The Bulletin

SOUTH WEST LANDLORDS ASSOCIATION SWLA

SWLA goes from strength to strength

November 2013

Membership of the South West Landlords Association has increased by over 10% for the year ending 31st OCTOBER 2013. This is the eighth consecutive year of membership growth. Subscription rates were raised from £35 to £40 to reflect the general increase in the cost of services.

This year the association has run 8 landlord training courses in conjunction with Plymouth City Council, Teignbridge Council and Torbay Council. All three councils have subsidised the courses with Torbay offering free places to over 100 landlords. Many of those attending the course and by completing the validation paper have become ACCREDITED landlords with the LASW scheme.

Over the past year the Chairman and Vice-Chairman have robustly represented landlords' views and opinions at meetings with Ministers, Shadow Ministers, MPs, Government departments, local authorities and on radio and television.

SWLA believes the way forward for the Private Rented Sector (PRS) is to educate landlords to enable them to recognise and fulfil their responsibilities. Only then will they be taken seriously.

The lobbying of ministers by Shelter and other tenant pressure groups often results in negative publicity for private landlords. Through landlords knowing and meeting their responsibilities, completing a training course and becoming an Accredited landlord we can deflect some of the negativity. Landlord training days in Plymouth, Newton Abbott and Torbay—see the website.

BE PROFESSIONAL - BE ACCREDITED WITH LASW

ANTI-SOCIAL TENANTS

Evicting tenants for anti-social behaviour can be extremely difficult. Many landlords find the only realistic solution is to serve a Section 21 notice which means no grounds have to be stated and which cannot be contested provided it was correctly served, and just wait.

However, a new piece of legislation, the Anti-social Behaviour Crime and Policing Bill 2013-2014, nearing its final reading, is set to make a big difference. Landlords will be able to evict tenants on a ground of anti-social behaviour – even one not committed near the property, and the courts will have to grant possession. This could also change the face of future tenancy referencing, since it could be possible for companies to do specific searches for eviction on these grounds.

A new document on anti-social behaviour in the private rented sector was placed in the House of Commons library. It stresses that “as a general rule” landlords are not responsible for actions of their tenants, unless they have sanctioned it. The paper’s main conclusion is that the chief way that private landlords can control the behaviour of their tenants is through the tenancy agreement. Terms can be inserted to impose standards of behaviour such as the keeping of dangerous dogs as pets, bad language and violence. Terms must not, however, be unfair in terms of consumer regulation.

Supposing the tenant is anti-social and, perhaps, behaving in a way that was not anticipated under the terms of the agreement? For example the tenant seems to be dealing in drugs or using the property for prostitution. The landlord could serve an injunction but records show that there is little evidence of private landlords using this course.

The new Anti-social Behaviour Crime and Policing Bill 2013-2014 may – but only may, change this. Housing providers, including private landlords, will be able to apply for injunctions where anti-social behaviour restricts their ability to properly manage their property. However, the paper suggests that it is doubtful whether landlords will use these new powers.

Most landlords vexed by anti-social tenants will want to evict them. But how? Most will use a Section 21 notice which requires no reason and give the tenant two months’ notice. The court has no discretion but to order possession if the notice was correctly served. There are other grounds on which a landlord may seek eviction. A Section 8 notice citing Ground 12, where a tenant is in breach of an agreement specifying no anti-social behaviour, whilst Ground 14 can be used where a tenant annoys neighbours. It may be necessary for a witness (neighbour) to appear in court to give evidence. But a Section 8 notice only requires that the landlord give the tenant a minimum of two weeks’ notice before starting court proceedings. Be aware though, that these grounds are discretionary , and the court does not automatically have to make an order even if it finds for the landlord. Courts do not necessarily take a dim view anti-social private tenants. The evidence must be convincing because judges must look at whether the effect in making someone homeless is just and equitable. For the best chance of an order to be made the landlord should provide any additional evidence—witness statements, police reports and possible attendance at court by neighbours.

If the only evidence provided is a witness statement or a complaint from just one neighbour, the court may see this as a clash of personalities and not grant the order. In May 2012 a CLG paper called “Strengthening Powers of Possession for Anti-Social Behaviour” confirmed the intention to introduce a new mandatory ground for possession. This is to be in Clause 89 in the Anti-social behaviour and Policing Bill 2013-2014. A court must make an order if one of five conditions is met. The tenant, a member of the tenant’s household or a person visiting the property has been convicted of a serious offence OR the tenant, a member of the tenant’s household or a person visiting the property has been found by a court to have breached an injunction to prevent nuisance and annoyance under clause 1of the Bill OR the tenant, a member of the tenant’s household or a person visiting the property has been convicted for the breach of a criminal behaviour order OR the tenant’s property has been closed under a closure order and the closure was more than 48 hours OR the tenant, a member of the tenant’s household or a person visiting the property has been convicted of a breach of a notice or order to abate noise in relation to the tenant’s property under the EP Act 1990. On top of this Clause 90 makes new provisions to enable a landlord to seek possession where a tenant or a person living in or visiting the property is guilty of conduct likely to cause nuisance to the landlord or someone employed in connection with the landlord’s management functions.

Landlords who sell a property knowing there is an anti-social tenant in place have a legal duty to disclose the situation. The Bill had its second reading in June. With remaining stages to be announced.

Proposal to make landlords responsible for tenant immigration checks

The RLA held a second meeting with Home Office and border control officials this week, to discuss the implications of the Government’s proposals to make landlords responsible for tenant immigration checks.

The discussion took place at Manchester Airport, where officials were keen to stress the ‘light touch’ approach that they aim to implement.

However, there are genuine concerns that there will not be enough clarity in the guidelines to define the boundaries of landlords’ liabilities, and these concerns were expressed by the RLA.

After the meeting, Andrew Goodacre, the RLA’s chief executive, said, “If the tenant immigration checks were simply about landlords photocopying prospective tenants’ ID documents and filing them away, then I do not think there would be many opponents to the Government’s proposals. However, we know Government simply doesn’t work like that, and a ‘light touch’ approach only lasts as long as the next Government crackdown.

“There are a number of flaws with the proposals, but most notably we are deeply concerned at where the boundary begins and ends between a landlord’s legal obligation and potential prosecution. This has yet to be clearly defined, and there is a danger that compliant landlords may find themselves criminalised through no fault of their own, at the whim of a border control case worker or the demands of political leaders.

from RLA News

GAS SAFETY

Dangerous gas work can kill. Badly fitted and poorly serviced gas appliances cause gas leaks, fires, explosions and carbon monoxide (CO) poisoning. In the last year, 333 people were injured and 4 died as a result of gas related incidents.

Engineers regularly go out to homes and see unsafe appliances which either have not been serviced in years or have been worked on by illegal fitters. Worryingly when engineers go into these homes, residents are often oblivious to the danger that they and their families are in. This is why the Gas Safe Register raise awareness of gas safety issues. Make sure that the tenant receives a copy of the safety certificate.

Following these simple checks can ensure your home stays gas safe:

- Check your gas appliances every year. Gas appliances should be safety checked once a year and serviced regularly by a Gas Safe registered engineer. Tenants—make sure your landlord arranges this
- Check your engineer is Gas Safe registered. You can find and check an engineer at www.GasSaferegister.co.uk or call 0800 408 550
- Check your engineer's Gas Safe register ID card. Make sure they are qualified for the work to be done. The information is on the back of the card.
- Check for warning signs that your appliances are not working correctly, such as lazy yellow or orange flames instead of crisp blue ones, or black marks on or around the appliance or too much condensation in the room.
- Check that you know the six signs of carbon monoxide poisoning : headaches, dizziness, breathlessness, nausea, collapse or loss of consciousness.
- Check that you have an audible carbon monoxide alarm. This will alert you if there is carbon monoxide in your home.

Buy to let landlords targeted by HMRC

HMRC has confirmed that it has secured double the number of convictions for tax evasion last year than the year before—with Buy to let landlords under scrutiny. Prosecutions by HMRC doubled between 2012/2013 as the taxman cracked down on 'small time evaders'. This means criminal cases against 'middle class' professionals and trades people who are evading what are relatively small sums of money.

Those in a position of trust or responsibility, such as lawyers, GPs, business or financial consultants as well as buy to let landlords are in the line of fire. Many buy to let landlords see it as a substitute for a pension. It may produce similar financial results but they need to remember they can still incur significant tax liabilities.

For new landlords who put their properties to the back of their mind to focus on their day job while the money rolls in, it can be quite easy to get caught out.

Lamertons accountants in Plymouth offer landlord self-help packages.

Contact Renate Lamerton at 01752 255667 or email len.lamerton@virgin.net

SWLA Offers

Advice

Letting-related stationery

Links to competitive insurance companies

Landlord training

For Details contact SWLA on
01752 510913
info@landlordssouthwest.co.uk

30 Dale Road,
Plymouth PL4 6PD

Be warned — a personal account from one of our members
In the case of Murray v Khambhaita

This member agreed an assured shorthold tenancy for a property in August 2007 and a one year agreement was signed with three months' rent in advance being received. The Murrays now reside in Malta. The tenant contacted the landlord by telephone to discuss a longer let. The tenant stated that he was a senior nuclear scientific officer employed by the M.O.D. and provided references from two local letting agencies. The landlord failed to check the references. Over the four years the tenancy ran the landlord carried out two visits a year to ascertain the material state of the property. As the property was detiorating the landlord served notice requiring possession in May 2011. The tenants remained in the property for a further three months. During these three months the tenants missed one month's rent and caused damage which was estimated at £15,000.

The landlord belatedly checked the two references. They were false. The tenant had caused serious damage to previous properties and the landlord obtained statements to that effect. The landlord decided to sue the tenant for £5,000 in the Small Claims Court. The tenant counter-claimed for £13,000. At a second hearing in September 2011 the landlord won the case and the tenant was ordered to pay. The tenant did not pay. He moved without leaving a forwarding address for the landlord or the Court. The landlord applied for an attachment of earnings which was forwarded to the M.O.D..

The landlords's further investigation into the tenant's background revealed that he and his family were tens of thousands of pounds in debt, had three County Court Judgements and were overdrawn at their bank by at least £1,300 every month.

The landlord pursued the attachment of earnings claim with the M.O.D. But they quoted the Data Protection Act effectively protecting the criminal tenant. The M.O.D. refused to communicate further with the landlord in pursuit of their claim.

Be warned. Just because a prospective tenant looks and acts like they are honest law abiding people who will pay the rent, check them out. Always check our FORM77 list and if you encounter similar tenants please add their details to our list.

FORM77

For members who have joined recently and for those who have been members for many years we would like to point out the availability of an exclusive list of less desirable tenants.

Your association is run by landlords for landlords i.e. we are here to help one another, and although we are all competing for good tenants, none of us will knowingly take on a tenant with a bad track record.

Our office monitors the stationery downloads. Downloads of Section 8 notices (rent arrears) far exceeds the downloads of our Form77 register, so PLEASE support your fellow members by forwarding the relevant details BEFORE evicting your bad tenant.

LANDLORD PUT PROFIT BEFORE SAFETY

The owner of a house where eight people were living told a court he had not intended it to be used for multiple occupation. Neil Doyle, aged 32 of Liverpool, was found guilty at Liverpool Magistrates' Court of operating an HMO without a licence and for breaches of regulations for protection of tenants from injury in the event of a fire. He was fined a total of £3,000 and ordered to pay costs of £2,840. The court heard that a complaint had been made about water leaking through the lights in the kitchen ceiling. When officers inspected the property, a four bedroom three storey terrace house they found there were eight people living there with some even sleeping on mattresses on the floor. They also found that many of the fire doors were damaged and would not offer the 30 minute protection required. The property was not licensed. Mr Doyle claimed that the property was let to one tenant only through a letting agent called Incity and it was not intended to be an HMO. He said he was the landlord manager and when he discovered eight individuals he instructed Incity to re-house them. The Court were told that Mr Doyle had visited the property once in the time that he had let it out through Incity. He did not know it was a letting agent and had only done financial checks. The Court told him that he had been prepared to sit back without doing anything. Incity Ltd and its director pleaded guilty and were fined a total of £6,000 and costs of £2,000.

From the Liverpool Express

Mandatory Electrical Checks Proposed for Private Sector Landlords

The Communities and Local Government (CLG) Select Committee has recommended that private sector landlords be required to undertake a mandatory five-yearly check of electrical installations in their properties.

The recommendation is detailed in the just-released CLG Select Committee report into England's private rented sector (PRS).

It calls on government to introduce a requirement for a competent person to comprehensively review installations every five years, with a visual check being undertaken on change of tenancy. To achieve this, it asks government to liaise with the electrical industry to establish suitable certification.

"We are delighted that the committee has made this recommendation," said ESC director general Phil Buckle.

"We have, for some time now, been lobbying hard for such mandatory regulation in the PRS.

"The government's own data shows that 21 per cent of England's PRS contains category 1 hazards – the most dangerous risk to health and safety under the Housing, Health and Safety Rating System.

"Independent research suggests that PRS tenants are more likely to be at risk of electric shock than owner-occupiers, or those in social housing. Government statistics also show that over half of all accidental fires in GB homes (more than 20,000 annually) are caused by electricity.

"With the PRS expanding significantly over the past decade – now comprising over 16.5 per cent of all households and growing – it is essential that electrical safety in the sector is properly regulated."

The ESC has identified other key changes which could help improve conditions for PRS tenants and assist landlords to engage in best practice.

"Mandatory Electrical Checks Proposed for Private Sector Landlords"

Extract from NetRent

A brief introduction from the National Audit Office (NAO) on Universal Credit

The Department's plans for Universal Credit were driven by an ambitious timescale, and this led to the adoption of a systems development approach new to the Department. The relatively high risk trajectory was not, however, matched by an appropriate management approach. Instead, the programme suffered from weak management, ineffective control and poor governance. Universal Credit could well go on to achieve considerable benefits if the Department learns from these early setbacks and puts realistic plans and strong discipline in place for its future roll-out."
Amyas Morse, head of the National Audit Office, 5 September 2013

The National Audit Office has concluded that the Department for Work and Pensions has not achieved value for money in its early implementation of Universal Credit. The Department is not yet able to assess the value of the systems it spent over £300 million to develop and has been forced to delay the national roll-out of the programme to claimants.

Today's report concludes that the Department was overly ambitious in both the timetable and scope of the programme. The Department took risks to try to meet the short timescale and used a new project management approach which it had never before used on a programme of this size and complexity. It was unable to explain how it originally decided on its ambitious plans or evaluated their feasibility.

Given the tight timescale, unfamiliar project management approach and lack of a detailed plan, it was critical that the Department should have good progress information and effective controls. In practice the Department did not have any adequate measures of progress.

In early 2013, the Department was forced to stop work on its plans for national roll-out and reassess its options for the future. The programme still has potential to create significant benefits for society, but the Department must scale back its delivery ambition and set out realistic plans.

Over 70 per cent of the £425 million spent to date has been on IT systems. The Department, however, has already written off £34 million of its new IT systems and does not yet know if they will support national roll-out. The existing systems offer limited functionality. For instance, the current IT system lacks a component to identify potentially fraudulent claims so that the Department has to rely on multiple manual checks on claims and payments. Such checks will not be feasible or adequate once the system is running nationally. Problems with the IT system have delayed national roll-out of the programme.

The Department will not introduce Universal Credit for all new claims nationally in October 2013 as planned, and is now reconsidering its plans for full roll-out. Instead, it will extend the pilots to six more sites with these new sites taking on only the simplest claims.

Delays to the roll-out will reduce the expected benefits of reform and – if the Department maintains a 2017 completion date – increase risks by requiring the rapid migration of a large volume of claimants.

The spending watchdog found that the Department took some action at the end of 2012 to resolve problems, but was unable to address the underlying issues effectively. The source of many problems has been the absence of a detailed view of how Universal Credit is meant to work. In addition, poor control and decision-making undermined confidence in the programme and contributed to a lack of progress. The Department has particularly lacked IT expertise and senior leadership, with frequent changes in senior management.

It has been reported that the DWP has disclosed that instead of moving all new claims to Universal Credit from October 2013, it is now only extending pilot schemes to six more Job Centres in Hammersmith, Rugby, Inverness, Harrogate, Bath and Shotton. Ian Duncan Smith told parliament that this would deliver Universal Credit safely by 2017.

Safeguards against arson

Arson is the crime of wilfully or maliciously setting a fire for an unlawful or improper use. Arsonists set fires for a variety of reasons, including vandalism, revenge, monetary gain and mental illness. Whether used to cover up a crime, or as a violent act against another person's property, arson can be very destructive. Beyond that, it carries the risk of severe injury, if not death, to others.

Here are a few reminders of what to do:

- Ensure your premises have adequate security to prevent unauthorised persons gaining entry;
- Make sure that you have adequate lighting in and around the property;
- Avoid a build-up of combustibles externally and also within internal escape routes;
- Where wheelie bins are provided, ensure they are kept locked and preferably secured, at a safe distance from the building. If possible, do not put bins out until the day of collection;
- Be on the lookout for other forms of vandalism. If graffiti or damage is not cleared up immediately it can make the area a target for minor arson—which can quickly escalate into more serious fires.
- Limit the number of entrances in use but do not lock or block fire exits!
- Gaps under external doors should be as narrow as possible to stop lighted paper or fuel being pushed under them;
- Letterboxes can be fitted with a fireproof box or bag on the inside to contain any fires from lighted rags, paper or fireworks. These are available on the internet.

These are a few pointers but as each property is different, individual circumstances may dictate a different approach.

NOTICE

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

Greg Yates Solicitor

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

Are you regularly receiving our emails, if not, contact the office with your updated email address.

WBW Solicitors of Torquay

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

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@enigmalaw.com Enigma is located 5 minutes away from SWLA's office at Farrer Court , 77 North Hill PL4 8HB next to Stratton Creber Commercial. The office is open 8:50 a.m. until 5:00 p.m. weekdays but the firm regularly also works additional hours whenever needed.

Richard Gore Solicitor

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

E-Mail address

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

SOUTH WEST LANDLORDS ASSOCIATION

SWLA

Published November 2013

Produced by Mark Price- www.plymtechpc.co.uk

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

You can contact our ansaphone service on 01752 510913 or E-mail us at swlandlords@hotmail.com, visit our website at www.landlordssouthwest.co.uk

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