The Bulletin

SWLA
South West Landlords Association

June 2019

Section 21 Evictions to be Banned

The Section 21 eviction process is being reviewed by the Government, with a view to remove it completely from English and Welsh Law. James Brokenshire, the Housing Secretary states that Section 21 evictions were one of the biggest causes of homelessness for families. As part of a complete overhaul of the sector, the Government has outlined plans to consult on new legislation.

The section 21 notice procedure has been in place since 15th January 1989. A section 21 notice is a minimum 2 month notice period served on an assured shorthold tenant where the landlord wishes to gain possession of a let property. The landlord does not need to give a reason. The procedure is often used where there are rent arrears, or a tenant is not complying with the terms of the tenancy due to the Section 8 eviction process often taking longer and being more complex in the court hearing.

The abolition of section 21 notices would create open ended tenancies. Under the proposals, landlords will have to provide a concrete, evidenced reason already specified in law for bringing tenancies to an end; A marked step-change from the current rules which allows landlords to evict tenants at any time after the fixed-term contract has come to an end, and without specifying a reason.

Theresa May said 'everyone renting in the private rented sector has the right to feel secure in their home, settled in their community and be able to plan for the future with confidence……. Millions of responsible tenants could still be uprooted by their landlord with little notice and often little justification…… This is wrong and today we're acting by preventing these unfair evictions…… Landlords will still be able to end tenancies where they have legitimate reason to do so but they will no longer be able to unexpectedly evict families with only 8 weeks' notice.'

It is proposed that the section 8 procedure will be amended perhaps by adding grounds where a landlord wishes to sell or move back into the property. These will be in addition to the existing grounds which allow landlords to evict tenants who don't pay the rent or commit anti-social behaviour. A simpler, faster process through the courts will also be an aim.

If the proposed changes do take place, landlords will have the benefit of the stability of longer-term tenants with fewer rental void periods.
The Government will shortly launch a new consultation. They will collaborate and listen to landlords, tenants, and others in the private rented sector.

A Note From SWLA Chair/Vice Chair

SWLA are meeting and liaising with other landlord representative groups to formulate a policy for presentation to government via the consultation process.
As this abolition of the section 21 eviction process has cross party support in the House of Commons it is likely to become law.

SWLA will be campaigning to ensure the section 8 route is improved and the court process amended and sped up.

Writing to your own MP giving examples of court delays and adjournments may ensure landlords get a fairer system than the present one.

Tenant Fees Act 2019 - comes into effect on 01 June 2019

The government has released a 'Tenant Fees Act 2019: Guidance for landlords and agents'. The guide is very informative and clear. If you are unsure which fees you can charge to the tenant, consult the guide which will talk you through the answer.
Included in the comprehensive guide;

- What fees can you ask a tenant to pay?
- When does the ban apply?
- What about existing tenancies?

The ban applies to assured shorthold tenancies (except social housing or long leases), tenancies of student accommodation and licences to occupy housing in the private rented sector in England. Most tenancies in the private rented sector are assured shorthold tenancies.

You cannot require a tenant (or anyone acting on their behalf or guaranteeing their rent) to make certain payments in connection with a tenancy. You cannot require them to enter a contract with a third party or make a loan in connection with a tenancy.

From 1 June 2019, if you enter into a tenancy agreement, student let or licence to occupy housing in the private rented sector, you will be prohibited from charging any fees or other payments that are not included in the list of permitted payments.

Where a tenancy agreement was entered into before 1 June 2019, you will still be able to charge fees until 31 May 2020, but only where these are required under an existing tenancy agreement. After 1 June 2020, the term requiring that payment will no longer be binding. Should you, in error, ask a tenant to make such a payment, you should return the payment immediately and must return this within 28 days. If you do not return the payment within 28 days, you will be treated for the purposes of the Act as having required the tenant to make a prohibited payment (a payment that is outlawed under the ban). You do not need to return any amount of tenancy deposit that is over the cap for tenancy agreements that were entered into before the Tenant Fees Act came into force. From 1 June 2020, the ban on fees will apply to all applicable tenancies. You will not be able to charge any fees after this date unless they are a permitted payment.

Permitted Payments

If the fee you are charging is not on this list, it is a prohibited payment and you should not charge it. A prohibited payment is a payment outlawed under the ban.
The only payments you can charge in connection with a tenancy are:
a) the rent
b) a refundable tenancy deposit capped at no more than five weeks' rent where the annual rent is less than £50,000, or six weeks' rent where the total annual rent is £50,000 or above
c) a refundable holding deposit (to reserve a property) capped at no more than one week's rent
d) payments to change the tenancy when requested by the tenant, capped at £50, or reasonable costs incurred if higher
e) payments associated with early termination of the tenancy, when requested by the tenant
f) payments in respect of utilities, communication services, TV licence and council tax; and
g) A default fee for late payment of rent and replacement of a lost key/security device, where required under a tenancy agreement

We have updated all of our SWLA landlord stationery to help our members comply with the Tenant Fees Ban.
More information on the Tenant Fee Ban can be found on the gov.uk website;
https://www.gov.uk/government/publications/tenant-fees-act-2019-guidance

Zero-Deposit Schemes

The SWLA office have received many calls in relation to zero-deposit Schemes. Here we look at what they are and how they work. It is a landlord's choice as to whether they wish to allow zero-deposit as an option in place of a traditional tenancy deposit.

A large up-front traditional tenancy deposit can be difficult for some tenants to find. Normal refundable tenancy deposits are capped to max 5 weeks rent as of 1st June 2019 where annual rent is less than £50,000.00 per year. (Max 6 weeks rent if rent is £50,000 per year or above).

What is a Zero-Deposit Scheme?
A zero-deposit scheme/guarantee is a way for potential renters to significantly reduce initial upfront costs required to rent a property. It's an insurance premium.
1. The tenant pays a non-refundable insurance premium and takes out a policy, typically the cost of a week's rent.
2. They also agree to pay the landlord for any damages/unpaid rent incurred at the property.
3. When the tenant moves on, the landlord requests to the tenant that the damages/rent debt (if any) are paid by the tenant.
4. If the tenant disputes the landlords claim, a claim is needed to be raised with the zero-deposit scheme.
5. If a claim is made and the independent arbitrator appointed by the zero-deposit scheme agree with the landlord after assessing the evidence from both landlord and tenant, the insurance company will pay the landlord up to the value of 6-weeks rent (or more with some schemes) and claim this money back from the tenant.
6. If this money is not paid by the tenant to the zero-deposit scheme, the zero-deposit scheme may pass the case to a debt collection agency and the tenant may be liable for the cost of this.

Some zero deposit schemes also charge the tenant a yearly administration fee throughout the tenancy. This fee, if charged, is usually around £25.00.

Zero-deposits providers should be partnered with a tenancy deposit scheme, so any dispute is arbitrated with the same level of fairness. Landlords should check all terms and conditions that there are no extra charges made during this process before agreeing to accept tenants with the zero-deposit option.

If the tenant leaves the property with no damage, outstanding bills or unpaid rent then there's nothing more to do. The tenant does not get a refund of their fee.

Not all tenants will qualify for a zero-deposit scheme. They will need to pass checks carried out by the zero-deposit scheme.

It is unknown at this stage whether the Tenant Fees Bill will affect the zero-deposit schemes. Given that it's an option, not compulsory, the zero-deposit schemes may not be affected.

If a zero-deposit scheme business folds mid tenancy, what would happen to the cover? Terms and conditions would need to be checked to establish this.

Providers of the zero-deposit scheme will need to be very mindful not to miss sell it to tenants. Some tenants might not fully understand their liabilities at the end of the tenancy when initially taking up the zero-deposit option.

The zero-deposit scheme has had glowing reviews on Trust Pilot, 84% marking it as excellent.

As with traditional tenancy deposits, the tenancy agreement and inventory check in/check out report are vital to ensuring that any justified claims will be successful.

The tenant will not get their fee back. Traditional tenancy deposits are more affordable in the long term having no fee and providing the tenants leave the property as they found it and are up to date with their rent, they will get the entire deposit back each time.

Article Abridged from Oulsnam

Homes (Fitness for Human Habitation) Act 2018

The Act came into force on 20th March 2019, but what does this mean for landlords? The Act is designed to ensure that all rented accommodation is fit for human habitation and to strengthen the tenants means of redress against the minority of landlords who do not fulfil their legal obligations to keep their properties safe.

There are no new obligations for landlords under this Act.

The legislation requires landlords to ensure that they meet their existing responsibilities with regards to property standards and safety. Under the Act, the Landlord and Tenant Act 1985 is amended to require all landlords (private and social) to ensure that their properties, including any common parts of the building, are fit for human habitation at the beginning of the tenancy and throughout.

The remedies available to the tenant are an order by the court requiring the landlord to take action to reduce or remove the hazard, and / or damages to compensate them for having to live in a property which was not fit for human habitation.

The landlord will not be required to remedy unfitness when:

- the problem is caused by tenant behaviour
- the problem is caused by events like fires, storms and floods which are completely beyond the landlord's control (sometimes called 'acts of God')
- the problem is caused by the tenants' own possessions
- the landlord hasn't been able to get consent e.g. planning permission, permission from freeholders etc. (there must be evidence of reasonable efforts to gain permission)
- the tenant is not an individual, e.g. local authorities, national parks, housing associations, educational institutions

When can tenants start to use the Act?

The Act came into force on 20 March 2019, landlords with properties let on existing tenancies have 12 months to comply. For any new tenancies that start on or after 20 March 2019, the Act will apply immediately.

'What are the criteria for 'fitness for human habitation?'

- the building has been neglected and is in a bad condition
- the building is unstable
- there's a serious problem with damp
- it has an unsafe layout
- there's not enough natural light
- there's not enough ventilation
- there is a problem with the supply of hot and cold water
- there are problems with the drainage or the lavatories
- it's difficult to prepare and cook food or wash up
- or any of the 29 hazards set out in the Housing Health and Safety (England) Regulations 2005

The landlord is considered responsible from when he or she is made aware of the hazard by the tenant. Note, any hazard located in the common parts of a block of flats or a House in Multiple Occupation (HMO) would make the landlord immediately liable.

The landlord will have a reasonable amount of time to deal with the hazard, which will depend on the circumstances. Once the landlord has been made aware of a hazard, and is not actively attempting to remedy this hazard, the tenant would be able to take their landlord to court. It is for the court to decide whether the landlord dealt with the hazard in a reasonable time.

Landlords should therefore rectify any damages that they are responsible for as soon as possible. If a tenant tells you about a problem that is in a common part of a building, then you are strongly advised to bring it to the freeholder's attention as soon as possible. Landlords must remember to give their tenants at least 24 hours written notice to attend the property.

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Are You Making the Most of Your SWLA Membership?

Courses
Regular SWLA landlord training courses take place in Plymouth Guildhall. The cost of the training courses are £65.00 per SWLA member (£75.00 for non-members). Many subjects are covered in the landlord courses, all of which are hosted by Stephen Fowler from Training for Professionals. The Landlord Accreditation Training Course is very popular, with attendees having the option to apply for accreditation which lasts for a period of 5 years. If you have a Large HMO (House in Multiple Occupation), you may receive a discretionary discount off your licence fee. See your Local Authority HMO fees for further information. The other courses are for information purposes and cover a wide range of topics such as inventories, legal updates, gaining possession etc.

For further information and dates of the courses, see the training area of the SWLA website or call into the SWLA office.

Discounts
As an SWLA member, you are entitled to discount with many local businesses. For information on how to apply for the discounts, please contact the SWLA office.

Trago Mills offer 15% discount off most purchases via their Trago2Business Card. (See terms and conditions on the Trago2Business website).
B&Q also provide a discount to SWLA members who apply for a TradePoint Card, currently 5% off most purchases rising to 10% if over a certain threshold is spent.
Howdens Plymstock also offer SWLA member discount when members apply for a Trade Account, 5% discount is given off most of their trade prices.

Trade Listing
SWLA have a Trade Listing of local suppliers and traders, many of whom offer special rates for SWLA members. The Trade Listing can be found on the SWLA website.

Advice Line
The SWLA office is open 10am – 3pm Monday to Friday, you can call in these hours for help and advice. Out of these hours, you can leave a voice mail or email and we will get back to you at the soonest opportunity,

Regular Talks and Meetings
All members are welcome to our regular meetings, usually held at The Future Inn, Plymouth. Our speaker meetings have become very popular, covering topics that effect our members and the running of their business.

Stationery
All SWLA stationery is free to download for our members. Simply log in to the members area of the SWLA website and select the form that you wish to download and print. If there is any stationery that you require and cannot locate, call the office and we will endeavour to guide you.

Comprehensive Landlord Insurance Cover – Optional
SWLA work with Excaliber (01752 340183) and Landlord Ensure (0800 731 6689) to get you access to excellent landlord insurance cover, feel free to call for a quote.

Representation
SWLA regularly meet MPs and Local Authorities to voice landlord issues and discuss the Private Rented Sector. If there are any ongoing issues that you have as a landlord, contact the office and we can take the matter forward where possible.
Continued...

Regular Updates!

Along with our quarterly bulletin, we like to keep our members up to date on important changes in the Private Rented Sector. Highly important information is sent by email. Regular news and legislation change updates are posted on the SWLA News Feed Area of our website. The information is also shared on our Facebook Page 'South West Landlords Association' so go ahead and 'like' the page if you would like to see updates on your Facebook feed.

Important Dates

06 April 2017 – 06 April 2020 - Mortgage Interest Relief; New BTL Tax System Phased In
01 April 2018 – MEES (Minimum Energy Efficiency Standards) E or above for new tenancies
06 April 2018 – Rogue Landlord Database Introduced
25 May 2018 – GDPR Introduction
01 October 2018 – Extension of Mandatory HMO Licencing
20 March 2019 – Homes (Fitness for Human Habitation) Act 2018
01 April 2019 – Letting Agent Mandatory CMP (Client Money Protection) Membership
01 June 2019 – Tenant Fees Act (tenant fees ban and cap on deposits)
01 April 2020 - MEES E or above for all tenancies with a valid EPC
Date to be confirmed – Mandatory 5 Year Electrical Safety Checks
Date to be confirmed – Making Tax Digital will apply to most landlords earliest 01 April 2020

Compulsory 5 Year Electrical Safety Checks

No date has been confirmed but 'as soon as Parliamentary time allows', landlords will be required to carry out 5 yearly electrical safety checks on their private rented properties. Landlords will also be required by law to make sure inspectors hired to carry out the safety checks are fully qualified and competent.

Guidance will be published by the Government which will set out the minimum level of competence and qualifications needed to be able to carry out the inspections.

It is planned that this will be phased in, initially applying to new tenancies.

Many landlords already carry out this important safety check for peace of mind that the electrical condition of the property is safe for their tenants. Get ahead and get it done!

Energy Efficiency Ratings in the Private Rented Sector

The next year will see many private rented properties having to be brought up to at least an E rating.

Since 1 April 2018, new tenancies, renewals or extensions require the property to have a minimum "E" energy rating. From 1 April 2020, all existing tenancies with a valid EPC must comply.

From 01 April 2019, landlords will be expected to make energy improvements costing up to £3,500.00 (including VAT) to bring properties up to the required energy efficiency standard. Prior to this date, improvements would have to have been made only if there was no cost to the landlord. If there were costs, the landlord could register an exemption. (The cost cap includes monies spent since 01 October 2017 on energy efficiency improvements).

Exemptions can still be registered in certain circumstances, including if £3,500.00 is spent and the property still falls below the expected standard.

For further information, please see the government guidance titled 'The Domestic Private Rented Property Minimum Standard'.

Civil Penalty Notice for Plymouth Landlord

Plymouth City Council (PCC) has served a civil penalty notice to the owner of a rented property in Peverell, Plymouth. The owner failed to act upon an improvement notice to install a handrail on the outside steps of the property. The notice has an indicative charge of £7,500.00.

Although the landlord acknowledged the previously served improvement notice and was aware of the work needed and timescale, the work was not carried out, leaving the six tenants and visitors at an increased risk of falling.

It is the first time PCC has used the Housing and Planning Act 2016 which permits councils to impose a civil penalty of up to £30,000 as an alternative to prosecution for offences under the Housing Act 2004.

PCC's community connections team carries out inspections in response to concerns raised by tenants. In the last three months the team have improved around 400 homes, through working with landlords and where necessary, by enforcement.

When properties are inspected, they are assessed under the national Housing Health and Safety Rating System and there are 29 hazards ranging from excess cold, falling on stairs, damp and mould, crowding and space and fire to name a few.

Each hazard is assessed and the council has a duty to act on all category 1 hazards. This may involve the owner removing or reducing the risk or restricting occupancy.

Councillor Chris Penberthy, Cabinet member for housing and cooperatives said: "We work to support good landlords, but where a landlord is consistently failing to meet their legal requirements, the Council will not hesitate to take enforcement action in order to improve the lives of local residents.'

Article Abridged from Plymouth Live

MPs Calling for Reform to Leasehold Property Laws

The Housing, Communities and Local Government Committee has published a report calling for wide ranging reforms to the leasehold system in the UK following allegations of mis selling. They claim freeholders are abusing the leasehold property system by making charges that cannot be justified. They want the government to cap current ground rents to 0.1% of the value of a home – up to a maximum £250 a year.

The committee also wants to set a zero ground rent on new leases, investigate mis-selling and change the law to make commonhold the standard tenancy for flats rather than leasehold.

MPs also want builders or estate agents to inform buyers of their rights before they purchase a home.

Clive Betts MP, chair of the committee, commented: "We found that the leasehold system often fails to provide an effective system for managing multi-occupancy residential properties, and believe that a commonhold model would be more appropriate in most circumstances.

"In the worst cases, people have been left trapped in unsellable and unmortgageable homes, needing permission or having to pay high fees for even minor cosmetic changes.

Article Abridged from Landlord Today

Employing Someone to Work in Your Home

You're usually considered the employer of a nanny, housekeeper, gardener or anyone else who works in your home if both:

- you hire them
- they're not self-employed or paid through an agency

This means you have certain responsibilities, like meeting the employee's rights and deducting the right tax. (Note-There are special rules for au pairs, who aren't usually considered workers or employees.)

For more information, see the gov.uk website.

The Difference Between Loss of Rent and Rent Guarantee

This is the second in a series of guidance articles on the subject of Landlords Insurance, provided by Jeremy Wood from Excaliber Insurance Services.

Whilst they might sound like they cover the same thing, Loss of Rent and Rent Guarantee are two different types of cover available to Landlords.

Loss of rent cover is normally covered as a section within a standard landlord building insurance policy. The loss of rent cover under a buildings policy is for the rent that is lost following a claim for an insured peril (such as a fire, storm, flood or theft). The cover is normally a percentage of your buildings sum insured e.g. 20% - 30%.

For example, a fire could render the property uninhabitable and consequently the tenant would move out while the property is repaired. The loss of rent during this period is then paid as part of the claim (or in some cases the tenant would continue to pay rent and the insurance pays out for the alternative accommodation instead).

Rent guarantee cover is taken out by landlords to protect themselves against a default of rent payments from their tenant. This could be from the tenant vacating the property without notice and not paying the remainder of their contract, or the tenant being unable to keep up with rent payments due to being made redundant.

It is normally a pre-requisite to have reference checks and/or guarantors in place for this sort of cover. It is also often the case that the reference checks have to be carried out by approved tenant referencing providers and must be done before this cover is arranged.

For further information on Loss of Rent and Rent Guarantee insurance, please contact Jeremy Wood on 01752 340183 or email ***jeremy@excaliber-insurance.co.uk***

Licensing

An increasing number of councils are launching additional and selective licensing schemes as they look to improve standards in the private rented sector. It's a scheme that goes above and beyond the mandatory landlord licensing enforced by the government. Here we look at the different types of licencing.

1. **Mandatory licensing**

If you're letting out a large HMO (house in multiple occupation), you need a licence to do so.
A home is a house in multiple occupation (HMO) if both of the following apply:
• at least 3 tenants live there, forming more than 1 household
• you share toilet, bathroom or kitchen facilities with other tenants
No licence required, but you must follow HMO management regulations.

Your home is a large HMO (and therefore mandatorily licensable) if both of the following apply:
• at least 5 tenants live there, forming more than 1 household*
• you share toilet, bathroom or kitchen facilities with other tenants
Licence required, you must also follow HMO management regulations.

*A household is either a single person or members of the same family who live together. A family includes people who are:
• married or living together
• relatives or half-relatives, for example grandparents, aunts, uncles, siblings
• step-parents and step-children

2. **Additional licensing**
In addition to the mandatory licensing of certain houses in multiple occupation (HMOs), the Housing Act 2004 gives local authorities the power to impose additional licensing on HMOs beyond the national mandatory regime. For example, a local authority could extend licensing to include all HMOs in a specific area, or the whole district, to include those not covered by mandatory licensing.

3. **Selective licensing**
Where selective licensing applies, unlike the other forms of licensing which relate to HMOs, then normally all houses within the private rented sector for that area must be licensed, except where they require to be licensed as HMOs. Non licensable HMOs must be licensed under Selective Licensing. "House" means a building or part of a building consisting of one or more dwellings. For those purposes "dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling.

In some areas you'll also need to sign up to a charter.

Some property types are exempt from selective licensing. These include:
• Properties already licensed as HMOs under the mandatory scheme
• Properties let by a local authority or social landlord
• Properties subject to a management order
• Holiday lets
• Business tenancies.
HMO-related licensing breaches can result in fines of £5,000 to £20,000. For selective schemes your council will set its own penalties, up to a maximum of £30,000 per offence.

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What Happens if a Tenant Dies?

A tenancy does not end when a tenant dies. What happens depends on the circumstances;
If the tenancy is in joint names, the living tenant will acquire the deceased tenant's share by what is known as the 'right of survivorship'. So if a husband and wife rent a property jointly and the husband dies, it will then belong just to the wife.

- If there is only one 'sole tenant', what happens depends on what sort of tenancy it is.
- If the tenancy is still within its fixed term, then the remainder of the fixed term is a property right, the ownership of which will pass to the deceased tenant's Personal Representatives* as part of the tenant's 'estate'.
- If the tenancy is a periodic 'statutory' tenancy under the Rent Act 1977, then the tenancy will pass either to the spouse (if there is one living) or in some circumstances to a member of the tenants family living at the property at the time of death.
- If the tenancy is a periodic assured tenancy under the Housing Act 1988 then it will normally pass to the spouse (if any). This will also happen with an assured shorthold tenancy, but here the landlord can easily end it by serving a section 21 notice. A landlord can also recover possession through the courts under Section 8 ground 7.
- If there is no-one eligible to succeed to the tenancy under the 'succession' provisions of the Rent Act 1977 or the Housing Act 1988, then the tenancy will, as with a fixed term tenancy, pass to the tenant's Personal Representatives as part of his estate.

What rights and obligations do the personal representatives have?
The same as the tenant's were. Therefore, if there are rent arrears, these will have to be paid from the estate before any money or assets can be given to beneficiaries under the tenant's will or intestacy.

However note that the Personal Representatives are not liable themselves, in their personal capacity, for any money. Therefore, if a tenant dies with no assets and owing £2,000 rent arrears, the landlord will get nothing.

If the tenant died with money in the bank and other assets, then the £2,000 rent will have to be paid to the landlord before inheritance is paid out.

Where, for example, the fixed term has not yet ended, then rent will still fall due on a month by month (or for a weekly tenancy, week by week) basis. Normally, however, the landlord will agree to take the property back, even if the fixed term still has a while to run, as they will want to re-let.

If the tenancy is a periodic one, then the Personal Representatives will be able to serve a notice to quit on the landlord and end the tenancy that way.

How can the landlord end the tenancy on the death of the tenant?
What usually happens is that the landlord will want to take the property back and re-let it. However, he does not have the right to just do this, unless this is with agreement with the tenant's Personal Representatives. To formally end the tenancy, he will need to serve notice on the Personal Representatives, and then, if they don't agree to give up possession, or if there is someone else living at the property, obtain a possession order through the courts.

What happens if there are no personal representatives*?
If the tenant has no friends or relatives and there is no-one able to deal with the administration of his estate after his death, then an official called 'The Official Solicitor and Public Trustee' has the authority to deal with this.

* 'Personal Representatives' includes both the executors under a will and administrators appointed when the person dies intestate (i.e. without having made a will).

Article abridged from the Landlord Blog

New Inventory Guide Published to Help Landlords and Agents

The TDS (Tenancy Deposit Scheme), The AIIC (Association of Independent Inventory Clerks and ARLA (Association of Residential Letting Agents) have issued inventory guidance to help landlords and agents in preparation for the Tenant Fees Ban which is effective from 01 June 2019. From this date, tenants cannot be charged for extra services such as inventory check ins/check outs. The inventory guidance provides information in order to ensure best practice amongst landlords and agents. The guide provides clarity regarding deposit deductions and disputes over unclear or poor-quality inventory reports.

The link to read the guide online can be found on the SWLA website newsfeed.

What should check in reports cover?

The check-in report should provide both an inventory of the property and its contents, and a schedule of cleanliness and condition at the start of the tenancy.

Some check-in reports rely on clauses to the effect that all items “appear as new unless otherwise stated” or “are without any visible marks or defects unless otherwise stated”. These ‘over-arching’ clauses can be useful but need to be worded carefully. Tenants should always be given the opportunity to comment with a clear audit-trail (record of comments with dates). In any event, a well completed check-in report should describe the contents, cleanliness, and condition of each room in turn.

The check-out report

This enables all parties to identify any deterioration in the contents, cleanliness, and condition of the property during the tenancy.

Ideally it should be produced by the same person who undertook the check-in, although this will not always be practicable. A properly completed report provides an accurate description that by comparison with the check-in report will clearly identify any matters that are the tenant’s or landlord’s responsibility.

Condition vs. cleanliness

These are not the same thing. A check-in report that only considers the condition of the property does not establish the standard of cleanliness at the start of the tenancy. Whilst the check-out report may list cleaning issues at the end of the tenancy, if the check-in report comments only on condition, an adjudicator will be unable to determine if the property’s cleanliness had deteriorated during the tenancy.

Bristol Landlord Fined for Harassing and Threatening Tenants

A Bristol landlord has pleaded guilty to harassment towards tenants of a property he owned. He was accused of implementing notable building works at the property, being aggressive towards his tenants, threatening to have them evicted and threatening to remove belongings from their home. The landlord was fined £200. He was also required to pay £1000 to the tenants in compensation, as well as paying £600 costs and a victim surcharge of £30.

The tenants were two brothers who moved into the property in December 2016. Shortly after their move in date, they were told that building works were going to be carried out at the property. They were under the impression that the works would be short term, but it soon became apparent that it would be long term building works. The tenants complained to their landlord, they recorded some of the conversations as well as recording belongings being removed from the property.

When leaving the property, the tenants requested their deposit be returned to them which they were not given.

Article Abridged from Bristol Live

Dealing with Rent Arrears and Section 8 Explained

Step 1. Talk! If you have a good relationship with your tenant, have an informal chat or meeting. Check that things are OK, there may have been redundancy, illness etc. If you are kept informed, this will help you and the tenant deal with the arrears more smoothly. Follow up the meeting/call with a letter or email highlighting what was discussed/agreed.
Step 2. If the tenant is at least 2 months in arrears, you can serve a Section 8 notice citing 'ground 8' which will give the tenant no less than 2 weeks' notice that you will take the possession and debt matter to court. 'Ground 8' is a mandatory ground for the judge to award the landlord possession of the property due to the arrears. Deliver the notice by hand. Give at least 2 weeks' notice (SWLA recommend 2 weeks and a few days at the least). Keep a copy of the notice. Ensure that the notice is valid by checking through the completed form with the SWLA office. Ideally take a witness when you hand deliver it to the property through the letterbox (under the door if a HMO). If you are sending by post, send by 1st class with a receipt (not recorded), ensure to allow extra time in the notice. Print off, complete and keep a 'Certificate of Service' which is found on the gov.uk website.
Step 3. Once the notice period has passed, if the tenant hasn't brought the rent arrears under the 2-month threshold, you can apply to the county court for possession. It may be a good idea at this stage, if the tenant wishes to surrender the tenancy, for the landlord to accept the surrender and therefore gain possession once the tenant has departed, removed their possessions and handed back their keys. It is essential to have a surrender signed by the tenant or a letter from the tenant to keep for your records. This avoids any doubt as to who has possession. You can still pursue the rent debt via the small claims court.
If your tenant hasn't surrendered the tenancy, you will need to apply to the county court for possession. This is done via an online gov.uk portal called 'Possession Claim Online' You set up an account and go through the online forms step by step. Have ready the Assured Shorthold Tenancy Agreement and a detailed rent record for the tenancy. Information from both of these documents will be needed. The portal saves as you go so you can take your time inputting the information. Again, you can check with the SWLA office if you are unsure of any sections of the claim. Once all information is inputted and correct, you pay the court fee of £325.00 via credit or debit card. Instantly you will be given a case number and a court date.
Step 4. Await the court date. If your tenant leaves or abandons the property before the court date, still attend court and get the possession granted as you have already paid the fee. This will also avoid any doubt as to who has possession. If you would like someone to attend court with you, you can book an advocate to attend and support you in the court. The cost of this can vary but is usually around £125.00 - £175.00 plus VAT. SWLA have details of court advocates who give a preferential rate to SWLA members, call the office for further information if required.
Step 5. Attend court. Hearings are usually around half an hour. Take all documents with you such as the tenancy agreement, the rent arrears record, the certificate of service etc. Also have noted down the daily rent rate (monthly rent x 12 divided by 365), the judge may ask for this. If the tenant attends without any defence then possession should be awarded 14 days after the hearing date. If the tenant forms a good defence and has extenuating circumstances, the judge can extend this up to 6 weeks if there is a strong reason to do so. There is a chance that the judge may adjourn the case for a later date, for example if further evidence is required.
Step 6. Once the possession date arrives, if the tenant has vacated, then vacant possession is the landlords. If the tenant remains, you will need to apply for a county court bailiff using form N325, costing £121.00. Once the application is processed by the court, they write to the landlord to gain further information on the tenant. The court will notify both the landlord and tenant of the eviction date in writing. The landlord or agent need to attend the address on the eviction date. A locksmith may be needed if the locks have been changed by the tenant. A bailiff cannot force entry. Once the tenants are removed, possession is the landlords. If any of the tenant's possessions are left, the landlord will need to contact the tenant to arrange a suitable time for collection. Keep records of all attempts to get the possessions collected. If they are not collected, it is the landlord's responsibility to store the possessions safely for a reasonable amount of time.

If you have a tenant with rent arrears and do not want to go through the eviction process yourself, you can instruct a High Court Enforcement Officer/Eviction Specialist. Further information can be found on the trade listing area of the SWLA website.

New Section 21 6a Form

A new version of Form 6a which is used to issue notice under Section 21 in England was released on the 1st June 2019 to comply with the introduction of the Tenant Fees Act.
The changes are as follows;

Amendments have been made to ensure the form accurately reflects the restriction on terminating a tenancy where a prohibited payment has been made by the landlord and not returned to the tenant, or the holding deposit has not been returned/forwarded in accordance with the Tenant Fees Ban regulations.

An amendment has been made to provide more details on HMO licencing in relation to serving a Section 21 notice. No Section 21 notice may be given in relation to an assured shorthold tenancy of part of an unlicensed HMO whilst it remains unlicensed.

More information has been added for tenants regarding homelessness support services. The form provides a link to Government possession guidance and further information on bodies such as Citizens Advice and Shelter.

SWLA have updated the 'members stationery' area with the new form.

RLA Fighting for Landlord in Section 21 Case

A court decision ruling a Section 21 notice invalid due to the landlord providing their tenant a gas safety certificate 2 weeks after she moved in, is being fought by the RLA.

In the case of Trecarrell House Limited vs Patricia Rouncefield, a judge initially granted the possession order to the landlord.

A subsequent appeal by the tenant succeeded on the basis of the section 21 being invalid as a gas safety certificate was not provided to the tenant before they took up occupation.
The RLA is supporting Trecarrell House Limited at the Court of Appeal, on the basis that so long as the gas safety certificate was served before the section 21 notice is served, then it is valid.

NOTICE BOARD

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

E-Mail address

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

KBG CHAMBERS - Barristers – Plymouth, Truro & Exeter

We will support members with legal advice and representation through public access. KBG cover all areas of Property Law.

Call 01752221551 or email Colin Palmer, Senior Clerk, on colin@kbgchambers.co.uk

Court advocates can be booked to attend SWLA members' possession cases at a discounted rate. Contact the SWLA office for further information.

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 in other specialist areas. Contact Rory 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 The office is open 8:30 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

Did you know that SWLA have a trade listing of local businesses? Head to the SWLA website 'Trade Directory' for all of your landlord needs from Gas Safety Checks to Building Services

SWLA

South West Landlords Association

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You can contact our answerphone service on 01752 510913 or E-mail us at info@landlordssouthwest.co.uk, visit our website www.landlordsouthwest.co.uk

Or visit our office in Dale Road, it is open week days from 10am to 3pm