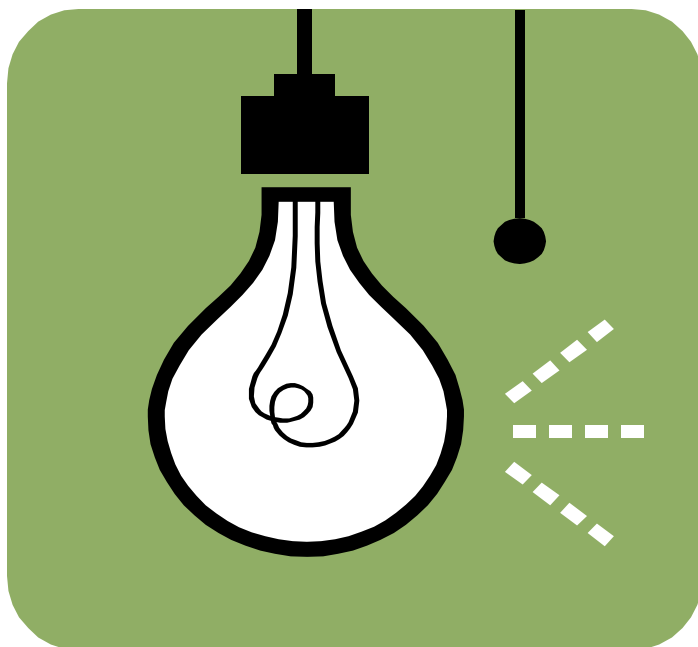


'Run for landlords by landlords'

September 2009

Will the last landlord leaving the Local Housing Allowance sector put out the lights ...



Problem tenants

A member recently approached a committee member and asked if we had ever had reported a case of retaliation from an (ex-tenant because he had been put on a "black list". When our Form77 scheme was set up many years ago, we first cleared the proposed procedure with the Data Protection Agency. No "offender" is added to the list without name, and either date of birth or National Insurance number (preferably both). The data is stored on the association computer, which is taken away from the office at the end of each day (the office was broken into and an old redundant computer stolen). The data is uploaded to a table on the website server. The database is backed up weekly and the memory stick kept in a fireproof box. No copy of the data is held or made available to members. Members can only access data on a specific person in the **member area** of our website or by telephoning the office. We do not share this information with any other organisations (although we have had several requests).

We feel that the scheme is important and once again ask you to support your fellow members by providing (and updating) information on the less desirable tenants.

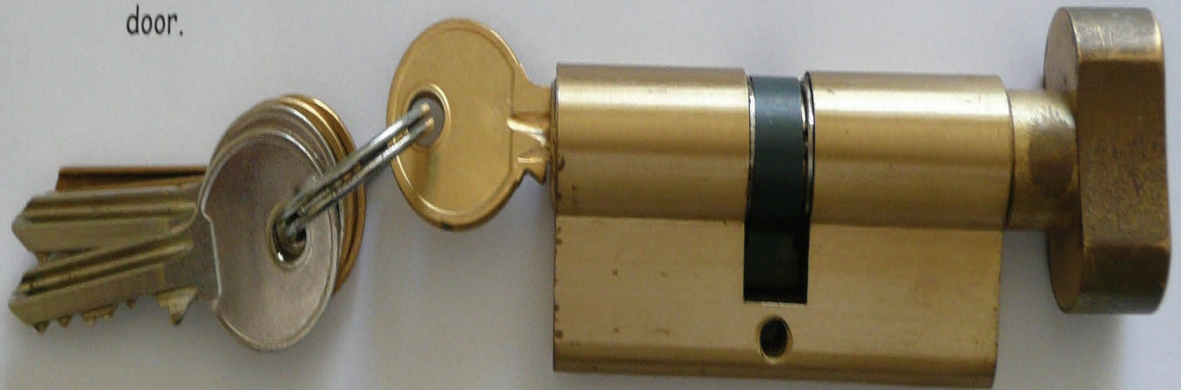
The short answer to the opening question is no because unless you tell a person they are going on a "black list" there is no way they can know.



The above is the type of Eurolock most commonly used in new uPVC doors and other applications.

The sales person promoting the new door will explain the multi-point locking and the security it affords but will not mention how to get out in a hurry when the door is locked using a key on the inside of the door and the key removed from the lock.

The alternative is this similar lock with a thumbturn on the inside of the door.



We strongly recommend use of this type for let properties. Fire escape routes and fire doors **MUST NOT** be fitted with locks which require keys to open them from the inside.

If you are contemplating buying a lock it may be advisable to select a lock which uses a "standard" Yale or Union key blank as some specialised key blanks are not always readily available for cutting of replacement keys if or when your tenant loses their key.

SOUTH WEST LANDLORDS ASSOCIATION



From a member of SWLA to the PRSreview group

Hello

I am a private landlord with around 40 properties and let to both private and DSS tenants I also work with Housing needs at the local council who provide a bond scheme for low income tenants.

I believe my properties are of a good standard although as I have a mix of property type some of the EPC (Energy performance Certificates) are lower , the local council are trying to bring in a registration scheme and I have been asked to be involved.

My main issues are:

Mortgage Lenders

Available mortgage lenders have contracted from 3,000 available a year or so ago to less than 10 lenders at present. As I have a large number of properties I am now above their lending limit. They have put heavy initial charges/arrangement fees on the mortgages provided. Many insist no DSS and require a six month assured shorthold tenancy.

DSS tenants

Since the housing benefit now goes to the tenant I have more in arrears also it is taking 2-3 weeks longer to receive the money from the tenant than if I had received it direct from the council.

I have a number of tenants who were not paying the housing benefit to me and when the notice is given they move on elsewhere normally leaving a messy damaged property. Even after they have signed a contract for six months they could leave at four months and legally get the housing benefit paid for another property. I believe this to be unfair and the six month contract should be honoured by the housing benefit rent also when no notice is given the tenant should not be able to claim elsewhere and this to should be honoured. This would help the landlord if the tenant realised they could not just jump ship.

One tenant caused over 3,000 pounds worth of damage to a property and was 3000 in arrears, I went to court for the arrears and because they are on benefit I cannot get any money from them. I would like a private landlord to be able to get an attachment to benefits like the councils and social landlords can, this is so unfair to a private landlord. It is not cheap to evict .

I would like to see free eviction costs provided by the council for any tenant evicted where they are at fault , the council could have a process of reclaiming.

I would like to see the eight week arrears rule reduced to 4 weeks.

Paper work

This is one area that all my DSS tenants have trouble with, can this not be looked at , many complain of information being lost by the council..

Grants for energy measures

Would it not be easier for a landlord to apply for the grants for loft and cavity wall insulation for all the tenants in receipt of benefits?

Length of time the court takes

This can be 8 weeks before the case is heard and possession can be up to 42 days after this. Some tenants will be damaging the property deliberately and this gives them more time to do it.

Invalid section 21 notices

In an interesting case in Central London County Court on March 6th 2009, a landlord sought possession relying on a Section 21 notice. The original notice was served on 6th September 2006, which was just before the tenancy commenced. On 11th January 2008 the landlord issued proceedings relying on the notice served some 16 months prior. The tenant defended the court proceedings saying that the notice was not valid as it was served before the tenancy began. The tenant also said that because the property was an HMO it should have been licensed (which it was not) so the notice was invalid.

The landlord served another notice on 30th June 2008 using a Section 21 (4) because the tenancy was now statutory periodic. Court proceedings were commenced on September 26th 2008. The tenant again defended the claim on the basis that the letting was an unlicensed HMO.

On 30th November 2008 the landlord served a third Section 21 (4) notice. The landlord, realising that the claim would fail if the notice was served before the application for a licence was submitted, applied to amend the possession claim to use the November 2008 notice.

The court considered this and decided that an amendment to a claim relied on the date of the initial claim and at that point the HMO licence had not been applied for. Therefore, although the basic November 2008 notice might be valid, it would not be valid for the amended claim as this would require amendment to a claim before the licence was applied for.

The only action open to the landlord was to restart the claim for possession. This case shows how important it is to ensure that all the right facts are in place before serving notices and initiating court proceedings. Whilst not relevant in this case, not following the correct deposit protection rules would be another thing to check. In this case the landlord lost many months and incurred costs by failing to make these basic checks.

A couple who lived rent-free in houses for 18 months are not unusual, says Paul Shamplina of eviction service Landlord Action. The pair, Richard and Hazel Jerome, posed as wealthy homebuyers. They made cash offers to buy properties and then asked to rent them while the deal went through. They moved in and then claimed squatters' rights whilst paying no rent or utility bills. The couple are known to have lived in at least two houses in this way and police believe there could have been more. Both were found guilty at Huntingdon Crown Court, where the man was sent to jail for 15 months and his wife, a former teacher, given a suspended prison sentence.

Shamplina said there were plenty of tenants like the Jeromes. He said: "We have evicted many professional bad tenants over the years who simply go from one property to another duping landlords into renting their properties while having no intention of paying. ."



Local Housing Allowance

The results of a survey of 893 tenancies, after 12 months of LHA, in and around Liverpool indicated that 278 (over 25%) resulted in a loss to landlords amounting to nearly £106,000, an average loss per tenancy of £465, with an average loss per landlord affected being nearly £2,000. The survey showed that an increasing number of landlords will not take HB claimants in future and those who will continue will insist on guarantors.

We, the SWLA, carried out a similar survey, many thanks to those 101 members who responded. Our survey indicated that 25% of tenancies in the survey incurred a loss, but in our case a much higher loss of nearly £2,200 per tenancy with a total loss of nearly £33,000 in the Plymouth area. Re-possession proceedings were enacted in 14 cases.

With this high level of loss of income we recommend that as soon as a tenant becomes CONTRACTUALLY more than 8 weeks in arrears a Section 8 notice (our stationery document No. 5) be issued. There is no need for further action if payments are made, the notice has a 'shelf life' of 12 months.

Receipt of this notice may deter some tenants from falling further into arrears, but if arrears build up TAKE ACTION, we are here to help you. A recent update from the Plymouth HB section over a 3 month period showed a 25% increase in LHA claims with a 33% increase in non-discretionary landlord direct payments due to rent arrears.

The LHA scheme, where landlord direct payments is not normally an option, is unpopular with landlords (except publicans!) and most tenants, it is now apparently unpopular with the Treasury as the scheme is costing too much (as predicted by the entire industry).

The 'up to £15 excess' where the tenant can keep any LHA up to a maximum of £15 per week of the difference between the contractual rent and LHA, is being withdrawn from April 2010 and we suggest that if your rents are below LHA rates that you consider increasing to at or near the LHA rates, Section 13(2), our stationery document No. 12 giving 1 months notice in most tenancies. After the month's notice a 'change of circumstances' form should be issued to the HB section by the tenants.

But it's not all doom and gloom!! There's some more positive news. The HB office in Plymouth is now processing most new claims and change of address procedures in less than 3 weeks and a lot of correspondence that previously came from a 'Revenues Officer' is now coming from a named person with a contact phone number and more often a phone call by the department to the landlord has replaced correspondence. I recently e-mailed the department and received an e-mail reply in less than an hour.

Bob Usher
SWLA Committee

You are here: [Form 77 Submission Form](#)

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- [HIA Petition](#)
- [LOG OUT](#)

ews

Form 77 Submission Form - Fill in & press submit

This form is used to provide information about your problem tenants to give other members the best chance of selecting good tenants. This information will be stored on our database and can be accessed by registered members by contacting the association who will issue additional passwords to view the list.

Tenants Details

Surname

Forenames

National Insurance Number*

Date of Birth**

***Failure to supply at least one (N.I No: Or D o b) will result in Tenant NOT being placed on register.**

Reasons For Entering (select yes as appropriate)

- A** Left without giving notice
- B** Left leaving furniture/accommodation in dirty condition
- C** Left without paying rent
- D** Tampered with meter
- E** Unsocial behaviour e.g. loud music, parties, dogs/cats without permission. Assaulted landlord or other resident(s), caused fire.
- F** Stole from these premises (e.g. landlord's fixtures or fittings)
- G** Damaged property, value in excess of damage deposit held
- H** Drug user
- I** Drink problems, causing nuisance to others
- J** Criminal activities e.g. suspected of drug dealing, prostitution, arson, theft/burglary etc. (Both proven and alleged offences are acceptable).
- K** Failed to provide Local Authority with adequate I.D. to verify benefit claim.
- L** County Court Judgement awarded for arrears / costs?
- M** Have you recovered the awarded arrears / costs?

SWLA Members Details

Members Name

Membership Number

Company

Address

Telephone

Mobile

Fax

E-Mail

Your Signature

I certify that I am responsible for the accuracy of the information provided and that the tenant named above has agreed on the tenancy agreement or separately in writing, that the information concerning the tenancy may be passed to other landlords or agents.

By submitting this form electronically you are agreeing to the above in lieu of a signature.

N.B: Members are advised that under the Act "Data Subjects" (The Tenant) have the right to request details of information held by the "Data Controller" and may challenge its accuracy.

SOUTH WEST LANDLORDS ASSOCIATION, 12 RADNOR PLACE, PLYMOUTH, PL4 8DW



**THIS DOCUMENT MAY BE ACCESSED AND SUBMITTED
VIA OUR MEMBERS ONLY WEBSITE**

Tenant Details (Block letters please)

Surname.....

Forenames.....

* National Insurance No..... * D o B.....

*** Failure to supply at least one item of data will result in the Tenant NOT being placed on register**

REASONS FOR ENTERING (tick as appropriate)

- A. () Left without giving notice
- B () Left leaving furniture/accommodation in dirty condition
- C () Owing more than £_00 (£500 would be C500)
- D () Tampered with meters to avoid payment
- E () Unsociable behaviour e.g. Loud music, Parties, Dogs/cats without permission, Assaulted or threatened landlord or other resident(s), caused fire
- F () Stole from these premises (e.g. landlord's fixtures or fittings)
- G () Damaged property, value in excess of damage deposit held
- H () Drug user
- I () Drink problems, causing nuisance to others
- J () Criminal Activities e.g. Suspected of drug dealing, prostitution, arson, theft/burglary, etc.;
(Both proven and alleged offences are acceptable)
- K () Failed to provide Local Authority with adequate I.D. to verify benefit claim.
- L () County Court Judgement awarded for arrears / costs? Yes / No
- M () Have you recovered the awarded arrears / costs? Yes / No
- N () Received LHA payments which were not paid to Landlord ()Amount

NAME AND ADDRESS OF SWLA MEMBER

Mr/Mrs/Miss/Ms.....

Address

Tel No Email address

I certify that I am responsible for the accuracy of the information provided and that the tenant named above has agreed, on the tenancy agreement or separately in writing, that information concerning the tenancy may be passed to other landlords or agents.

Signed. Date

Members are reminded that they are solely responsible for the accuracy of information provided. In the event of false or malicious information being provided members will be responsible for any redress or action by the tenant and the member may be expelled from the Association.
All members are reminded that under the Terms of the Data Protection Act 1988 (as amended) the information provided by the problem tenant list/Form 77 **must** be treated as **confidential**. This information **must not under any circumstances** be passed on to any person or persons not authorised to receive it. (This means any non-member) – Improper disclosure may result in expulsion from the Association.
NB Members are advised that under the Act "Data Subjects" (The Tenant) have the right to request details of information held by the "Data Controller" and may challenge its accuracy.

Hereford HMO landlord fined £30,000 in joint prosecution

Herefordshire Council and Hereford and Worcester Fire & Rescue Service have succeeded in their joint prosecution of a Hereford HMO landlord who was fined over £30,000 for offences under the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005. The fine comprises:

- £8,000 for failing to license his HMO
- £3,000 for failing to comply with an Emergency Prohibition Order
- £4,000 for failing to undertake a fire risk assessment
- £2,000 for four other fire safety offences under the RRO
- £13,500 (approx) for joint costs

Mr Marc Mohan was prosecuted following an unannounced inspection of his property at 5 Aylestone Hill, Hereford in January 2008 by Housing and Fire Officers on receipt of an anonymous complaint to the Private Sector Housing Team about fire safety concerns. Officers found a 4 storey unlicensed HMO, occupied principally by young students from the local college. The house lacked any fire safety precautions. In summing up, the District Judge referred to Mr. Mohan's "flagrant disregard" for the health and safety of his tenants. This is a tremendous result for both the LHA and the FRS. It sends a powerful warning message to local landlords that attempts to flout the law and put tenants' lives at risk will be stamped on.

MyDeposits (the insurance based deposit protection scheme) has introduced an on-line dispute system offering complete flexibility. All that is required is an internet connection and the Deposit Protection Certificate (DPC) number. Tenants can submit their disputes on-line and upload evidence such as photographs, inventories. The progress of their dispute can be viewed at any time after it has been submitted. The landlord or agent can also submit their rebuttal form and evidence and can view the progress once submitted. Currently the average deposit amount in dispute cases is £800, a sum few can afford to lose. The on-line dispute service simplifies the dispute process for both tenants and landlords., and ensures that the dispute process can begin as soon as possible.

In the event that any party to the dispute is unable to access or use the new system, disputes can still be managed by paper and post with the information entered by their case handlers. Security of information stored is a top priority with MyDeposits and the latest encryption methods are used to ensure that unauthorised persons cannot access evidence or personal information. The number of the MyDeposits call centre has changed to 0844 9800290

Gas and Electric meters

A lady landlord had to wait over two months to receive a new pre-paid gas card from British Gas after her tenant had left. Without a card she was unable to get the hot water needed to clean the property before another tenant moved into the property. Worse than that, the property could not be let as habitable until the gas supply was on. The lady thinks that there should be dedicated support lines at utility companies to deal with meters.

Another landlord had tenants who had changed utility suppliers without his permission and it took many visits and telephone calls to the meter company and gas supplier to change the card meter to a credit meter. Utility companies maintain that they are not obliged to notify the landlord before a change of meter.

In another case another landlord had a tenant who was sent to prison. EDF forcibly gained entry to the property and disconnected the electricity supply. There was no notice left of gaining entry except dirty footprints. It was only through a neighbour contacting him that he had any knowledge of what had happened. Persuading EDF to reconnect the supply was an epic in itself.

If this continues then suppliers will inevitably want up-front payments.

When your tenancy ends, make sure that the meters have been read (keep a note of the readings and the tenant has settled their account. You should advise incoming tenants of utility suppliers.

Have SWLA members had any similar experiences?

Extract from UKLandlord magazine

my ! deposits

In a recent article on the second anniversary of their tenancy deposit scheme, it was stressed that the landlord is responsible for the tenant's deposit at all times. This is the legal position even if the landlord decides to use a managing or letting agent to manage the lettings and hold their tenants' deposits for them, using the insurance-based scheme ***my ! deposits***.

This is particularly relevant where the agent subsequently fails for any reason. The situation seems to have worsened resulting in landlords having to find the deposit from their own funds. When deciding to use a letting agent, the landlord should consider the following issues.

- Does the agent hold deposit and rent monies in a segregated ring-fenced client money bank account to prevent it becoming part of the agent's assets? Ask for evidence of this in writing and how it operates, preferably from the bank
- Is the letting agent a member of a letting agent association that has a Client Money bonding scheme in place ? Ask for evidence of this.
- Does the letting agent hold client money protection insurance? Again ask for evidence



The landlord should perform these checks on a periodic basis in case the agent's membership or insurance cover has lapsed at any time.

If you have any concerns over the financial security of the letting agent, ask to hold the deposit yourself and take responsibility for its protection. Your agent cannot refuse this request. You can also insist that rent payments are paid by the tenant directly to the landlord's bank account.

The article also noted that over 400,000 deposits had been protected and over 4,500 disputes successfully handled in the past year. (Although not how many were found in favour of the landlord).

One to watch carefully!

It was reported in The Times that OFWAT is considering allowing water companies to make residential landlords liable for the unpaid water bills of their tenants. In reaction, the Residential Landlords Association, pointed out the likely impact on tenancy deposits. At the recent British Property Federation meeting, it was agreed that the BPF should respond to this threat stressing that all utility companies should be urged not to get rid of their responsibilities. Members are reminded that the company should be informed of any change of tenant to ensure that the suppliers do not send bills to the landlord.

The SWLA will keep its beady eyes on this one!

Landlords' guide to electrical safety

The Electrical Safety Council has produced a guide to electrical safety. You can download it free (but it's 51 pages) by going to www.esc.org.uk

Tenancy deposit protection confusion

Notifications have been received from The Deposit Protection Service and MyDeposits warning that the website mytenancydeposit.co.uk is **not** a government authorised tenancy deposit scheme. Be aware that if you protect your deposit with this company, this will not constitute compliance with the tenancy deposit regulations. You will remain vulnerable to a court claim from your tenants for a 'fine' of up to three times the deposit amount.

The Association provides assistance and advice. However, the Association does not hold itself out as providing specialist legal advice and therefore whilst written and oral advice is given in good faith, no responsibility can be accepted by the association, its officers or members for the accuracy of its advice, or shall the association be held liable for the consequences of reliance upon such advice.

A Landlord's duty....

Regulation 36 *Duties of Landlords* in the Gas Safety (Installation and Use) Regulations (GSIUR) requires that gas appliances owned by the landlord (sometimes referred to as relevant appliances) and relevant flues within a property must be maintained in a safe condition. In addition to being 'maintained in a safe condition' the landlord or managing agent must ensure that all relevant appliances and flues owned by the landlord are also checked for safety at intervals of not more than 12 months since the previous check or, in the case of new appliances, within 12 months of installation. It is important to remember that these are two separate and distinct duties. Many landlords still believe that a Gas Safety Check is also a service of the appliance. In order to meet the maintenance part of the legislation, landlords and their agents need to ensure that appliances are serviced as well as checked for safety. For ease, it would be sensible to have both the maintenance and safety check done at the same time. Details of the inspection needs to be properly recorded. Non-relevant appliances i.e. a gas appliance owned by the tenant should also be recorded on the Gas Safety Record, identifying the make, model and location and indicating that the appliance has **not** been tested. If there are obvious defects with the tenant's own appliances, the Unsafe procedure must be followed with faulty appliances made safe, where necessary, with the tenant's permission. It is important to remember that this document is a **record** of the gas installation in a property, it is a form of 'snapshot' in time. It is not a 'pass' or 'fail' certificate as some wrongly believe. Landlords have a duty to maintain any flue in a property, but are not required to have it checked for safety if it is not serving a 'relevant appliance'. Tenants using such flues for their own appliances need to have appropriate checks carried out on their appliances and flue. If the flue is found defective, the landlord must take whatever action is seen as appropriate. A copy of the safety record must be provided to the tenant within 28 days of the date when the checks were made and a copy must always be given to new tenants **before** they occupy the property. Photocopies are allowed as long as the original is available for inspection on request. With checks necessary '*within 12 months of installation and at intervals of not more than 12 months since the last check*' the checks must be carried out **before** the current certificate expires. Thus some planning is needed to arrange access to the property. Where access to the property has proved difficult, the landlord must keep a record of the unsuccessful attempts to gain access. When a property becomes vacant, landlords are required to ensure that the gas fittings and appliances are safe before a new tenant moves in. The guidance to Regulation 36 recommends that a gas tightness be done. There is no requirement between tenancy and where a current gas safety record exists for a new one to be issued, although the landlord may desire it.

From the Association

Possession claims on-line (Section 8)

Possession claims for rent arrears (Section 8) can be submitted over the internet and costs £100 instead of £150 for the paper-based claim. It is still a requirement that you attend a court hearing in your local crown court, although the defendant does not have to attend.

The internet address is www.possessionclaim.gov.uk.

It has come to light that claims for **possession** only (Section 21) **cannot** be lodged through the on-line claim system.

SWLA stationery

SWLA stationery may change without notice so before using a document, make sure that you use the latest one on the SWLA website, by checking the issue date or check with the SWLA office at the email address or telephone number shown below.

Form 77 input

When you finally decide to rid yourself of the trouble tenant, first put their details on Form 77 **before** they leave the property so that another member doesn't inherit them.

Unwanted email and post

Are you receiving unwanted emails or newsletters in the post from organisations? If by post, simply return it with a note telling them not to contact you any more. There should be an unsubscribe link on the email – click on that to remove yourself from their lists. If there is no unsubscribe link, just reply saying that you do not wish to be contacted by them. They are obliged to remove your contact details.

Inventory and Schedule of Condition

The Deposit Protection Service recently reported that when deposit disputes go to adjudication, only 18% are awarded to the landlord. The burden of proof is on the landlord. At the start of the tenancy the landlord should complete an Inventory and Schedule of Condition that are sufficiently detailed, clearly set out, signed and dated by both parties. An Inventory can help measure any damage at the end of the tenancy and it pays to include condition and age of items in the Schedule of Condition. Also photographs can be a valuable form of evidence. Photos are increasingly used in Inventories and Check-outs as a comparison tool. So taking accurate, jointly verified photos at the beginning of the tenancy can help you to avoid a dispute in the future.