

Spring

March 2023

The Annual General Meeting of the South West Landlords Association was held at the Future Inn, Plymouth on 25 January 2023. The meeting was well attended with refreshments on offer when official business was concluded. The Chairman gave a résumé of his written report outlining the success of the past year and events to be aware of in the coming year (covered in depth in the Bulletins and on the SWLA Website). The Treasurer presented the financial report which showed the association to be in a sound financial position.

Prior to the AGM, the elected committee had agreed to resume the annual practice of a charitable donation (previously announced at AGMs). After suggestions and investigation of financial prudence and governance, two organisations were selected;

St Luke's Hospice which provides palliative and end of life care for cancer patients was awarded £3,300.00. This charity has undertaken patient care for many SWLA members relatives.

FULLHRH (Feeding the Unfortunate, Lost, Lonely, Hungry, Rough Sleepers and Homeless). This is a Plymouth organisation run by a member with no financial support other than that of donation. Operating every other Sunday, they provide refreshment at an open-air site. The donation award was £500.00 to assist in purchase of supplies and an additional £200.00 towards Christmas dinner 2023.

The committee are open to suggestions for future donations should the financial situation allow.

Finally, thank you for supporting the association and please make use of the website information, membership discounts and office expertise.

Save the Date

SWLA General Speaker Meeting - Wednesday 19th April at 7.30pm, Future Inn Plymouth, SWLA members and their guests welcome.

Speakers:

Ian Pring of Westcotts Chartered Accountants who will discuss the tax matters currently affecting the PRS.

Martyn Taylor of Ashley Taylor Solicitors, who will share his invaluable knowledge and experiences regarding possession cases and possession preparation.

Training

We are very excited to announce that whilst continuing our popular online Accreditation Courses and Online Landlord Training, we will also be reinstating our face-to-face, in person Accreditation Course at Plymouth Guildhall. The date will be confirmed very soon.

Have Your Say! Council Tax Valuation of HMO's

All Benefit Payments Migrating to Universal Credit by 2024

Government Advert Campaign Tells Tenants to Complain About Landlords

Fire Safety in the Common Parts of Flats & HMO's - New Rules

What Capital Gains Tax Allowance Changes Mean for Landlords & Second Home Owners

Have we turned a head on inflation?

Landlord Insurance Update Q1 2023

House Prices Show First Annual Fall for Almost Three Years

Making Tax Digital for Income Tax - DELAYED!!

Landlord Fined for Unsafe Electrics

Commercial EPC Ratings Cause Concern

New Housing Minister

Tenancy Deposits - Make Sure You Get it Right!

New 'How to Rent' & 'How to Let' Guides Published

Who is Liable for Property Compliance in a 'Right-to Rent' Contract?

Renters Reform Bill Update

Have Your Say! Council Tax Valuation of HMOs - Government Consultation Launched

Disaggregation is the process by which the Valuation Office (VOA) can 'split' an HMO into single units for council tax purposes, meaning landlords are liable to pay council tax per room, rather than for their property as a whole. For some landlords this has added thousands to their council tax bills, often leaving them with little choice but to increase rents to cover costs.

SWLA have received numerous calls from landlord members whose HMO rooms are suddenly being re-banded for council tax purposes by the Valuation Office. Usually, rooms involved contain an en suite, or a small kitchenette facility. Landlords were then faced with the dilemma of either having to pay the council tax and increase the rent, or removing the offending facility and turning the room back into a 'room only' with no facilities.

MP Caroline Dinenage heavily campaigned the issue and tabled an amendment to the Levelling Up and Regeneration Bill. The concession was secured, and Michael Gove announced an accelerated consultation.

The government consultation is now live - seeking views on the way that Homes in Multiple Occupation (HMOs) in England are valued for council tax, and on proposed changes to that process to ensure that HMOs are banded as one property and have one council tax band, other than in exceptional circumstances.

For more information and to respond to the consultation please see the SWLA website news feed or visit the gov.uk website. We encourage all landlords and agent members to respond. The consultation closes 31 March 2023.

All Benefit Payments Migrating to Universal Credit by 2024

Since first being introduced in 2013, Universal Credit (UC) has streamlined and simplified the benefits system to better support those in work on low incomes, as well as those who are unemployed or who cannot work.

Claimants who are on the old style (legacy) benefit payments system are currently being migrated over to UC payments. This will happen with a three-track approach – natural migration, voluntary migration ("choose to move") and managed migration.

Natural migration

As has been the case since the start of UC rollout, when a legacy claimant experiences a change in circumstances (for example, a change in employment status or family situation), they need to make a new claim for a benefit that UC has replaced and they will "naturally" migrate to UC.

Voluntary migration

Legacy claimants can choose themselves to voluntarily move across to UC.

Managed migration

For those claimants who do not choose to migrate voluntarily nor have migrated naturally, the Department of Work and Pensions (DWP) will need to manage their migration to UC. Underpinning managed migration is the DWP's commitment to transitional financial protection to ensure that eligible households who are moved to UC do not have a lower award on UC at the point they move if their UC entitlement is lower than their entitlement on legacy benefits.

Work to design the managed migration process has resumed. DWP will soon start moving small numbers of legacy claimants on to UC, with a focus on refining the processes and systems for doing so to support claimants as effectively as possible. DWP expect all claimants to migrate to UC by 2024.

If tenants have any questions or queries about this subject, they can contact the Job Centre Plus who have walk in and appointment-based services to support benefit claimants.

Article by The Department of Work and Pensions

Government Advert Campaign Tells Tenants to Complain About Landlords

Housing Secretary Michael Gove is urging tenants to complain about sub-standard housing with the government's 'Make Things Right' advertising campaign.

Social housing residents are being encouraged to make a complaint to their landlord in the first instance and then escalating to the Housing Ombudsman if they are unhappy with the landlord's final response.

The national campaign will see advertisements using images of black mould and leaking ceilings run across social media platforms including neighbourhood app NextDoor and on radio stations and streaming platforms like Spotify in several languages.

The campaign will also fund training for Citizens Advice staff in two pilot areas – London and the North West.

Gove says: "Too many social housing tenants are being let down and ignored. This government is determined to stand up for them and give them a proper voice. They deserve a decent, safe and secure home, just like everybody else. So we are shining a light on rogue landlords that ignore their tenants time and again and allow families to live in disrepair. This campaign will make sure tenants know their rights and how to make a complaint – giving them the confidence to go to the Ombudsman and ensure action is taken."

The Department of Levelling Up, Housing and Communities says almost a third of all social renters considered making a complaint in 2020-21, but 27 per cent chose not to because they thought nothing would be done in response.

Article Abridged from Landlord Today

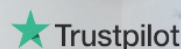
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Fire Safety in the Common Parts of Flats & HMO's – New Rules

On Monday 23rd January 2023, the Fire Safety (England) Regulations 2022 came into force. Most of the rules cover high rise buildings, however regulations 9 & 10 cover all buildings which contain two or more sets of domestic premises & all buildings which contain common parts through which residents would need to evacuate in the case of an emergency. Therefore, in addition to buildings containing self-contained flats, these rules will also apply to properties with rooms let on individual tenancies in a shared house – i.e. HMOs.

Responsible persons will have to follow two key requirements –

- Providing fire safety instructions to occupants
- Providing information on fire doors in the property

Fire safety instructions must include:

- The evacuation plan for the building (e.g. immediate evacuation)
- Instructions on how to report a fire (e.g. 999, correct address to give to the fire and rescue service, etc.)
- Any other instructions that tell residents what they must do if there is a fire

Information on the fire doors must state:

- Fire doors should be shut when not in use
- Residents and their guests should not tamper with self-closing devices on fire doors
- Residents should report any fault with, or damage to, fire doors immediately to the responsible person – in this case the landlord

Thank you to Devon and Somerset Fire and Rescue Service for producing the following guide for landlords.....

Devon and Somerset Fire and Rescue Service

“THE FIRE SAFETY ORDER”

The Regulatory Reform (Fire Safety) Order 2005 applies to all properties with the exception of single private dwellings.

A single private dwelling is a house or flat used entirely as the main residence which is occupied by a single person, a single family or (in the case of a shared house or shared flat) where the occupiers let under a shared tenancy agreement. Although the single private dwelling may not be subject to the legislation, the building containing it may be (especially if it contains more than one flat).

The legislation covers the part of the building from the external access door/s to the premises, up to and including the front door of the individual dwelling (flat/bedsit) – the parts which are in common use by all of the households. It also covers the common alarm systems which may extend into the flat or bedsit. It may cover any commercial use within the building.

The legislation places a duty upon the responsible person who can and does exercise control over such areas (usually the owner, landlord, Managing agent, Management Company) to:-

- Ensure that a fire risk assessment of the premises has been undertaken. This will help reduce the risk from fire, identify the appropriate level of fire safety provision, and the methods by which these are to be kept in good working order.
- That where the risk assessment identifies any shortfall in the fire safety provisions, i.e. Fire alarm, Fire doors, Emergency lighting etc that these items are provided.
- That all of the fire equipment / provisions are tested and maintained in good working order.
- That common corridors and staircases are clear and available at all times
- That the risk assessment is reviewed (it is recommended at least annually) or renewed where there has been any material changes.

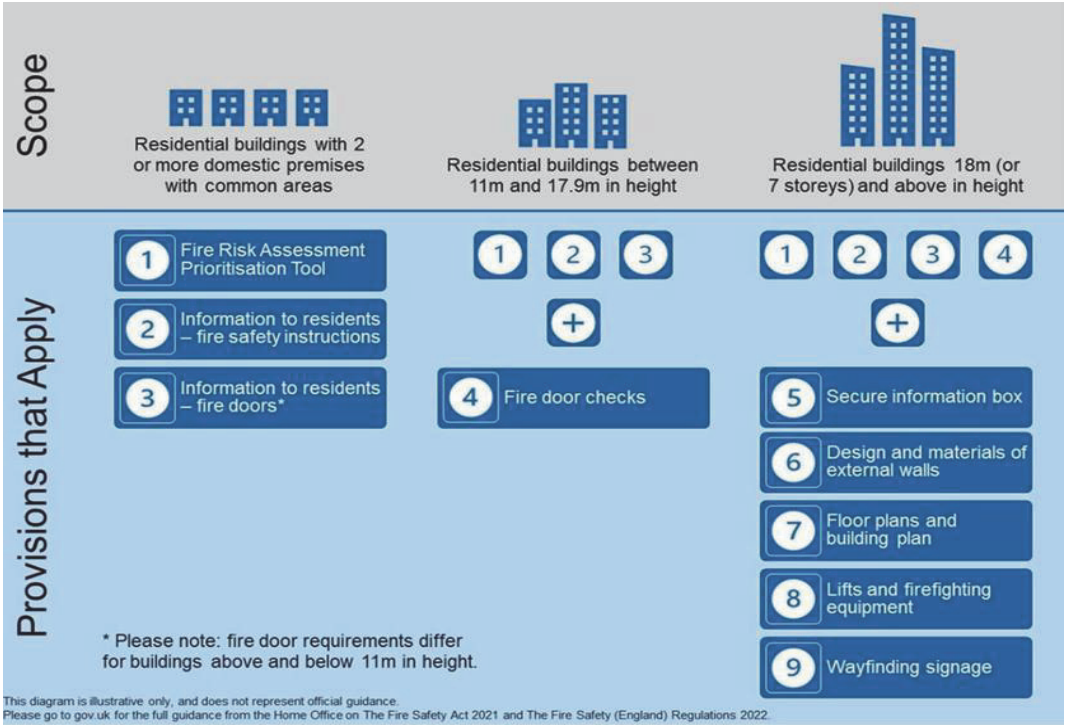
The risk assessment can be done by the responsible person if they are competent to do so. Alternatively they can employ a Fire Risk Assessor to assist them. It is best practice for the Significant Findings of the risk assessment to be recorded, i.e. in writing or on computer disc; this will demonstrate that it has been properly carried out. If the responsible person employs five or more employees and/or the property is licensed under any enactment the Significant Findings must be recorded.

When employing a fire risk assessor the responsible person must ensure that the assessor is competent i.e. that they have the right experience, training and knowledge to undertake the task. Details of local fire risk assessors can be found in Yellow pages/Thompson directory or by means of a search on the internet.

The guide LACORS Housing – Fire Safety describes how to carry out a risk assessment. You can use this information to help check whether your risk assessor is competent, or indeed to carry out a risk assessment yourself. This document can be downloaded from www.plymouth.gov.uk/housing.

The local Fire Authority is responsible for the “enforcement” of the Order. It must be noted that the Fire Authority are duty bound to enforce the articles of the order by means of Enforcement Notices, Prohibition Notices and in certain circumstances Prosecution.

The Fire Safety (England) Regulations 2022 come into force on 23rd January 2023, placing additional duties on Responsible Person/s of multi-occupied buildings. The diagram below separates these duties out, in what is required, by building height. The vast majority of licensed/licensable HMO’s will be below 18m in height, with many being below 11m in height. The height of a building for the purposes of this legislation is calculated in accordance with the Building Regulations 2010 and Diagram D6 of Approved Document B, Volume 1 (2019 Edition). The measurement is taken from the floor level of the top floor to the ground level at the lowest side of the building.



Plymouth City Council also enforces fire safety in housing and will apply the standards set out in the LACORS guide through the Housing Health and Safety Rating System. We will work jointly with the Council to ensure consistency of approach and standards.

This leaflet was produced by Devon and Somerset Fire and Rescue Service. For further information or any concerns you may have regarding compliance with the Fire Safety Order you can contact your local fire safety officers at Devon and Somerset Fire and Rescue Service, Glen Road, Plympton Plymouth, PL7 2XT. Phone 01752 333600, e-mail plymouthfs@dsfire.gov.uk

What Capital Gains Tax Allowance Changes Mean for Landlords and Second Homeowners

Chancellor Jeremy Hunt announced in his Autumn Statement in 2022 that the current Capital Gains Tax allowance of £12,300 is being halved to £6,000 from April 2023 and then cut again to £3,000 from April 2024. That could mean an increased tax bill for many property owners planning to sell in 2023.

What is Capital Gains Tax?

The UK Government describes Capital Gains Tax as a tax on the profit upon the sale of (or 'disposal of') something (an 'asset') that's increased in value. So, if a painting was purchased for £5,000 and it was sold later for £25,000, the gain is £20,000 (£25,000 minus £5,000). An asset in this case could be but isn't limited to, things like personal possessions, a second home or shares that aren't within an ISA. Therefore, those who own or are planning to sell a second home, will be required to pay Capital Gains Tax.

A higher-rate taxpayer will pay 28% on any gains from residential property. Those on basic taxpayer rates will see the rate changes depending on the size of the gain: 18% on residential property if it's within the basic income tax band (£37,700 for the 2021 to 2022 tax year) or 28% if it's higher.

The rules are different for trustees and businesses and full details can be found on the UK Government website.

How does this specifically affect property owners?

If a homeowner purchased the property for £200,000 and sold it for £250,000, the 'gain' would be £50,000. That would mean the current taxable income for that property would be £37,700 (£50,000 minus £12,300 = £37,700) and £6,786 would be payable in CGT for a basic rate taxpayer. However, in the next tax year that taxable income for the same property would be £44,000 taking the CGT tax bill to £7,920.

Getting a quick sale by auction

With completion times on the open market taking up to six months and with the risk of fall-throughs at any point, an auction is a good method for securing a secure sale. Disposing of a property in an auction means sellers get a legally binding contract on the fall of the hammer with a fixed completion set for only 30 days later.

Article Abridged from ARLA Propertymark

Have we have turned a head on inflation? By Calum Levy, Mortgage Broker

On 01 February 2023, the Bank of England voted to increase the base rate of interest from 3.5% to 4%, in a predicted move by professionals. What wasn't all too expected was what happened after. That week, I saw at least 9 emails from different lenders announcing significant drops in their rates, and since then we have seen 3.99% rates dipping in and out of the market, which was unheard of a month ago. Lenders attitudes have changed significantly from the doom-speech of October.

Why is this significant? Based on what I said in my last quarterly bulletin post, this suggests that the lenders may have already priced in the interest rate peak! With commentary from the Bank of England suggesting that inflation figures are looking positive, at present, this could be a fortunate sign for the argument that rates will continue to fall.

Our estate agent contacts have said that these reflections will take a while to impact house prices, which have already seen drops of around 10% in some areas of Devon, we are sure that if rates continue to drop between now and the time of the next bulletin, the house price squeeze is sure to come to a premature end.

If you're considering expanding your portfolio or are looking to refinance your existing properties, now could be a good time to explore your options and get a plan in place. SWLA members are welcome to call with any mortgage queries – we can look at navigating the complexities of the current market and find the right mortgage solution for your specific needs.

Article by Calum Levy, Mortgage Broker at Excaliber Associates Ltd, 01752 340183



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Landlord Insurance Update Q1 2023

The insurance market for let property continues to be a story of increasing premiums driven by a mix of very high index linking percentages (as I write this the published percentage from the Royal Institute of Chartered Surveyors for January 2023 is 18.7% meaning your buildings sum insured will be increased by this percentage) and a continuing rise in the frequency and cost of claims.

What can you do about it?

Ensuring that the buildings sum insured is adequate is your responsibility as the property owner. There are a number of options open to you. Firstly, there is a free resource which can be used to calculate the rebuild cost for standard residential properties – search for “rebuilding cost calculator” and select “ABI BCIS Rebuild Cost Calculator”. Alternatively, you can now obtain a desktop valuation – visit **www.rebuildcostassessment.com** for further details. Alternatively, you can employ the services of a local chartered surveyor to establish the correct rebuild value.

Mitigating the risk and extent of a loss through;

- 1.Regularly inspecting your property including roof and guttering – consider using a drone if hard to see from the ground
- 2.Carrying out repairs to the property as quickly as possible
- 3.Ensuring your tenants know where the stopcock is in the event of a burst pipe or water leak
- 4.Making sure your tenants know how to report an issue to you in the event of an emergency
- 5.Checking shower and bath seals on a regular basis to see if they have failed

Using an insurance broker who specialises in residential let property insurance will also assist in ensuring you are getting the best possible insurance terms for your let property.

Article by Jeremy Wood, Oakfield Insurance Services; 01752 717667

House Prices Show First Annual Fall for Almost Three Years

House prices fell by an average 1.1% over the past year - the first annual decline since June 2020, according to Nationwide.

Prices fell 0.5% month-on-month - and the typical UK home now costs £257,406. This means prices are 3.7% below their August 2022 peak.

“The recent run of weak house price data began with the financial market turbulence in response to the mini-budget at the end of September last year. While financial market conditions normalised some time ago, housing market activity has remained subdued” says Nationwide’s chief economist Robert Gardner.

“This likely reflects the lingering impact on confidence as well as the cumulative impact of the financial pressures that have been weighing on households for some time. Indeed, inflation has continued to outpace wage growth and mortgage rates remain significantly higher than the lows recorded in 2021.”

At the end of last year Nationwide forecast that house prices would fall an average 5% cent in 2023 and earlier this week a Reuters poll of analysts predicted a more modest 2.4% drop.

Separate figures released by the Bank of England show that lenders approved the lowest number of mortgages in January since 2009, excluding a slump at the start of the pandemic.

Jeremy Leaf, north London estate agent and a former RICS residential chairman, says: “There is no question that house prices are more sensitive in response to cost of living and employment concerns. However, reports of the demise of the housing market are premature – inflation and mortgage rates are stabilising whereas buyers have more choice so the equity-rich in particular are recognising their increased bargaining power by trying to get the best deals possible.”

Article Abridged from Landlord Today

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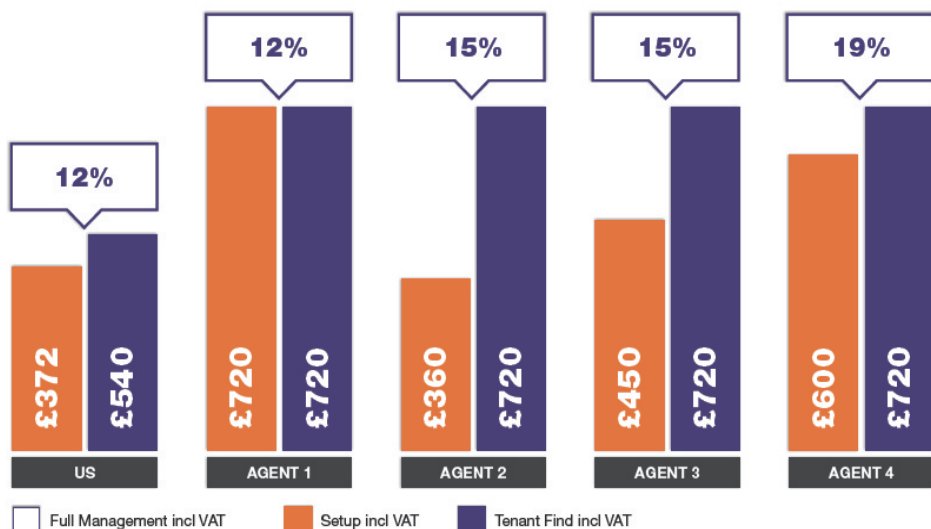
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Making Tax Digital (MTD) for Income Tax – DELAYED!!

At the end of December 2022, HMRC and the Treasury announced that Making Tax Digital for Income Tax Self-Assessment (MTD for ITSA) has been postponed until April 2026 and some of the expected eligibility requirements have also been amended. This will no doubt come as a relief for some.

In a written statement, HMRC stated:

“MTD for ITSA will now be introduced from April 2026, with businesses, self-employed individuals, and landlords with income over £50,000 mandated to join first. Those with income over £30,000 will be mandated from April 2027.”

This gives the self-employed sole traders and affected landlords more time to prepare for the switch. Furthermore, some very small businesses and landlords will now be below the initial thresholds and may not need to comply until all taxpayers are required to comply.

Why has the MTD for Income Tax been delayed?

The accounting and taxation profession had been putting pressure on the government to delay MTD, as it did not feel that tax payers or HMRC were ready for such changes. HMRC has officially stated that the reason behind this delay is to relieve pressure on businesses caused by the current economic environment.

Furthermore, HMRC currently believes a more gradual implementation of MTD will give affected taxpayers, accountants, and the government more time to prepare.

Does this mean you can forget about MTD?

Sorry, no! MTD is not going away, it has just been postponed and the criteria tweaked a little. It is still important to check that you are making plans to ensure you are ready for the changes before they become mandatory.

We are expecting HMRC to pull everyone into the new MTD system at some point in the future, regardless of income.

What about Partnerships.....?

If your business trades as a partnership, then the above compliance dates will not apply. As it currently stands, HMRC have not got a compliance date for individuals trading within a partnership.

Article by L.A.Lamerton & Co Accountants - Tel 01752 255667 - This information is designed to assist understanding and does not cover all aspects applicable. We would strongly recommend that you refer to the governments published information at www.gov.uk - e.& o. e.

Landlord Fined for Unsafe Electrics

A landlord of a home with unsafe electrics has been issued with a fine of £7,500 by Dorset Council.

Following a complaint about the property, officers from Dorset Council found the property to be in serious disrepair with an electrical system so dangerous it had to be disconnected.

The landlord, who can't be named for legal reasons, failed to comply even when they were advised of their legal duties.

Councillor Graham Carr-Jones, Dorset's portfolio holder for housing and community safety, says: "We have many very responsible landlords in Dorset, who provide invaluable rented homes. We want to do what we can to encourage them through our landlord's partnership, to continue to provide excellent accommodation. In cases where landlords do not follow the rules, ignore our advice, and rent substandard or outright dangerous accommodation, we will not hesitate to act. By using new powers and issuing a large financial penalty of £7,500, which was paid up by the landlord, we took fair and necessary action, which reflects the seriousness of the case. I hope this fine will reassure tenants and our responsible landlords that we are committed to driving out rogue landlords and that it acts as a clear deterrent, that Dorset Council will not tolerate poorly managed rented homes."

Article Abridged by Landlord Today

Commercial EPC Ratings Cause Concern Ahead of New Rules in April 2023

Nearly one fifth of UK landlords (18%) still have commercial properties with an energy performance certificate (EPC) rating of F or G, according to research by RSM UK.

The audit, tax and consulting firm's findings are a cause of concern for the sector, with new legislation coming into force on 01 April 2023 stating that commercial let properties must have a minimum EPC rating of E by this date.

The government has further ambitions to make it unlawful to let commercial property below an EPC B rating by 2030.

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New Housing Minister

Former justice minister Rachel Maclean has been named as housing minister, becoming the sixth this year and the 15th in the current Conservative administration.

Ms Maclean replaces Lucy Frazer, who left the role after around three months in charge to head the new refocused Department for Culture, Media and Sport.

It has been confirmed by the Department of Levelling Up, Housing and Communities that Felicity Buchan will remain the minister for the Renters Reform Bill.

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Tenancy Deposits – Make Sure You Get it Right!

SWLA receive many queries from members who have made errors with the tenancy deposit procedure. The potential outcome of this can be possession cases being thrown out and landlords being sued for a full return of the deposit and up to three times the deposit amount. Here are a few reminders on how to get it right.

Landlords must protect deposits in an approved scheme if the tenancy is an assured shorthold tenancy.

Landlords/agents have 30 days from when they receive the deposit to:

- protect it with an authorised scheme
- give tenants certain written information about the scheme (prescribed information)

The deposit must remain protected throughout the entire tenancy.

The maximum deposit that can be taken is 5 weeks' worth of rent.

Information Landlords Must Give

Landlords must not rely on the deposit scheme to send tenants the prescribed information.

Landlords must give tenants the tenancy deposit certificate and the terms and conditions of the deposit scheme that they have used. All to be given within 30 days of receiving the deposit. This information includes;

- landlord/agents contact details
- deposit protection scheme contact details
- the deposit amount and address of the tenancy
- information on returning the deposit and when deductions can be made
- how to use the scheme's dispute resolution service if you cannot agree
- what happens if you get no response from your landlord when the tenancy ends

Landlords/agents must sign the certificate to confirm that the information is accurate.

Compensation

Tenants have 6 years to make a claim if the deposit protection rules are not followed.

Section 21 Eviction

Landlords cannot serve a valid Section 21 eviction notice if the deposit protection rules are not followed correctly. Landlords who have made errors in the deposit protection will need to return the deposit in full before serving notice.

Section 8 Eviction

Landlords can serve a valid Section 8 even if they have not protected a tenancy deposit correctly.

If the Section 8 is because of rent arrears, tenants can make a counterclaim for compensation if landlords have not followed the deposit protection rules.

The compensation could make up rent shortfall and stop the section 8 process.

If in Doubt

We advise members to return the deposit in full (as soon as possible) if the deposit protection rules have not been correctly followed.

New 'How to Rent' and 'How to Let' Guides Published

As we go to print, we have been informed that the following guides are being updated by the government during week commencing 13 March 2023:

'How to rent: the checklist for renting in England' You must provide your tenants with a copy of the latest version of the 'How to rent' guide at the start of a tenancy, either as a hard copy or, if agreed with the tenant in writing, via email as a PDF attachment. You cannot rely on a section 21 notice to obtain possession from the tenant if you have not provided this document. We recommend that landlords access the guide from the gov.uk website to ensure that it's the most up to date version that tenants receive.

'How to let' This guide is for current and prospective landlords. It explains the responsibilities, legal requirements, and best practice for letting a property in the private rented sector.

Who is Liable for Property Compliance in a 'Rent-to-Rent' Contract?

The Rakusen v Jepsen final court ruling is in - and it places the responsibility of the rent repayment order on the immediate landlord, not the property-owning landlord. The Supreme Court ruled that a rent repayment order (RRO) cannot be made against a 'superior landlord' - i.e. the landlord that owns the property - in the rent-to-rent agreement.

The decision therefore has future implications for property-owning landlords and the middle tenant/landlord managing the property in a rent-to-rent contract.

What is a rent-to-rent agreement?

Rent-to-rent arrangements are when a company, local council, or an individual – i.e. an "immediate" landlord - rents a property off a property owner – i.e. the "superior" landlord.

The superior landlord's rental payments are guaranteed for an agreed period of time, whether or not the property has a tenant.

The immediate landlord will take a cut on the amount they charge the tenants, before paying the superior landlord.

What is a rent repayment order?

If a landlord commits an offence listed in section 40 of the Housing and Planning Act 2016 - such as the failure to comply with an improvement act or controlling or managing an unlicensed house in multiple occupation (HMO) - that landlord may need to repay a specified amount of rent, through a rent repayment order.

This can be repaid to either the tenant, if they paid directly, or to the local authority, if the tenant received housing benefits to pay their rent. The repayment amount can be up to 12 months' rent.

What was addressed in the Rakusen v Jepsen case?

The Rakusen v Jepsen Supreme Court appeal debates whether a rent repayment order can only be made against the immediate landlord or whether the property-owning, "superior" landlord in a rent-to-rent agreement is also liable.

In this case, the property under a rent-to-rent agreement required an HMO licence from the local council, which it failed to obtain.

The tenant then sought a rent repayment order against the "superior" landlord - Mr Rakusen, the landlord that owned the property - due to the lack of licence.

What was the final ruling in the Rakusen v Jepsen case?

The Upper Tribunal originally ruled in the former tenant's favour, to apply the RRO against the superior landlord.

Mr. Rakusen appealed to the Court of Appeal against the ruling, on the basis that the RRO can "only be made against the immediate landlord of the person making the application" - and the court ruled this time in favour of the property owner.

The former tenant then appealed against this second ruling to the Supreme Court - and this final appeal was dismissed. The court ruled that "an RRO cannot be made against a superior landlord".

What should rent-to-rent superior landlords consider, to avoid confusion over liability?

The Property Redress Scheme advises having "clear and unambiguous terms of business", explaining how much the immediate landlord will pay in rent, as well as their responsibilities for managing the property and keeping the superior landlord compliant.

Article Abridged from Goodlord

Renters Reform Bill Update

More than 3 years after the Renters Reform Bill was pledged by the government, the industry is still waiting for the legislation to be introduced. Housing Secretary, Michael Gove, recently mentioned in a radio interview that ‘it will come in the next calendar year’. Whether it will or not – we will see.

‘The White Paper, A Fairer Private Rented Sector’, published in June 2022, sets out what the Government calls its long-term vision for the PRS. In response to the White Paper, the influential Levelling Up, Housing and Communities Select Committee have published a report, here is a summary of their findings.

Abolishing Fixed Term Contracts

Abolishing fixed-term contracts could make letting to students considerably less attractive to private landlords, as the student market mirrors the academic year and benefits greatly from 12-month fixed tenancies. We agree with the evidence that not exempting the student PRS could push up rents or reduce the availability of student rental properties. We therefore recommend that the Government retain fixed-term contracts in the student PRS.

End of Section 21s

The repeal of Section 21 will leave landlords reliant on Section 8 of the 1988 Act, which requires a court hearing, and the grounds for possession set out in Schedule 2. The Government says it will amend the Section 8 regime to compensate for the loss of Section 21.

We conclude that the proposed sales and occupation grounds could be too easily exploited by bad landlords and become a backdoor to “no fault” evictions, and we therefore recommend that the Government:

- increase from six months to one year the period at the start of a tenancy during which the landlord may not use either ground; and
- increase from three months to six months the period following the use of either ground during which the landlord may not market or re-let the property.

Courts

Landlords are perhaps most concerned about the capacity of the courts to expedite possession claims, particularly in respect of rent arrears and antisocial behaviour, and this is one of our greatest concerns too. As we have concluded before, the best way to improve the housing court system is to establish a specialist housing court, but the Government has rejected this idea, for reasons we find unsatisfactory. Furthermore, in relation to in-tenancy rent increases, the Government proposes that it will remove the power of the First-tier Property Tribunal to increase rents. If this proposal has the desired effect of giving tenants greater confidence to challenge rent increases, it ought to result in a heavier workload for the tribunal. However, this is already a time-consuming and resource-intensive process. Both these proposals present a real risk that the current systems will be overwhelmed, and there will be a logjam with lengthy delays before verdicts are reached.

We again recommend that the Government introduce a specialist housing court. Whatever it does, however, the Government must:

- significantly increase the courts’ ability to process possession claims quickly and efficiently and in a way that is fair to both landlords and tenants;
- ensure the courts prioritise and fast-track all possession claims in respect of rent arrears and antisocial behaviour; and
- in consultation with landlords, agree how quickly the courts need to be processing such claims before landlords can have confidence in the system, and then commit to meeting this target before it repeals Section 21.

Housing Conditions

We support the introduction of a legally binding Decent Homes Standard (DHS), given the high rate of non-decency in the PRS, and the property portal.

We call on the Government to come up with financing solutions where necessary energy efficiency works would exceed the cap.

The DHS will not help to raise standards in the PRS unless local authorities can enforce it vigorously.

Government should:

- consult local authorities on what amendments are needed to the civil penalties regime and include any necessary legislative changes in the proposed renters reform Bill; and
- take action to ensure courts require offenders to pay costs to local authorities that reflect the actual cost of the enforcement action when local authorities choose to prosecute.

Ombudsman

We do not understand why the Government is not proposing to replace the existing letting agent schemes with a single ombudsman covering all letting agents and landlords. We therefore recommend that the Government introduce a single ombudsman for the whole of the private rented sector.

Lack of Housing

We share some of the concerns expressed about the reduction in the size of the PRS, and we recommend that the Government review the impact of recent tax changes in the buy-to-let market with a view to making changes that make it more financially attractive to smaller landlords.

The affordability crisis in the PRS, the source of many of the other problems in the sector, can only be properly solved by a significant increase in house building, particularly affordable housing. We therefore call on the Government to recommit to delivering the affordable homes the country needs, particularly the 90,000 social rent homes we have previously concluded are needed every year.

Article from gov.uk



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SWLA Stationery and landlord documents can be found on the members area of our website.

Contact Details – if your contact details change, please let the office know so we can keep you up to date on legislation changes.

Keep an eye on the SWLA website for future training courses

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

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@enigmaweb.co.uk 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 at GL Law is well regarded for his work with landlord disputes, including dilapidations claims, lease renewals and forfeiture claims. Contact Richard for a free initial conversation by calling 0117 906 9400 or email r.gore@gl.law

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.landlordssouthwest.co.uk

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

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