

The **Bulletin**

SWLA AGM 2014

The Annual general Meeting of the South West Landlords Association Ltd was held at the Future Inn, William Prance Road International Business Park, Plymouth on 21st January 2014. The meeting was well attended by almost fifty members. Eight committee members were re-elected for the next three years, with a new committee volunteer being elected, Mr John A Thomas. A brief history of the Association's financial position was given by the Chairman in response to a question from the AGM of 2013 regarding charitable donations.

Although charitable donations were not being considered at the present time, they had not been ruled out if and when the Association's reserve funds were adequate.

When items on the agenda and finances had been discussed, drinks and a finger buffet were available. Most members remained after the official business to socialise and discuss landlord issues.

The SWLA committee members that were re-elected: Trevor Anderson, Steve Lees, Iain Maitland Katarina Swain, Bob Usher, Peter Stapleton, Ian Skedd New Committee member:

John A Thomas

Serving Committee members not requiring re-election: Lesley Sayer, Frank Wright, John Drake, Adrian Saunders.

Landlord training - 1/2 day courses

Covering possession, using Section 21 and Section 8 notices, Inventories and dispute resolution. Both courses were oversubscribed and all attendees gave the content and trainer top marks.

Register your interest in future courses through the SWLA office



March 2014

SWLA AGM

Deposits, Gas, SWLA Form 77

Liskeard landlord endangered lives

Solicitor deals with rent arrears

Wake up to insurers who spurn your loyalty

Tenancy Deposit Schemes

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Dealing with cold

Gas-Who is a landlord?

BBC Fake Britain - Fire regulation furniture

Voluntary database for landlords - Water

DEPOSITS

Warning to landlords of 'no win no fee' deposit claims

Speaking on BBC Radio 4 You and Yours, the National Landlords Association (NLA) warned landlords to ensure their tenants' deposits are properly protected and that they've fully complied with Tenancy Deposit Protection (TDP) law.

The warning comes after a growing number of information requests to TDP schemes from 'no win no fee' claims companies who, on behalf of tenants, are targeting landlords who may not have fully protected deposits.

All landlords in England and Wales must by law protect their tenants' deposits within a Government authorised TDP scheme and must also ensure that they pass on important information about where and how it was protected – known as the Prescribed Information – to the tenant within 30 days from the start of the tenancy.

Failure to do so could lead to heavy penalties and claims companies seem to be inviting tenants who haven't received their prescribed information to make a claim against their landlord – even if the deposit is protected.

The NLA said: "You have to ask where the financial loss for the tenant is. The majority of tenant's deposits are being protected and ninety nine per cent of tenancies end without any issues over the return of the deposit. Where problems do arise, the tenant has access to a free and impartial decision using the scheme's dispute resolution service.

"Of course, where there is blatant disregard for the law landlords can have no argument and must be brought to rights. However, these claims firms are looking to exploit those landlords who have protected their tenant's deposits but may not have properly issued the prescribed information.

"In practice this could simply mean not providing their tenant with a leaflet about where the deposit is protected.

"This sort of action is morally questionable, unnecessarily punitive and will only work to undermine the good relationship that exists between the majority of landlords and their tenants".

Eddie Hooker, CEO of Tenancy Deposit Scheme MyDeposits, also commented: "It has always been the landlord's responsibility to protect the deposit and a vital part of the process is to pass the Prescribed Information on to the tenant.

"Landlords must be aware that they are ultimately responsible even if they use a letting agent. Our advice is to check with your agent or directly with your deposit protection scheme to ensure all of your deposits have been properly protected.

"Those who fail to comply with either step of the legislation leave themselves open to potential fines of up to three times the deposit value and could fall prey to these kinds of claims companies.

Extract from NLA article

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GAS

Get your gas appliances checked by Gas Safe registered engineers who are properly trained and accredited to carry out work safely. It can be tempting for people to DIY with gas but ultimately it is dangerous and illegal. Badly fitted and poorly maintained appliances can cause gas leaks, fires, explosions and carbon monoxide poisoning. Sadly there have been 31 deaths and over 1,000 injuries in the past three years in Britain as a result of gas related incidents. Always employ a Gas Safe registered engineer for any gas work you need doing.

SWLA Form 77 file

If you have an undesirable tenant make sure that they are added to the SWLA Form 77 to assist other members who may be asked to take on the tenant.

If you are unsure of the reliability or record of a tenant you can search the SWLA website using your login ID and password and go to the Form 77 page. Alternatively you can contact the office for them to check the file.

**Capita have ceased trading contact Capita for information at 08444
129968 or email info@capita-tdp.co.uk**

Liskeard landlord endangered lives by replacing a gas boiler

A Cornish landlord risked the life of neighbours by carrying out work on a domestic gas boiler despite not being qualified to do so. Mr Johnson removed an old gas boiler and replaced it with a new one but used the existing flue, which caused an immediate risk of explosion or of poisonous carbon monoxide gas escaping into the house, had the boiler been used. He was prosecuted by the Health & Safety Executive (HSE) after inspections identified serious concerns with his illegal fitting. Truro magistrates' Court heard how Mr Johnson had carried out the work on a home he owned in Addington North, Liskeard in May 2013 while his mother, who lives at the property, was away. Mr Johnson asked a gas Safe registered engineer to look at the work, but when the engineer saw the connection to the flue, they classified the work as "immediately dangerous". HSE found that Mr Johnson was not a Gas Safe registered engineer and therefore was neither qualified nor legally entitled to work on gas. Mr Johnson pleaded guilty and was fined a total of £4,000 and ordered to pay costs of £288. The HSE said later that "Mr Johnson had tried to save money by doing the work himself, but his work had the potential to endanger lives. Gas work should only be undertaken by Gas Safe registered engineers who are properly trained and accredited to carry out work safely. It can be tempting for people to DIY with gas but ultimately it is dangerous and illegal. Badly fitted and poorly maintained appliances can cause gas leaks, fires, explosions and carbon monoxide poisoning. Sadly there have been 31 deaths and over 1,000 injuries in the past three years in Britain as a result of gas related incidents. Always employ a Gas Safe registered engineer for any gas work you need doing."



Landlords Direct from the Bateman Group Exclusive rates for South West Landlord Members

Contact: Colin Jarvis
53 Smith Street, Warwick, CV34 4HU
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Solicitor deals with rent arrears

A solicitor who championed the cause of domestic violence victims has been jailed for five years for an attack on two people in Bolton. Sultan Mahmood and Mohammed Nazir appeared at Bolton Crown Court. They had been convicted of actual bodily harm after they attacked two tenants with either a brick, knuckle duster or a lump of metal. They had travelled to Bolton and had gone to the property armed with a blunt weapon because they had fallen behind with the rent. Nazir had previous convictions for assault and violence. Mahmood's defence barrister said that his client had spent 10 years becoming a solicitor but had shown a "total lack of judgement" on the night of the attack. The Recorder said that Mahmood was a solicitor and engaged in landlord and tenant work. He had the expertise to know what to do in the event of a tenant dispute through the courts. A Law Society spokesman said that when a solicitor is convicted of a criminal offence they must notify the Society, who will then make a decision as to whether this goes forward to a solicitor's disciplinary hearing for possible further sanction.

From The Bolton News

Wake up to Insurers who spurn your loyalty

Many landlords sleepwalk through the insurance renewal process, automatically renewing their policies sometimes with outrageous premium increases. In one reported case a homeowner, insuring through an 'on-line' insurer, saw the premiums rise from £567 in 2009, £754 in 2010 in the years that followed the cost climbed to £1,057 then £1,309 and finally £1,459 in 2013!

This is a widespread problem. An elderly homeowner saw house insurance premiums grow to almost

£1,000 through automatic renewal but when his daughter protested, the quote fell to £269 p.a. the amount a new customer would pay.

In the first case the insurer stuck to their guns. They say for the first year of the policy they were not charging the full price and were giving the customer a generous discount!

Loyalty only pays when you use one of the SWLA specialist insurers who guarantee to be competitive and review their rates every year.

Tenancy Deposit schemes' rates (read column downwards)

	DPS Custodial	DPS Insured	MyDeposits	TDS	TDS
Joining fee	Nil	Nil	On-line £36 Telephone or post £60	Nil	Nil
				RLA members	Non-members
Deposit fee	Nil give them the deposit	£15 deposit less than £500 £22.20 deposit £500 or more	£18 deposit up to £500 £24 deposit over £500	£13.20 deposit up to £500 £17.95 deposit over £500	£14.70 deposit up to £500 £21.95 deposit over £500

The SWLA recommend custodial or guarantor

What to do if a tenant is arrested

If a tenant is on remand then any Housing benefit will continue to be paid. If the tenant is sentenced to a period of less than six months the Housing Benefit payments will continue.

The tenant is entitled to leave his / her possessions in the property during the period of the tenancy agreement, including time served in prison. The tenancy can only be terminated by the tenant surrendering the property or through an appropriate court process such as use of a Section 8 or Section 21 notice. The fact that the tenant does not reside at the property does not terminate the tenancy.

Once a property has been repossessed through the court process any property of the tenant which the court bailiff does not take and sell, should be bagged up by the landlord and kept for a reasonable time (nominally not less than a month).

If the tenant runs away without surrendering the tenancy then in theory the landlord should gain a court order for repossession of the property. However, some landlords place a notice of abandonment saying that the locks have been changed for security purposes. Should the tenant return to the property they should contact the landlord. Please remember that doing this could be judged as illegal eviction and that the landlord has committed a criminal offence.

UNIVERSAL CREDIT

The biggest shakeup of benefits and welfare reform ever undertaken appears to be hitting problems rather than targets. Some of the articles below from various sources give an interesting update on some of the problems being encountered, and reaction from landlords.

<http://www.theguardian.com/politics/2014/feb/03/iain-duncan-smith-universal-credit>

<http://blogs.telegraph.co.uk/news/benedictbrogan/100257938/whitehall-is-shuddering-over-universal-credit-problems/>

<http://www.theguardian.com/society/2014/jan/10/landlords-benefits-universal-credit-tenants>

<http://www.newstatesman.com/2014/01/five-reasons-universal-credit-will-fail-even-if-they-sort-it-out>

Illegal gas fitter jailed for dangerous installation

A London landlord has been jailed for endangering his tenants after he illegally installed a boiler that he then repeatedly tried to fix after it developed a leak. Harpal Singh attempted to repair his faulty handiwork at the property on three occasions before a concerned tenant called the National Grid for help. A qualified technician then immediately disconnected the gas supply. A subsequent investigation revealed six faults with the installation, and clear evidence that he had failed to appoint a Gas Safe registered engineer to do the work, as the law requires.

Westminster Magistrates Court heard that Mr Singh installed the boiler and associated pipework at the three-bedroomed house. His tenants immediately complained of a strong smell of gas throughout the property, and continued to do so despite numerous visits to rectify

the problem. It was not until almost four months that the National Grid intervened to disconnect the supply. Gas Safe highlighted clear faults with the work and with the landlord's duty of care.

There was no certification to show that another appliance had been annually checked as the law required. The matter was passed to the HSE who prosecuted him for three separate breaches of the Gas Safety regulations. Mr Singh was jailed for a total of 26 weeks and ordered to pay £1,852 in costs after pleading guilty to all three breaches.

The judge ruled that imprisonment was justified to reflect his high culpability and the fact that he acted "fast and loose" with the lives of his tenants. The HSE said "The regulations covering landlords' duties relating to gas appliances in their properties are unambiguous and clearly state that only qualified engineers are permitted to undertake gas installations, checks and maintenance. Faulty installations can cause fires, explosions or carbon monoxide poisoning. Every Gas Safe registered engineer carries a Gas Safe ID card, which shows who they are and the type of gas work they are qualified to do. You can also check if your engineer is legal by asking for the card and if there are concerns contact us at **0800 408 5500** or our website at **www.gassaferegister.co.uk**.

From the HSE

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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.

LANDLORD 'S CHECKLIST

Steps to be taken before the tenancy begins

- Contact your Building, bank or lender for their requirements and approval
- Contact your insurer (buildings and contents) for their requirements and quote
- Decide which items (if any) will be left at the property and remove any valuables
- If the property is furnished, ensure the furnishings comply with fire safety regulations
- If furnished, decide what you wish to remove and remove all valuable or items of irreplaceable value
- Arrange for gas and electrical safety checks, and arrange for the annual service of gas systems and appliances by a registered Gas Safe engineer
- Make sure the property is cleaned and presented ready for letting
- Consider what level of work is needed in the garden/s. Is the maintenance reasonable for a tenant to do or would it need a form of gardening service
- Arrange for three sets of keys one for you to keep and two for the tenants
- Should you be moving overseas apply for an approval certificate to enable you or your accountant to receive rent without deduction of tax

Paying rent late will hit credit score

Rental payments will appear on credit reports for the first time from the end of 2013, agency Experian revealed.

Tenants who pay rent late will get a black mark, hitting their chances of securing a mortgage or credit card. Experian expects to include 600,000 rental records by year-end, starting with social housing and expanding to all private rentals. Lenders will have access to the information by the end of 2014.

Missed payments will damage a credit score, but a history of regular on-time payments could improve it. A report by Experian claimed 93% of social housing tenants will see a boost in their scores as many lack a credit history.

Mark Harris of the broker SPF Private Clients said: "This is a welcome development. Applicants are often rejected for mortgages because of a lack of credit. Showing rent payments would demonstrate a record of meeting financial obligations, providing additional information for lenders and helping buyers obtain mortgages."

The latest housing market forecast from the estate agency Savills predicted that rents across the country will rise 21% in the next five years and private rental households will increase from 4.8 million to 5.83 million. *From the Sunday Times*

Safety warning over "dodgy" electricians.

A recent survey has found that one in five people in Plymouth hire an electrician without checking their credentials.

The UK charity Electrical Safety Council (ESC) is warning people in Plymouth about the risks of using "dodgy" tradesmen. With electrical accidents responsible for half of all house fires and someone dying every week from an electrical accident, the charity is urging the public to be vigilant and check the person they employ is appropriately qualified. The charity estimates there may be around 20,000 non-registered electricians operating in the UK. In addition to the deaths and fires, 350,000 are seriously injured each year. A third of people in Plymouth said they had hired an electrician based on a recommendation from a friend without checking credentials.

Worryingly, the problem seems to be on the increase— across the UK a third of registered electricians say they have seen an increase in the amount of substandard or dangerous work conducted by non-registered electricians in the past two years. Registered electricians surveyed by the ESC also warned about the dangers of relying on others, such as a builder, to select electricians on your behalf. A third of people in Plymouth admitted they had hired people to work on major jobs without checking the credentials of the electricians involved in the project.

The most occurring problems with tenancy agreements

Although there is no legal requirement for landlords of residential property in England and Wales to have a written tenancy agreement, it is always advisable to have one in place for every tenancy that is agreed so that not only the existence of the tenancy can be recorded but also basic details such as rent, the term of the tenancy and any obligations of the landlord and the tenant.

Even when there is a written agreement there can be problems through poor drafting or omissions.

Here are some of the most occurring problems:

Insufficient contact details

In certain circumstances it is a legal requirement to provide contact details for the landlord and the tenant in a tenancy agreement. Under S48 of the Housing Act 1987 tenants are entitled to withhold rent if they are not given an address at which notices can be served to the landlord.

Ensure that any tenancy agreement includes your own contact details (address, contact numbers, email) as well as the full contact details of the tenant both pre and post tenancy in case you have to trace any errant tenants.

Vague deposit details

In addition to the amount of the deposit, also include circumstances where deductions may be made. Don't forget also the prescribed information which must be given, when the AST is signed, to anyone with an interest in the deposit (guarantors for example).

Lack of inventory and condition report (check-in)

Many claims will relate to damage allegedly caused by tenants. A disproportionate number of claims of this kind result in findings in favour of the tenant because the landlord was unable to prove the condition of the property at the start of the tenancy.

Unclear special conditions

If you wish to agree special conditions with a tenant not only should they be expressly agreed and be part of the tenancy agreement but in line with Office of Fair Trading (OFT) guidance, you should get the tenant to sign the special conditions. This may avoid future disputes where the tenant claims the special conditions were not shown to them at the signing of the agreement, or that they were added at a later date.

Administration charges

The OFT has issued guidance on what landlords can and can't charge tenants administration for. Clauses trying to charge fixed costs may be considered unfair contract terms, and so the OFT has suggested that the terms should be re-drafted to say that the tenant is responsible for any reasonable costs incurred by the landlord as a result of a breach of a tenant's obligations

How and where notices are served

The OFT guidance suggests that terms requiring tenants to serve notices on landlords by registered post or demanding proof of posting or receipts are unreasonable whereas advising tenants to obtain proofs and receipts is acceptable.

It's also good practice to include in the agreement how notices can be served by the landlord on the tenant. This could simply be by first class mail.

Renewing tenancy agreements

After the expiry of the initial fixed term what happens? Will the tenancy be renewed on a new fixed term or does it become contractual or a statutory periodic tenancy?

This is particularly important for deposit protection, rent increases and possession claims so ensure the agreement clearly states what will happen.

Ending a tenancy

Does the tenant need to give notice to end a tenancy or can they simply vacate at the end of the fixed term?

This should be detailed in the tenancy agreement but remember, in normal circumstances, any notice required by the server to the tenant cannot be longer than that required of the landlord.

Outdated or 'homemade' agreements

Frequently landlords re-use old agreements. These may be outdated if the law has changed or even worse, over time, landlords create 'patchwork' agreements from bits and pieces they pick up along the way. Both of these paths can lead to serious problems such as agreements being flawed, contradictory or lacking in requisite information.

Using the wrong agreement

Going on from landlord using outdated or 'patchwork' agreements there have been cases where landlords have simply used the wrong agreement, especially with company lets, HMOs or where the rent is in excess of £100,000. If you use the wrong agreement at the start it will inevitably lead to problems. Note that when you are renting your property to a company or for an annual rent in excess of £100,000 you cannot use a standard Assured Shorthold Tenancy agreement.

Ensure that your agreements are clearly drafted in line with the latest legislation.

Do the landlord training course – Don't be caught out!

Dealing with cold

We purchased an old home in Devon from two elderly sisters. Winter was fast approaching and we were concerned about the house's lack of insulation. "Well," we thought, "If they could live here all those years, then so can we!" One November night the temperature plunged to below zero, and we woke up to find the interior walls covered with frost. We eventually called the sisters to find out how they had kept the house warm. After a fairly brief conversation, we discovered that for the past 30years they had gone to Florida for the winter!!

GAS—Who is a landlord?

A landlord is anyone who rents out a property they own under a lease or a licence that is shorter than seven years. Landlords' duties apply to a wide range of accommodation, occupied under a lease or a licence, which includes, but not exclusively:

Residential premises provided for rent by:

- Local authorities
- Housing associations
- Private sector landlords
- Housing cooperatives
- Hostels

Rooms let in:

- Bedsit accommodation
- Private households
- Bed and breakfast accommodation
- Hotels

Rented holiday accommodation :

- Chalets
- Cottages
- Flats
- Caravans
- Narrow boats on inland waterways

Short-term landlord (less than 28 days): Landlords' duties apply where a property has been rented out for less than 7 years.

Long-term landlord: (more than 28 days but less than 7 years) Landlords' duties apply where a property has been rented out for less than 7 years.

Long-term landlord: (more than 7 years) however if there remains an implied tenancy arrangement, such as accommodation provided as a part of a job (e.g. vicar, publican) then it is recommended that landlords' duties are carried out.

Letting / managing agent (agent): the management contract should clearly specify who is responsible for the maintenance, gas safety checks and associated record keeping. If the contract specifies that the agent is responsible, the same duties under the Gas Safety Regulations 1998 that apply to a landlord will apply to the agent. If the contract is unclear, the duties remain the responsibility of the landlord.

From HSE

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Recent BBC 'Fake Britain' exposition has shown that some major retailers are housing and selling products that fall short of the UK's rigorous fire safety regulations for furniture. Landlords should take note to ensure they are fully protecting their properties and tenants from risk of fire.

The Citizens Advice Bureau urges vigilance when purchasing upholstered furniture to ensure that the items meet fire resistant standards. These items could include sofas, beds, mattresses, garden furniture, and cushion fillings.

It is a criminal offence for a furniture supplier not to meet the safety standards, but unfortunately some products get through testing and commercialisation.

Furniture and mattresses being imported from around the world may not stand up to stringent fire safe regulations designed to protect homes and occupiers. This is an undeniably important consideration for private landlords because of the responsibilities of providing tenants and properties with the best protection possible.

New furniture must be permanently labelled with a fire safety label general a large blue tag that can attest to it meets certain test criteria.

The standards come from the 'Furniture and Furnishings (Fire Safety) Regulations', which stipulate:

- filling materials must meet certain standards so they don't catch fire easily
- upholstery must be cigarette resistant
- covers must usually be match resistant
- a permanent label must be fitted to every item of new furniture, with the exception of mattresses and bed bases. This is for enforcement officers to check a piece of furniture meets the regulations
- a display label must be fitted to every item of new furniture at the point of sale, with the exception of mattresses, bed bases, pillows, scatter cushions, seat pads, loose covers sold separately from the furniture and stretch covers. This is to show the resistance of the furniture to igniting
- suppliers of domestic upholstered furniture in the UK must maintain records for five years to prove their furniture meets the regulations.

The Fire Industry Research Association (FIRA) independently test furniture and upholstered products to ensure that standards are met recently. Recently they found that a number of products available from major chains (including Amazon, Argos, Homebase, Tesco Direct, SCS) failed to meet fire safety standards.

Landlords are today welcoming the Government's decision to proceed with measures for them to notify water companies on a voluntary basis of their tenants to prevent them from not paying their bills.

In a letter to water companies, Environment Secretary, Owen Paterson MP has outlined the Government's plans to establish a new voluntary database for landlords to provide information about their tenants to water companies.

Households currently pay an extra £15 on their water bills to cover the cost of those who do not pay. Ministers believe that much of the problem rests with tenants who fail to settle their bills when they move to a new property.

Today's measure is designed to get rid of this charge by making sure tenants cannot escape paying their charges.

The proposal is in contrast to that being suggested by the Welsh Government which wants to make landlords legally responsible for providing such information or face having to pay the debt left by their tenants.

Commenting on the Environment Secretary's statement, Richard Jones, the RLA's Policy Director said: "Landlords recognise the cost of living pressures that tenants face. That's why official figures show that rents have increased by less than the rate of inflation over the past 8 years.

"Making landlords legally liable for the debt incurred on water bills where they did not pass on their tenants details to water companies would serve only to add to the creaking weight of regulations already affecting the sector and lead to increased rents to reflect the greater risks involved."

from the RLA

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Greg Yates Solicitor

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

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WBW Solicitors of Torquay

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Rory Smith, Enigma Solicitors

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

You can contact Rory for free initial advice on any matter on 01752 600567 or by email at rls@enigmamalaw.com Enigma is located 5 minutes away from SWLA's office at Farrer Court , 77 North Hill PL4 8HB next to Stratton Creber Commercial. The office is open 8:50 a.m. until 5:00 p.m. weekdays but the firm regularly also works additional hours whenever needed.

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

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



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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, visit our website at www.landlordssouthwest.co.uk
Or visit our office in Dale Road, it is open week days from 10 to 3pm

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