GY1 1UW

Gas Supply and Safety

Guernsey Gas Ltd

Tel: 01481 724811

The Energy Centre, Admiral Park

St Peter Port GY1 2BB

Health and Safety

Health & Safety Executive

Tel: 01481 234567

Raymond Falla House, PO Box 459, Longue Rue,

St Martins GY1 6AF

Housing Control Laws

Housing Department

Tel: 01481 717000

Sir Charles Frossard House

La Charroterie, St Peter Port GY1 1FH

Income Tax Office

2 Cornet Street, St Peter Port GY1 3AZ

Tel: 01481 724711

Rents and Rent Control

Rent Officer

Tel: 01481 721239

States Cadastre,

Nelson Place, Smith Street, St Peter Port GY1 2BB

Retail Price Index

Tel: 01481 717012

Sewage and Drains (Management)

Northside, Vale GY3 5TX

Tel: 01481 247163

Social Security Department

Edward T. Wheadon House

Tel: 01481 732500

Le Truchot, St Peter Port GY1 3WH

Waste & Recycling (Office)

Public Services Department

Tel: 01481 747315

Brickfield House, St Andrew GY6 8TY

Water

Guernsey Water

Tel: 01481 239500

PO Box 30

Brickfield House, St Andrew GY1 3AS

Glossary of Terms

Advocate

A Guernsey lawyer, fully qualified to act in local Courts

Assignment Clause

A provision in a lease, allowing a tenant who wishes to leave before its end, to find someone to take over the property for the remainder of the lease paying the same rent and honouring the same conditions

Buy-To-Let Property

A property bought by someone who intends to rent it to tenants and not live there

Carbon Monoxide

A poisonous gas with no smell, capable of causing injury or death. Associated with faulty gas appliances

Certain

A fixed period of time. E.g. 31st January 2013 – 31st July 2013

Competent Person

Someone who is qualified or experienced, which enables them to give good advice

Contract

A Legal Agreement, signed by two or more people, breach of which can be enforced by the Courts

Gas Safe

The Council for Registered Gas Installers

Covenant

A promise or obligation, listed in the Deeds to a property or contained in a lease, usually enforced in law

Deposit

A sum of money, usually equal to one month's or one quarter's rent paid to the Landlord to secure tenancy of a property before the start date and then to go towards the cost of any breakages or damage to the Landlord's fixtures and fittings at the end of a lease. Where the cost of these is less than the deposit, the balance is refundable to the tenant

Exclusive Possession

A tenant's right to reside in the property without interference from the Landlord

Eviction

When a Landlord legally ends a tenancy for gross breaches of the terms on a lease

Fair Wear and Tear

The amount of wear to a property and its fixtures and fittings which would normally be expected during the terms of a lease given the number of people living there

Gas Safety

A certificating organisation, the successor to Corgi to which gas technicians must belong in order to work on gas appliances legally

Guarantor

Someone who becomes liable to pay a Landlord when a Tenant has failed to do so

Harassment

Unreasonable and continued interference with the peace and comfort of a tenant, used also as a legal term

Intumescent Sealing Strip

A Fire Check Bead

Inventory

A list of all moveable items in a property, usually with a description of their condition if there is detectable wear. It can comprise photographic evidence of the condition of these articles. The Inventory should always be agreed between Landlord and Tenant at the start of a lease

Landlord

The owner of a property. Also known as the Lessor

Lease

A legal document setting out the terms and conditions agreed between a Landlord and a Tenant

Legislation

Laws made by the States of Guernsey or other Governments

Licences

Documents issued by the Guernsey Housing Department giving legal permission to non-locals to live in certain properties, normally tied to particular employment

Multiple Occupation

Properties whose layout or number of occupants mean special rules apply. The Fire Department has its own definition of a house in multiple occupation

Open Market Property

A property, historically listed on a separate register where non-locals can live without a housing licence. There are about 1700 in Guernsey

Parochial Rates

A Rate levied by the Parish for refuse collection, Parish office running expenses and church upkeep, the nearest equivalent to UK Council Tax

Rent

The regular payments from the Tenant to the Landlord which allows a Tenant to live in the property

Right to Work Document

A document required by everyone in employment, whether local or not, which can be shown to an employer proving the legal right to be employed in Guernsey and issued by the Housing Department

Rolling Agreement

Once the initial term of a Lease expires, the tenancy can continue until either party gives the other the agreed period of notice to end the Tenancy

Statutory Repairs Allowance

The amount of rental income on which the Landlord need not pay tax. This acknowledges that Landlords have to make repairs from time to time

Subject to Contract

When an agreement to buy, sell or rent a property is being prepared but all the terms and conditions have not been agreed or references not yet received, the agreement is not a legal contract until both parties sign the completed document

Sublet

When a Tenant allows someone else to rent part or all of a property and pay rent to the Tenant. This usually requires the agreement of the Landlord but even then the original Tenant is responsible to the Landlord for the entire rent

Tax on Real Property (TRP)

A tax on property collected by the States Cadastre and the responsibility of a Landlord

Tenancy Agreement

Another name for a lease

Tenant

The person renting a property. Also known as the Lessee

References

The National Association of Estate Agents - www.naea.co.uk
- Residential Letting and Property Management

The National Landlords Association - www.landlords.org.uk

Residential Landlords Association UK
- Landlord Development Manual

The States of Guernsey Cadastre Department
- A Guide to the Rent Control Law

Health and Social Services, Office of Environmental Health and Pollution Regulation
- Code of Good Practice for Renting Accommodation

Estate Agency News Magazine - www.estateagencynews.com

Landlord Zone Website - www.landlordzone.com

Gas Safety - www.hse.guernsey.gg

Gas Safe Register - www.gassaferegister.co.uk

Royal Institution of Chartered Surveyors - www.rics.org

The Rent Control (Guernsey) Law 1976

The Government and Law of Guernsey - Darryl Ogier

The Environmental Health's Website - www.gov.gg

Right to Work Documents - www.gov.gg/licences

The Guernsey Private Residential Landlords' Association accepts no responsibility for any inaccuracies in this guide, nor does it accept liability for any consequences resulting from its use. Anyone using this Guide agrees not to bring any claim, action or proceedings against the Guernsey Private Residential Landlords' Association for whatever reason.

Printed by Herald Print, Guernsey

Email: info@guernseylandlords.gg

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November 2017

