

## From Strength to Strength

**November 2015**

In the membership year October 2014 – November 2015 membership increased by over 12%, with renewals remaining static but a record number of new members joining every month.

The Association provided six one day landlord/agent training days enabling 120 attendees to become accredited landlord/agents. In addition six half day courses were arranged covering specialist areas. All courses were fully subscribed and thanks go to Plymouth City Council, Teignmouth District Council and Exeter Council for providing venues and support. Dedicated financial support was received from Plymouth City Council to provide landlord training manuals and PATH (Plymouth Access to Housing) helped fund subsidised course places.

The SWLA website has been regularly updated to give information on the changes to legislation and for those without internet access (and also those with!) a quarterly Bulletin has been distributed with advice, comment and items of interest. SWLA continue to support local authorities in their Rogue Landlord Campaigns and were involved in the launch of the Cornwall Responsible Landlord Scheme and the Plymouth Landlord Charter. We sit on the steering committee for both these schemes. Giving advice to members remains paramount and our office staff have been kept busy with telephone queries and office visits from members. The most frequently requested information is on possession procedure, ASTs and deposits. New legislation regarding Section 21s and retaliatory eviction will no doubt be top spot in the coming months.

Staff and Officers of the Association will continue to represent landlords at local, regional and national level.

Thank you as members, for your continued support  
Iain Maitland

Vice-Chairman SWLA

### **From Strength to Strength**

#### **Upcoming Training**

#### **Insurance**

#### **Tenants still winning deposit disputes**

#### **Universal Credit**

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#### **Membership renewal reminder**

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#### **Cornwall Council successfully prosecutes private landlords**

#### **Join other members already benefitting**

#### **ECO affordable warmth scheme - EON**

#### **Measures to crack down on illegal immigrants obtaining housing**

#### **New section 21 rules for landlords**

#### **Landlord slapped with heavy fine**

#### **Right to rent roll-out**

## **Upcoming Training Course**

The next one day Landlord Accreditation Training Course is on Monday 25th January 2016 from 9.15-4.30pm at the Astor Room, Plymouth Guildhall, Royal Parade, Plymouth PL1 1HA. Price £65 for members, £75 for non-members. Course covers ASTs, Deposits, Section 21s, Section 8s, HMOs, Gas and Electrical Safety, Inventories and much more.

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## **Insurance**

When your insurance is due for renewal please get a quote from BOTH our preferred insurance companies to ensure the best cover at a competitive cost.

Excaliber Associates – 01752 340183

Bateman Group Landlords Direct – 01926 405040

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## **Tenants Still Winning Deposit Disputes**

Statistics show that over the last eight years, tenants have been awarded 20/25% of the whole deposit amount, compared with 18/21% of landlords. Furthermore, the dispute amounts have risen from £736 in 2010-2011 to £860 in 2013-2014. Cleaning remains the most common cause of dispute, appearing in over half of all cases (53%). This is followed by damage (46%), redecoration (29%), arrears (16%) and gardening (14%). Disputes over gardening have seen a steady increase since 2011 up by 3%.

The main cause of this may be the quality and lack of evidence which is presented at adjudications. Landlords and agents should conduct adequate and thorough inventories and check-in and check-outs as well as keeping copies of correspondence with the tenant all which could be used evidence in a dispute. The tenants should check and sign their agreement detailing the inventory when they check-in. The tenant should always be present during the check-out inspection. Tenants should always be made aware of any problems and chargeable issues to their deposit, as this will avoid disputes. The landlord should make every effort communicate and negotiate with their tenant. SWLA run a ½ day training courses on inventories; please check the website for details of upcoming courses.

## **Universal Credit**

The Government's flagship welfare reform, Universal Credit is due to roll out in Plymouth in January 2016. Universal Credit will replace six working age benefits and tax credits including Housing Benefit and will be paid to the claimant direct monthly. This new benefit will be paid and administered by the Department of Work and Pensions. Councils will provide support around online claiming and budgeting. Council Tax support and Discretionary Housing Payments will still remain under the control of the council and for the immediate future pensioners will continue to receive Housing Benefit. At first the roll out of Universal Credit will be limited with only single jobseekers or single people on minimal earning being eligible to claim. This will expand to more complex circumstances over time and once a household receives Universal Credit they will remain on it, even if their circumstances change. Landlords have expressed concern about the direct payment of Universal Credit to the claimant. This will happen across all tenures including council and Housing Association tenancies. There are however, some possibilities for varying the way Universal Credit is paid. These are called Alternative Payment Arrangements (APAs) and can be requested by the tenant or their landlord and allows for a payment to be made more frequently, to a different member of a couple or to the landlord for the housing cost element of Universal Credit. The Government expects the majority of tenants to pay their rent directly to their landlord and an APA will only be considered for cases where the tenant is vulnerable or unlikely to pay their rent. Direct payments to landlords can also be considered when a tenant falls into rent arrears.

Please see the GOV website (search Alternative Payments Arrangements) for more information. More updates to follow in future bulletins.

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## **Property Redress Schemes**

Legislation has been in force since October 2014 and the annual renewal process should have been actioned. It is clear that local authorities are policing the law and Sheffield recently fined 11 letting agents for not complying with the legislation, raising £37,000 for their coffers.

## Landlords Legal Obligations to Electrical Safety

There is currently no law that states that a landlord must perform annual electrical safety checks, so it is not quite as cut and dry as Gas Safety Regulations in rental properties. However, there are regulations that do apply, but in nearly all cases the requirements only state that systems and equipment must be safely installed and safely maintained.

Failure to provide safely installed and maintained electrical appliances can lead to prosecution as it is a criminal offence. Penalties for failure to comply could be:

Your property insurance could be invalidated

A fine of £5,000 per item not complying

Six months imprisonment

The tenant may sue you for civil damages

Possible manslaughter charges in the event of a death

These regulations are enforced by the Health & Safety Executive. To avoid legal prosecution it is advisable for landlords to have periodic checks made by a qualified electrician.

### **Electrical Safety Regulations**

There is no statutory obligation for landlords to have professional checks carried out on their electrical system or appliances. Under Common Law and various statutory regulations,; The Landlord and Tenant Act 1985, The Housing Act 2004, The Electrical Equipment (Safety) Regulations 1994 and the Plugs and Sockets etc (Safety) Regulations 1994, both of which come under the Consumer Protection Act 1987, there is an obligation to ensure that all electrical equipment is safe. Under Part P of the Building Regulations, it is a requirement that certain types of electrical work in dwellings, garages, sheds, greenhouses and outbuildings also comply with the standards. In all cases a competent electrician must carry out the work. In order for a landlord to perform DIY electrical work, he must belong to one of the Government's approved Competent Person Self Certification schemes or submit a building notice to the local authority before doing the work himself. **SWLA supports the policy which recommends that all rented property should have a 5 annual electrical installation inspection carried out by a registered electrician.**

### **Electrical Safety measures landlords should take:**

As with any safety aspects in a rental property, if landlords manage their property well the risks are minimal but manage it badly and the risks are high.

**Continued next page...**

## **Safety Procedures that should be followed:**

Keep supplied appliances to a minimum

Ensure fuses are of the correct type rating. Make sure appliances supplied are complete and in working order-keep purchase receipts

Ensure flexes are in good order and properly attached to the appliance and plugs

Ensure earth tags are in place

Make a note of all fuse ratings on the inventory

Ensure that plugs are an approved type with sleeved live and neutral pins

Ensure that all plugs and sockets conform to BS1363 or BS1363/A for heavy duty uses

Pay particular attention to second hand equipment-always have these items checked

Ensure that operating instructions and safety warning notices are supplied with each appliance

Make sure that tenants know the location of and have access to the main consumer unit, fuses and isolator switch.

## **Portable Appliance Testing (PAT) in rental accommodation**

Portable appliance testing is a process which electrical appliances are routinely checked for safety. The correct term for the whole process is In-service Inspection & Testing of Electrical Equipment. If the property is a HMO (Houses in Multiple Occupation) you are required by law to provide yearly PAT certificates for all appliances.

## **Extra Notes**

Upgrading to 17th edition RCD's (residual current devices) to replace older style fuse boards can be done reasonably cheaply. These devices will provide electric shock protection. The RCD will trip when there is a leak from either live or neutral. Newer boards have dual RCD's to ensure the whole installation does not shut down when a fault occurs. If ever in doubt get a Part P registered electrician to check out any electrical appliances.

## **During your regular visits to the property, check the electrical points:**

There should be no signs of overheating at sockets, no damaged (chips/cracks) sockets and no frayed or bare wires. Ensure there are enough electrical points as you don't want tenants to have wires trailing to extension leads causing possible trip hazards. Make sure plugs are not hot when you touch them and check that your tenant has not performed any DIY work on the electrics. Landlords check whether tenant's electrical goods are in fit condition-are they PAT tested/ (you may want to consider adding this requirement to your tenancy).

## **Between Tenancies:**

Landlords should check all the above and consider the advisability of employing an electrician to check everything is in order-as the landlord is responsible for the electrics and a tenant may have a claim if an accident occurs due to faulty work carried out by a previous tenant.

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## Membership Renewal Reminder

We have received many calls from members unable to access the member's area to download stationery documents. They had failed to renew and were consequently locked out.

If you have yet to send in your renewal, please do so as soon as possible to avoid similar problems and delays.

Membership is still only £40 per annum (tax deductible).

If you no longer require membership, please let us know so we can stop sending you reminders and remove your details from our member's database.

If you have any queries regarding membership, contact the office on 01752 510913.

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# Landlords' Data Protection and Freedom of Information Responsibilities

The Data Protection Act controls how an individual's personal information is used by organisations, businesses and the government. Everyone who is responsible for using data have to ensure that the information is fairly and lawfully processed, processed for limited purposes, adequate relevant and not excessive, accurate, not kept longer than necessary, processed in accordance with individuals' rights, kept secure and not transferred outside the European Economic Area without adequate protection.

Organisations processing personal information (data controllers) must comply with these principles.

**What are landlord's personal data responsibilities?** – A landlord can request to see a tenant's I.D and any "reasonable amount" of personal information. You can also store copies of this information as long as it is kept locked away in a safe and secure place. Do not pass the information onto a third party without informing the tenant, keep the information up to date and destroy it when you no longer need it. If you receive and store any of this personal information on an electronic device such as a computer, smart phone or digital camera you must be registered as a data controller. If you carry out a credit check on a tenant you must also register as do landlords who ask tenants to provide them with personal information required to protect their deposit unless the landlord has handed all of the letting and management of their property over to a third party. Registration can be made on ICO website or by telephone at £35 p.a. Failure to register could result in a £5,000 fine.

**Is my information as a landlord protected?** – The Freedom of Information Act places an obligation on a public body to provide information on any matter if requested. Personal information should be protected unless there is a warranted reason for disclosing it.

**What information are landlords permitted to pass on about their tenants?** – The ICO state that a landlord has a legitimate interest in making sure that utility charges are directed to those responsible. Landlords should advise individuals when they first agree to the tenancy that their details will be passed on. When a tenant leaves without paying their rent and without making arrangements to pay, landlords may provide their details to a tracing agent or debt collection company to help recover the money owed to them.

*(taken from NLA)*

**ENERGY PERFORMANCE  
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First Call provides EPCs for fellow members of SWLA at a reduced fee.

If you require help or advice regarding an Energy Performance Certificate for a property you intend letting, please ring  
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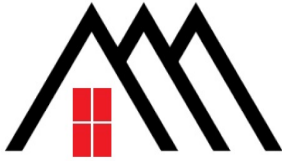
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THINK CAREFULLY BEFORE SECURING OTHER DEBTS AGAINST YOUR HOME. YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP PAYMENTS ON YOUR MORTGAGE.

## **Cornwall Council successfully prosecutes private landlords of properties in Falmouth, Camborne and St Dennis for failing to protect tenants**

Three separate cases brought by Cornwall Council's Private Sector Housing Team heard at Bodmin Magistrates Court in January 2015 highlight that there are still some landlords who are not fulfilling their legal obligation to ensure the health, safety and welfare of their tenants. Adam Michael of Penryn pleaded guilty to failing to comply with an Improvement Notice served under the Housing Act 2004 to carry out repairs to a tenant's damaged roof within the stipulated timescale. The Court heard that the roof of the property in Falmouth was storm damaged in the early part of 2014 allowing water into the flat below. In December 2014 works had still not been satisfactorily completed with water again entering the property and a section of the ceiling collapsing. Penpraze pleaded guilty and was fined £700 with costs of £1,558.24 and a £70 government surcharge making a total of £2,328.24. In another case heard, landlords James Henry Smyth and Janet Elizabeth Smyth of Helston pleaded guilty to failing to comply with an Improvement Notice served under Section 11 of the Housing Act 2004. The couple pleaded guilty and each received a 18 month conditional discharge and were ordered to pay costs of £666 each and a government surcharge of £15 each. Following a complaint from the tenant and an inspection of the property in Camborne, a category 1 hazard was identified for excessive cold. The landlords failed to resolve these issues so an Improvement Notice was served on 23 April 2014, requiring works to be carried out to the property within 4 months from the date of the notice. A visit was undertaken on 02 September 2014 where it was discovered that the notice had not been fully complied with. The third case involved landlady Susan Pearline Metherell, of St Dennis. Mrs Metherell changed her plea to guilty to the offence of failing to comply with an Improvement Notice served under Section 11 of the Housing Act 2004. She was given an 18 month conditional discharge and ordered to pay costs of £500 to Cornwall Council with a £15 government surcharge. Following a complaint from the tenants and subsequent inspection of the property in St Dennis, a category 1 hazard was identified for excessive cold. The owner failed to resolve these issues informally so an Improvement Notice was served on 04 November 2013, requiring works to be carried out to the property within 60 days. The work was not completed even though the landlady was granted additional time. Cornwall Council's Private Sector Housing Team said: "All landlords must ensure that their properties meet minimum safety standards. Any landlord who is unsure of their obligations is encouraged to contact the Private Sector Housing Team. Cornwall Council, in partnership with local and national residential landlords associations, is developing a scheme where landlords will be able to work in partnership with regulators to ensure that legal obligations are met. For more details on the Cornwall Responsible Landlords Scheme please contact the Council's Private Sector Housing Team".

**Continued next page...**

# **Cornwall Council successfully prosecutes private landlords of properties in Falmouth, Camborne and St Dennis for failing to protect tenants**

Joyce Duffin, Cornwall Council cabinet member for Housing and the Environment said: “These cases highlights that there are still some landlords who are not fulfilling their legal obligation to ensure the health, safety and welfare of their tenants. The Council will make every effort to advise, educate and work with landlords but those who plead ignorance or fail in their obligations can rest assured that the Council will make every effort to bring them to book. We value the contribution that well maintained private rented accommodation makes to the local housing market but will intervene where the property fails to meet the minimum standards required. The Council strives to work informally with landlords but when informal requests fail, the Council will use enforcement action and prosecute if necessary.” SWLA are continuing to work closely with Cornwall Council and the development of the Cornwall Responsible Landlord Scheme.

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## **JOIN OTHER MEMBERS ALREADY BENEFITTING... INCREASING TAX LIABILITIES – TAKE ADVICE NOW**

Reduced rates of tax relief for mortgage interest on rental properties and the abolition of wear and tear allowance means that many individuals with letting portfolios are likely to pay significantly more tax as from next year. This will increase, as the changes are phased in over the next few years. Extra tax for those with a significant number of properties will cost tens of thousands of pounds. For properties held by individuals, planning to transfer property holdings to a limited company may well provide the answer to save very large sums of tax. Achieving this tax effectively is a complex matter but will provide other tax benefits such as a tax free uplift in the value of your properties should you wish to sell, any capital gains are free, and the potential to shelter the value from inheritance tax. There are also opportunities to shelter profits within a company, which may prove attractive once operating in company or benefit those already within a corporate structure.

Appropriate planning taken now could save significant amounts of tax over the coming years for those members with multiple properties in their portfolios. Bromhead Chartered Accountants are already working with a number of our members and have kindly offered to organise a seminar at their offices to run through planning opportunities available. If you'd prefer and your circumstances meet the criteria they will also meet for one to one consultations.

If you'd like to attend a seminar or arrange a one to one consultation please telephone Lee Curtis, Bromhead Chartered Accountants 01752 697397 in the first instance.

## Eco Affordable Warmth Scheme – EON Energy.

From April 2018 landlords will be required by law to get their properties to an energy rating of at least Band E. Properties which do not meet this standard will not be able to be rented to new tenants. From April 2016, tenants can request energy efficiency measures to be installed at their property to improve the energy performance rating. One of the best ways to ensure your property meets these standards is to insulate it and replace old or faulty boilers. If your tenants receive certain benefits then they can apply for assistance through the ECO Affordable Warmth Scheme to receive free loft insulation, free cavity wall insulation and funding towards a replacement gas boiler if the old one was installed before 2000 and is broken or not working.

How does this work – the scheme is designed to help private landlords and their tenants improve their properties. To qualify, your tenants will need to be in receipt of certain benefits such as child tax credit or pension credit to be eligible for help. The benefits for the landlord is that you could get free insulation and funding towards a new boiler for the properties you have that need them.

What are the benefits – Energy efficiency improvements worth around £3,075\*, your tenants could save around £640\* a year off their energy bill, it will help your property reach the standards required in 2018 and you will have a better insulated property

For more information or ask your tenant to call 0330 400 1729 (calls to 03 numbers are charged at local rate, unless included in your package as free calls)

Or your tenants can apply on-line at [eonenergy.com/tenantsapply](http://eonenergy.com/tenantsapply)

A home visit will be then be arranged and a technical survey booked. The technical survey will state whether the improvements can go ahead and how much you need to pay. Insulation is free but there will be a charge towards a replacement gas boiler if your property needs one. Experienced installers will carry out the improvements.

\*from Gov.uk

**Measures to crack down on illegal immigrants obtaining housing could lead to lawful tenants being denied a home say landlords.**

The Residential Landlords Association (RLA) is concerned that there is insufficient support for landlords to check documents which are unfamiliar to them. It can take up to 48 hours for a document to be verified whereas landlords make instant decisions for those with a UK or EU passport with an easily recognisable right to be in the UK.

The impact will be, especially in areas of high demand like London, where many landlords will not want to take the risk of ending up on the wrong side of the law and so may deny accommodation to those who are entitled to be in the UK.

While strongly supporting action to deal with landlords who persistently house illegal immigrants and who now face fines, the RLA is calling for the Identification and prosecution of persistent offenders to be adequately resourced so as to be a real deterrent.

The Right to Rent Scheme rolls out across England from 1st February 2016, please see SWLA website for further information



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## **New Section 21 Rules for Landlords**

New legislation from 1st October 2015 affects Section 21s. You will need to follow these new regulations.

You must provide new tenants with an Energy Performance Certificate (if applicable). You will need to demonstrate that you have done this in order to apply for a Section 21 notice.

You must provide tenants with a Gas Safety Certificate within 28 days of the check being carried out to existing tenants and before new tenants move in. Landlords now must keep copies of the gas safety record for two years. All installation, maintenance and safety checks need to be carried out by a Gas Safe registered engineer.

You must provide new tenants from 1st October 2015 with the Government "How to Rent" Guide.

You must serve notice using the Government's new standard form only, for new tenancies commencing on or after 1st October 2015. It will be harder to serve notice on tenants if they have recently reported a maintenance issue. The so called "Retaliatory Eviction" legislation is being introduced to prevent situations where a tenant reports a maintenance issue to the landlord or letting agent and the landlord then issues the tenant with an eviction notice. From 1st October 2015 you will not be able to serve a Section 21 notice if:

\* your tenant has made a written complaint regarding a repair or another maintenance issue prior to the Section 21 being served and \*you as a landlord or your agent has not provided an adequate response within 14 days and \*the tenant has then reported the matter to the relevant local authority who have issued an Improvement order or undertaken emergency remedial action themselves using their statutory powers to do so. If your Section 21 notice is served before maintenance or repair issue is reported, then the Section 21 notice will not be affected. Also landlords who are serving a Section 21 notice with a genuine intention to sell the property should also be unaffected.

The new regulations initially only apply to new tenancies started on or after 1st October 2015 and then to all tenancies from October 1st 2018.

These new regulations are in addition to the existing regulations mandating that landlords must comply with legislation regarding the proper protection of tenancy deposits in order to serve a Section 21 notice.

## **Landlord slapped with heavy fine**

A Birmingham landlord has been handed fines totalling £19,418 after it was found an HMO he owned had no fire alarms or display notices indicating escape routes. The owner, Mr Amrik Singh Gill, had also failed to apply for an HMO licence and ensure that there were adequate water and drainage systems. Birmingham Council's member for neighbourhood management, John Cotton, said: "A tenant living in bedsit accommodation such as this property is almost 17 times more likely to be killed in a fire than an adult living in a similar single-occupancy house. It is because of these shocking statistics that HMO licensing exists and officers carry out checks to ensure the safety of tenants. Mr Gill not only provided his tenants with what can only be described as shoddy accommodation, he also put his tenants' lives at risk and I welcome the fine imposed by the Court."

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## **RIGHT TO RENT ROLL-OUT**

The Home Office has announced that from 1st February 2016, the Right to Rent Scheme will be extended across England. This follows a pilot scheme in the West Midlands and was introduced by the Immigration Act 2014. This means that all private landlords in England including those taking lodgers into their own home must check new tenants have a right to be in the UK before renting out their property. The Right to Rent obligation only relates to new tenancies starting on or after 1st February 2016. It is not retrospective, so you do not need to carry out checks on tenants already living in your properties. Some types of accommodation are exempt from Right to Rent checks. These include holiday lettings and private rented accommodation used by local councils for homeless accommodation. Private student halls of accommodation are also exempt as are properties which have leases of seven years or more.

As of 1st February 2016, anyone who rents out property in England will need to see and make a copy of evidence that any new adult tenant has the right to rent in the UK (for example a passport or bio metric residence permit). The process is simple and in most cases can be carried out without contacting the Home Office. However, if a tenant has an outstanding immigration application or appeal with the Home Office, landlords can request a Home Office Right to Rent Check. A yes or no answer will be provided within two working days. Landlords who don't make the checks could face a civil penalty of up to £3,000 per tenant if they are found to be renting out a property to someone who is in the UK illegally.

The Government is also making it easier for landlords to evict illegal migrants as part of the Immigration Bill. You can read more about the Right To Rent on [GOV.UK](http://GOV.UK).

# NOTICE

## SWLA Stationary

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.  
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## Greg Yates Solicitor

Greg Yates is with Howard & Over on 01752 556606 and will continue to support our members.

## WBW Solicitors of Torquay

Will Support initial telephone calls to discuss your problem. Telephone Karen Barnard 01803 407636

## Rory Smith, Enigma Solicitors

Rory Smith 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.  
Contact Rory on 01752 600567 or email at [rls@enigmaw.com](mailto:rls@enigmaw.com)  
Enigma is located 5 minutes away from SWLA's office at Farrer Court, 77 North Hill PL4 8HB. The office is open 8:50 a.m. until 5:00 p.m. weekdays.

## Richard Gore Solicitor in Bristol

Richard is with Greg Latchams on 0117 9069424 and will support initial telephone calls to discuss your problems

## E-Mail address

If you change your email address **PLEASE TELL US** otherwise you might miss important messages



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Produced by Mark Price- [www.plymtechpc.co.uk](http://www.plymtechpc.co.uk)

**By The South West Landlords Association Ltd 30 Dale Road, Plymouth PL4 6PD**

You can contact our ansaphone service on 01752 510913 or E-mail us at [swlandlords@hotmail.com](mailto:swlandlords@hotmail.com), visit our website at [www.landlordssouthwest.co.uk](http://www.landlordssouthwest.co.uk)  
Or visit our office in Dale Road, it is open week days from 10 to 3pm

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.