

#### SWLA Meets Plymouth University Dean of Students

After months of unsuccessfully trying to talk to Plymouth University Accommodation Service, on the 24th June, the Chairman and Vice Chairman met the Dean of Students, Maureen H Powers PhD.

The Dean expressed her willingness to listen to local landlord representatives and her openness with regard to Student Housing Policy. She informed SWLA that Plymouth University Accommodation Service was undergoing change with a new Director, Scott Walker taking up post in August.

After giving a brief resume of her experiences of student living on six North American Campuses, she outlined some future policies and observations.

- All first year and overseas students accommodated in Halls.
- Top rent for Hall accommodation not to exceed £100 p/w.
- Not adverse to Halls being "off" campus if improved standards/cost.
- Experience of PRS student accommodation often substandard and over priced.
- Not University Policy to deal with Unipol or Letting Agents.

• Present Rating System of A to C to cease. Only good standard accommodation at a fair rent would be University listed.

Also discussed was the planning consent for a further 1500 student units in the city. The Dean again re-iterated that big providers would need to meet the criteria of good standards and fair rents. The comments of PCC Labour Leader, Councillor Tudor Evans were discussed "more purpose built student accommodation will free up houses in the PRS for families" (Herald). It was agreed that this was likely to be the case.



### August 2014

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#### SWLA Meets Plymouth University Dean of Students cont.

Overall SWLA felt it had been a useful meeting with the Dean giving a honest opinion of how the sector appeared and how it could be improved. She gave an example of three students living in sub-standard PRS housing being removed and rehoused at her expense because PCC were unable or unwilling to assist.

SWLA agreed that inspection of properties to improve standards was a good thing but it should be carried out in association with landlord training to ensure good standards of management were also maintained.

It was pointed out that SWLA in partnership with Plymouth City Council run Landlord Accreditation South West which was set up to educate landlords and improve management standards in the sector.

The Dean agreed that landlord education to maintain management standards was advisable but any decisions about "in house" or "external" training would be left to the new director.

The meeting was informative and SWLA are grateful for the insight into future University policy.

<u>In conclusion</u> - If you are a landlord of student accommodation in Plymouth or some other University City you need to ensure your accommodation is of a good standard and affordable and/or look at letting in a different sector.

### Legal amendment will clarify rules on deposits

An amendment to the Housing Act 2004 will clarify tenancy deposit rules following the Superstrike case. The Government had always said that it would act by rewriting the legislation. The amendment was tabled to the Deregulation Bill by Tory MP Philip Davies. It specifically addresses the situation when a fixed term tenancy becomes statutory periodic. Following the Superstrike case, landlords were advised to re-serve the prescribed information. The amendment will make this no longer necessary. The amendment also clarifies what happens to tenancy deposits taken before April 2007, when it became law for all deposits to be protected in a recognised scheme. Within three months of this amendment becoming law, all deposits taken must be protected and the prescribed information served. For the time being, and in the light of a recent case Gardner vs McClusker, landlords should re-serve the prescribed information when the tenancy becomes statutory periodic. In this case the landlord had not re-served the prescribed information and served a Section 21 notice. The court ruled this was invalid and ordered the landlord to return the deposit plus damages of twice the deposit itself, and to pay costs. *From the RLA Residential Property Investor* 

### Most landlords still unprepared for voids

The vast majority of landlords (90%) do not factor in the financial impact of voids when letting their property, recent research by the NLA has shown.

The research also shows that when it comes to covering the cost of rental void, landlords with just one property use their day job earnings (19%) or their own savings and personal resources (17%). Worryingly, 16% of landlords said they simply accept the cost or do nothing about it. Portfolio landlords are more likely to cover a financial deficit, with one in four saying they use profit from other rented properties. Among those landlords who responded to the research, 34% said they had experienced a void period in the last 12 months.

The Chair of the NLA said that it was imperative that landlords don't underestimate what they're getting into. Being a landlord is a business and to run it successfully means you have to plan for costs such as voids.

The NLA recommends that landlords budget for 10 months' rent in any 12 month period to allow for missed rental payments and voids. It is essential that landlords carry out checks on prospective tenants to minimise the risk of non-payment.

From the NLA UK landlord

### Tenant's belongings

Levying Distress means "sending in the bailiffs" to seize a tenant's goods in order to recover rent arrears. It allows a landlord to take possession of the tenant's goods on the let premises and either hold them pending payment of rent or to sell them and keep the proceeds in lieu of rent. As long ago as 1991, the Law Commission described it as 'unjust'; while there have been concerns that levying Distress may breach a tenant's human rights. Distress is almost always levied by commercial landlords. From last April 6th a landlord's right to levy Distress has been abolished and replaced by Commercial Rent Arrears Recovery (CRAR). Here commercial landlords (or their mortgagees) will have the statutory right to recover arrears using a prescribed enforcement procedure. Also from April residential landlords cannot use Distress. The right to take another person's possessions in lieu of rent owed was abolished by the Torts (Interference with Goods Act) 1977. This does not mean that a landlord has no rights: however the only legal way to recover rent arrears is through the courts. If a tenant leaves possessions behind - sometimes because they have done a runner or through an eviction, the landlord cannot simply go in and dispose of the goods, either by sale or a trip to the recycling centre. The Torts Act 1977 applies here. First every effort must be made to contact the tenant. Whatever the circumstances, landlords must take their responsibilities seriously as it is the landlord who is responsible for safe keeping of possessions left behind. In one case, a tenant left behind a car which was stolen before the tenant could collect it. The landlord was held liable as an "involuntary bailee". Take photographs and a detailed inventory of any and all possessions left behind before removal. Keep a record of your attempts to contact the tenant. RLA Property Investor

## Land Registry launches fraud alert service

The Land Registry has launched a new free email service called Property Alert for property owners in England and Wales. The LRA wants to prevent fraudsters from attempting to acquire ownership of a property by using forged documents, or by impersonating the registered owner. Fraudsters do this to raise money by getting a mortgage on the property without the owner's knowledge before disappearing without making repayments, leaving the owner to deal with the consequences. Between September 2009 and January 2014 the LRA says it was able to stop fraud on properties to a value of £62 million. Following a successful trial of Property Alert, property owners can register for up to three of their properties to be monitored. Email alerts will be sent when the LRA receives an application to change the register as well as for official searches. For example, if a landlord receives an alert that a bank has lodged a search on a property but they have not applied for a mortgage, they may want to seek legal advice, contact Action Fraud, or contact the bank in question. Investigations into authenticity of the mortgage application can then begin much earlier in the process.

There are no limits for the number of properties landlords can register for free additional security, using form RQ. Under this measure landlords can make a request using form RQ to ask the registrar to enter a restriction, free of charge, in the register of the title to each of their properties. This restriction means the LRA will not register a transfer or mortgage affecting the property unless a solicitor or other professional conveyancer certifies that they have checked the identity of the person who has signed the deed. This could prevent a fraudster forging a signature. A separate form must be used for each property registered.

Properties that are empty or let are considered to be at an increased risk of fraud. The LRA advises owners to register their properties and to keep their contact details up to date in addition to applying for a restriction on the title to help prevent fraud. *From the NLA UK Landlord* 

### Landlord voyeur escapes prison

A landlord who installed a wireless spycam to watch students in their bathroom has escaped a prison sentence. Chelmsford Crown Court gave Peter Woolls, 55, a conditional discharge and ordered him to pay £1,000 in costs. Woolls, a married father of five, admitted voyeurism. He advertised his three-bedroom property in Wivenhoe for female students only. One of the students' friends spotted the tiny wireless camera hidden in a bathroom tile pointing at the shower. Police found no evidence that he had recorded the women in the shower.

### PRS overtakes the social housing sector

The latest findings of the most recent English Housing Survey have confirmed what many in the property market already suspected; there are now more tenants in the private-rented sector (PRS) than in the social housing sector in England. Of the estimated 22 million households in England, 4 million (18%) were renting privately in 2012-2013, compared to 3.7 million (17%) in social housing. When records began in 1980, 31.4% of tenants were social renters, compared to just 11.9% in the private sector. Owner occupancy stood at 65.2% of all households in 2012-2013, up from 56.6% in 1980 but down from its peak of 70.9% in 2003.

According to the survey, throughout the 1980s and 1990s, the proportion of private sector households stayed steady at around 10%. However, the sector has undergone sharp growth since then and has nearly doubled in size. This was driven by a number of factors. In the late 1990s, rent controls were removed and assured shorthold tenancies became the standard, giving greater flexibility in the length of tenancies. Lenders also introduced the buy-to-let mortgage at around the same time. Of the 4.9 million dwellings classed as 'non-decent', 4.4 million were in the private sector, a sharp fall from 6.6 million in 2006. The number of 'non-decent' homes in the social sector almost halved from 1.1 million in 2006, to 581,000 in 2012. 33% of homes in the PRS were non-decent, compared to 47% in 2006. *From the NLA UK Landlord* 

#### Wise up to Electrical Safety

Under Gas Safety Regulations, landlords are legally required to have gas appliances in their properties checked every 12 months. Non-compliance is a criminal offence. Courts can, and do, impose fines and custodial sentences. Electrical checks are not yet mandatory, but if you let a property you are legally responsible for your tenant's safety: providing unsafe appliances and wiring are offences punishable by law. Unfortunately, either through ignorance or negligence, every year thousands of private landlords fail to order safety checks of their properties. The consequences for tenants are horrifying. According to Electrical Safety First (www.electricalsafetyfirst.org.uk) tenants are 7 times more likely to suffer one of the 350,000 serious injuries caused by unsafe electrics. However landlords are not always to blame. Evidence suggests that, in some cases, tenants are the problem. They won't let the engineers through the door. Misguided notions of privacy, burglary? It is the landlord's job to spell it out to the tenant. Safety checks are done for one reason - the safety of the tenant. The best time for this is at the start of the tenancy with the location of the stopcock, the trip switch, bin collections and every year a gas safety check. Simple. *From RLA RPI* 

## Labour Party Unveil Plans to "Reform Renting"

Launching the Labour Party's campaign ahead of the local and European elections later this month, Ed Miliband has outlined plans to reform private renting with the following proposals:

#### Introduce long term three-year tenancies:

Tenancies would start with a 6 month probation period at the end of which the landlord would be able to terminate the contract if tenant failed the probation (e.g. if there are rent arrears or antisocial behaviour). After the 6 months, the tenancy would automatically run for a further 2.5 years

Tenants would be able to terminate contracts after the first 6 months with one month notice as they can now.

But landlords would be able to terminate contracts with 2 months' notice only if they can have good reason:

• The tenant falls into rent arrears, is guilty of anti-social behaviour or breaches their tenancy agreement

- The landlord wants to sell the property, needs the property for their own or family use
- The landlord plans to refurbish or change the use of the property.

Landlords would not be able to terminate tenancies simply to put rents up.

There would be a provision that allowed landlords to enter into shorter contracts where they are contractually obliged to do so as part of a buy to let mortgage entered into before the start of this new legislation.

There would also be provision for new tenants like students or business people on temporary contracts to request shorter-term tenancies subject to the landlord's agreement.

#### Predictable rents:

Landlords and tenants will set initial rents based on market value and conduct a rent review no more often than once a year.

Rents could still be reviewed upwards, downwards or stay the same, subject to market conditions. But the legislation would place an upper ceiling on any rent increases to prevent excessive rises. This would be based on a benchmark such as average market rents. The Royal Institute of Chartered Surveyors is already examining what an appropriate benchmark might be.

#### Ban letting agents' fees for tenants:

Landlords would continue to pay charges just as people selling houses pay fees to estate agents. But letting agents would be banned from charging fees of up to £500 to tenants. This will save people entering into a new tenancy an average of £350."

## Labour's policies put housing investment at risk and lack crucial detail

The British Property Federation (BPF) has voiced its concern over labour proposals to tackle problems in the Private Rented Sector, and in particular what will be seen as rent controls and a lack of detail in its policy making. Outlined by Ed Miliband, Labour's reforms to the PRS would introduce three-year tenancies, enforce a ban on letting agent fees and impose a ceiling on rent increases. Ian Fletcher of the BPF said: "There are many institutions investing in UK housing, or on the cusp of it, that will be feeling extremely nervous. Those who are already investing are very receptive to offering longer tenancies and many are doing so, and the labour Party's aspiration on that in itself is not objectionable, but the rent aspect of this announcement makes no sense. Good landlords will be getting a perverse message that if you are providing a premium product the most you can expect is the "average", whilst bad landlords with sub-standard housing can find another justification for charging over the odds. There are already mechanisms to deal with dodgy rents on longer tenancies via rent Tribunals and Unfair Contract Terms. If Labour doesn't want to alienate the one million plus landlords in the UK it must also be more forthcoming on not only allowing evictions for reasons of sale, rent arrears or antisocial behaviour, but how will that work in practice and whether the courts will be resourced appropriately, the spending commitment that entails. Keeping as many possession proceedings out of court, and providing a guaranteed timescale when cases go to court would be a great start. The Party has promised it will work constructively with the sector on these issues, and that is welcomed. The PRS has attracted phenomenal investment into housing over the past two decades and with institutional money now entering the sector there is a great opportunity for it to contribute towards Labour's aspiration of 200,000 additional homes per annum. We, the BPF, welcome that housing is high up on the Party's agenda, but it won't achieve its objectives if it has investors in new housing delivery doing a rethink and it won't get away without filling in the blanks in its policy-making for too long."

#### Deposits? We never check say half of tenants

More than half of tenant sharers (53%) admit they never check to see if their deposits have been protected, with 47% believing that they had not been protected. Just over a quarter (26%) said they did not know. In a survey by Spareroom, 16% of sharers and prospective sharers said they had never heard of deposit protection schemes. (Some landlords have never heard of the schemes either!).

Some 13% of tenants said they had submitted dispute claims through a deposit scheme. The outcome was evenly split: 48% of tenants won their claim while 52% said their landlord had won the dispute. *From the RLA* 

## **Over-Regulation under Attack**

Over-regulation in the private sector does not work, with tenancy deposit schemes coming under particular criticism in an authoritative new report. The report was published just days ahead of the Labour party's announcement that it would step up regulation of the private sector if elected.

In his paper, Michael Ball, professor of urban and property economics at the Henley Business School, said tenancy deposit schemes are poor value for money, with the costs "vastly" outweighing the benefits. He says they cost over £275m a year in fees and administration, but only £7m is returned to tenants annually in deposits judged to have been unreasonably upheld. That means the net benefit is -£269m.

Ball also says that the schemes do not necessarily protect tenants at all: "One scam is to claim that the deposits are protected when they are not". Ball's report also attacks landlord registration schemes such as the blanket one in Newham. He says that rogue landlords avoid them, while they merely add costs for the compliant ones. He describes them as costly and ineffective.

Ball says that regulation has a perverse effect on raising better landlords' costs but not those of poor ones, because unscrupulous landlords continue to ignore legislation and so face no costs of it. Paradoxically regulation can worsen the position of better landlords and thereby leave more of the market to the bad ones.

The RLA commented that they would urge the government and opposition to listen to Professor Ball's findings. Given that there are over 400 different regulations applying to the private rented sector, and a cost / benefit review of all of them is needed to ensure that we have effective regulation which is not placing an unnecessary cost burden on landlords and tenants.

At the local level, a system of co-regulation would enable landlords to join an industry-led accreditation scheme that would use strong sanctions such as independent property inspections as a measure of deterrence against poor practice. This would give councils the freedom to target non-members who do not act within the remits of the law.

From the RLA residential property Investor

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#### Longer tenancies could cause problems (Inventory clerks say that longer tenancies will cause a rise in the number of deposit disputes over wear and tear)

Shelter is calling for a new fixed-term, five-year to be introduced for all tenancies in the private sector, with rent increases linked to inflation.

Under their recommendation, tenants will be able to leave the contract at any point with two months' notice for no apparent reason. This is a privilege that would not be extended to the landlord and could, critics say, adversely affect the tenant / landlord relationship. According to the Association of Independent Inventory Clerks (AIIC) another effect could be that longer tenancies will cause a significant rise in the number of deposit disputes over wear and tear. The chair of AIIC said "The average length of private tenancies is now reaching 20 months and it is clear there needs to be longerterm tenancies available, especially for families. However, if the proposals go too far, it could be detrimental to the landlord. There is the big issue of 'wear and tear' in the property over a longer tenancy period. The longer the tenant stays in a property, the more likely it is that the property would be subject to wear and tear, and when this occurs, a landlord could decide to hold on to the deposit in order to cover the cost of repairs, redecoration and cleaning bills at the end of a long-term tenancy. Landlords and tenants have different expectations when it comes to fair wear and tear issues. Most tenants are aware when they have caused actual damage to a property and usually try to hide the damage subtly, which is why it is absolutely vital for landlords and management companies to ensure that no proverbial stone is left unturned when looking for damage at check-out. There is a distinct difference between fair wear and tear and actual damage-e.g. carpet tread will flatten over time, where there has been foot traffic, but cigarette burns, stains or soiling will require a charge.

What should be covered by the landlord and the tenant.

The landlord -

should expect to emulsion walls and ceilings every 3-5 years

Would have to renew things during a long tenancy: cheap doormats, saucepans,

mattress protectors, bath or shower sealants might need replacing between 1 and 3 years

The tenant -

Should remember that if something can be cleaned, it should be. Cleaning issues are never counted as wear and tear.

The property, its contents and any exterior areas must be maintained to the standards as listed in the inventory at the start of the tenancy. A few minor marks to walls will be deemed wear and tear, but heavy marks will incur a penalty.

If items are broken or light bulbs blown, these need to be replaced before moving out. It will be more expensive if the agent or landlord has to arrange outside contractors to attend the property.

Furniture damage: a few minor scratches to a table-top or light wear to corners will be wear and tear. Heat marks and water marks caused by tenant negligence should be deemed as damage and will therefore be a chargeable issue.

#### **Best of friends**

Almost half of all households in the UK have pets. Yet landlords are notoriously not keen on tenants who want accommodation to share with their best friends - pets whom they generally see as part of the family and with whom there may be an emotional attachment going back years. Pet Population produced a report last year showing that 13 million, or 45% of UK households had pets. The problem for the landlord is simple: should you allow pets at all? If you have a choice between a prospective tenant with no pets and one with, which would you, go for? A recent Upad online survey showed that just 20% of tenants have pets – far smaller than the Pet Population statistics – and in some cities a quarter landlords advertise property as 'no pets'. In one recent horror story, a couple who had rented out their own previous home to tenants who they knew had dogs were horrified to find that the number of (large) dogs had spiralled, and that the dogs themselves were kept in appalling conditions, and that many rooms in the property were both fouled and wrecked. Fearful neighbours had also complained. For every one such occurrence, there must be many more heart-breaking cases where people have had to part with their adored, well-behaved and perhaps elderly animals because they cannot find rented accommodation which takes pets. So, what is a landlord to do? According to the outreach co-ordinator of Dogs Trust, the answer is to start with a clear, written understanding. They strongly recommend that landlords advertise their properties as 'pets considered' and make each decision on a case by case basis. Landlords should then include a clause in their standard tenancy agreement if they have given permission for a pet. This protects both the landlord and tenant. The clause should be as specific as possible on the pet type, size, breed etc. Dogs Trust also recommend including a pet policy as an additional document and that this should state that if the tenant would like to get any further pets, they should seek permission first. Landlords could also ask for a larger deposit or ask for the property to be professionally cleaned when they move out. Most responsible pet owners are happy to do this. From the RLA Residential Property Investor



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# New Guide Launched – How To Rent: The Checklist For Renting In England

Prior to the cabinet reshuffle, Housing Minister Kris Hopkins launched a new guide for Private Rented Sector tenants titled 'How to rent: the checklist for renting in England.'

According to a press release issued by the Department for Communities and Local Government Mr Hopkins said that this will help encourage a new generation of tenants to have easy access to understandable and useful information when renting property in England. Kris Hopkins has now been replaced by Brandon Lewis.

According to DCLG, the new how to rent guide helps tenants during a time whilst looking for property to rent as it can be viewed on smartphones and tablets.

The guide includes:

- information and advice on tenancy deposit schemes, tenancy length bill payments
- a checklist of what the landlord must provide tenants, including gas certificate and deposit paperwork
- information on the requirements of the landlord to maintain the structure of the property and give tenants at least 24 hours' notice before entering the property
- the legal requirements for landlords and tenants on ending tenancies and returning deposits.

At the time Kris Hopkins said "This government is turning up the heat on the small minority of rogue landlords that are not playing by the rules and giving tenants a rough deal. The new 'How to rent' guide will give tenants the knowledge they need at their fingertips and help raise the game of landlords who may not know what is expected of them. We are doing all of this without the need for excessive state regulation that would destroy investment in new housing, push up prices and make it far harder for people to find a flat or house to rent."

From the Guild of Residential Landlords

## Harassment and Illegal Eviction

Housing staff at Plymouth City Council have all undergone training in how to deal with harassment and illegal eviction in private rented accommodation. Recently there were three cases in one week. Officers were able to prevent the eviction in each case and point the landlords in the direction of one of the landlord associations to get advice on how to lawfully evict their tenants. In these cases no enforcement action was taken against the landlords but any repeat offences is likely to lead to prosecution by the Local Authority under the Protection From Eviction Act 1977.

"Harassment" is defined as doing anything likely to interfere with the peace and comfort of a residential occupier or persistently withdrawing services reasonably required, knowing (or having reasonable cause to believe) that this conduct is likely to cause the occupier to give up the occupation, to refrain from exercising any right in respect of the premises or refrain from pursuing any remedy in respect of the premises e.g., taking action to get repairs done.

There were rent arrears in each of the cases dealt with but harassment and forced eviction are not the way to deal with the problem! Use your landlord association and get advice from the local authority at an early stage in order to prevent the matter reaching crisis point. If you do commit an offence you end up being the guilty party even where the original breach of contract may have been the tenant's. You could end up with a substantial fine, a criminal record and lose the ability to be a "fit and proper person" to hold a HMO Licence.

From Private Sector Housing Manager, Plymouth City Council

#### How Much Does it Cost to Fix a Leak Under a Sink?

Your tenant advises there is a small leak under a sink-check tightness

- no cost except your time.

A new part needed, no expertise needed to fit-Cost of part less than £10 and your time. If you need a plumber to do the job, it will probably cost you an hour of their time-say £50.

You ignore the leak for a while; the floor under the leak is now saturated.

Your tenant complains to the Council, they write and ask you to attend to the leak. You continue to "not get around to dealing with it".

The Council serves formal notice requiring you to do the work: there is a charge of £75 for this.

The floor is now starting to soften and rot. You still don't do the work.

The Council undertakes the work in your default-parts of the floor now need to be replaced as well as attending to the leak.

The Council send you a bill for this. It consists of:

The plumbers charge plus parts-£60, Repairs to the floor-£75, Plus 8% charge from the managing agent who arranges work for Council, Not forgetting charge for Council serving the notice etc.-£75, Total now £220.80.

You fail to pay this bill and the debt is referred to the bailiffs, they charge you £110 for collecting the debt or taking goods to the value. Total cost of fixing a small leak-£330.80 !

From Private Sector Rental Manager PCC

#### 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. Don't forget our ability to advertise accommodation to let, property for sale in our office window

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Rory Smith, Enigma Solicitors

SWLA are now working with a new solicitor in the Area. Rory Smith at Enigma Solicitors is a highly experienced specialist in a wide range of disputes and their resolution. Rory can also recommend to you other law firms in Plymouth who will all offer free initial advice to SWLA members in other specialist

You can contact Rory for free initial advice on any matter on 01752 600567 or by email at rls@enigmalaw.com Enigma is located 5 minutes away from SWLA's office at Farrer Court , 77 North Hill PL4 8HB next to Stratton Creber Commercial. The office is open 8:50 a.m. until 5:00 p.m. weekdays but the firm regularly also works additional hours whenever needed. Richard Gore Solicitor Richard is with Greg Latchams on 0117 9069424 in Bristol and will support initial telephone calls to discuss your problems

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