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## Welcome to your March / April 2010 newsletter

### DO YOU OWN A LEASEHOLD PROPERTY?

#### NEW RULES on RIGHT TO MANAGE

Last issue we promised more news on Right to Manage.

This is a particularly useful measure which became available to Leaseholders in 2002. As it's thought to be complicated it has not been greatly used. As Landlords we do not usually see ourselves as leaseholders if we own leasehold flats.

However, being a leaseholder can make all the difference between profit and loss. On purchase the vendor will be asked to supply three years back service charges. If you are not familiar with leasehold you would have no idea that these are no indication of future charges. Where charges are thought to be unreasonable the leaseholders have two choices - dispute the charge or change the agent.

Prior to 2002 only the first was possible. Now the no fault Right to Manage (RTM) allows 50% of leaseholders to form a company and take on most of the functions of the freeholder including management or the appointment of an Agent of their own choice.

The process is usually fairly inexpensive costing no more than a couple of hundred pounds a flat. SLA has considerable expertise in Leasehold Issues.

Queries can be answered at our weekly drop-ins or by email to [info@leaseadvice.org](mailto:info@leaseadvice.org). Please contact our leasehold advisor Shula Rich ([www.leaseholdrights.co.uk](http://www.leaseholdrights.co.uk)) for a new set of articles and any advice about running and forming an RTM company.

### LOCAL HOUSING ALLOWANCE

#### Ministers to tackle £17 billion rental bill

Members should be aware that the Housing Benefit bill, which covers rents in both the private and social sector, has jumped from £11 billion in 1998 to £17.4 billion in 2008/9 and is forecast to rise to £20 billion by 2011, mainly because of the recession, rising private rents and a critical shortage of social housing.

The average rent in social housing is £72 per week against £108 in the private sector.

There is little doubt that whichever political party is elected there will be pressure to reduce Local Housing Allowance costs, and it is most likely that in the forthcoming budget on 24<sup>th</sup> March this will be one area where Government will be looking at making savings.

### TENANCY DEPOSIT PROTECTION

#### INVENTORIES - GET THEM RIGHT!

Many members will be aware that a very high proportion of disputes going to arbitration are being found in favour of the tenant (reports suggest up to 92%).

We understand that one of the main reasons for this is a lack of evidence proving the condition of the property / decor / furnishings etc AT THE START of the tenancy. We can only advise that you complete a fully detailed inventory, and also take copious digital photographs to prove the condition both at the start and end of the tenancy. You may wish to further strengthen your position by using an independent inventory clerk.

### MIKE STIMPSON'S UPDATES

#### THE GOVERNMENT'S STRATEGY FOR HOUSEHOLD ENERGY MANAGEMENT

Members will be interested to know that the Government has published its Household Energy Management Strategy, *Warm Homes / Greener Homes*, setting out its plans for meeting its targets for a reduction of 29% in carbon emissions from the household sector. The vision is as follows:

- The intention is for every home, where it is practical, to have loft and cavity wall insulation by 2015.
- Every home in Britain to have a smart meter and display to help better manage their energy use.
- Up to 7 million households to have an eco-upgrade, which would include advanced measures, such as solid wall insulation or heat pumps, alongside smart meters and more basic measures.
- People living in rented accommodation to enjoy higher levels of energy efficiency, as landlords – private and social – to take action to improve the fabric of properties.

From the above, members will see that regardless of the outcome of the General Election, energy efficiency is a priority of all parties, and landlords will, no doubt, be very much affected in the future. Your association representatives will continue to act in your best interests and keep you informed of what is required and any grants available to assist.

#### UNFAIR CONTRACT TERMS RULING

Members may be aware that the Office of Fair Trading (OFT) brought a case against Foxtons, the London estate agents, for using certain terms concerning sales and commissions in its letting agreements with consumer landlords. The OFT secured a final High Court Order preventing Foxtons from using such terms and Foxtons were given until 29<sup>th</sup> January to lodge an appeal against that ruling but did not do so.

In the judgment, the High Court ruled that renewal commission terms were not transparent to consumers, so that they represented a trap and were therefore unfair, and ordered that Foxtons may not rely on these terms, except where they remain instructed to manage the property. Other terms covered by the Order included terms which required landlords to pay renewal commission after the sale of their property to a third party, because the original tenant remains in occupation, and landlords to pay a sales commission in the event that they sell the property to the tenant.

As a result of the Order, Foxtons has made significant changes to its standard contract with landlords, including making the liability to pay a renewal commission more transparent, reducing the commission payable on renewal and limiting it to renewals.

In commenting on the judgment, the OFT said, "This case and the changes Foxtons has now made sends a wider message to letting agents and businesses in general that important terms, particularly those which may disadvantage consumers, must be clear, prominent and actively brought to people's attention. Consumers should not be presented with a surprise bill for services they have not consciously agreed to".

Members will wish to note this judgment and ensure that if using a letting agent, they do not get surprise bills for clauses that they did not realise were applicable and, if they do, take issue with the letting/managing agent concerned.

#### **LATEST ENGLISH HOUSING SURVEY**

The following interesting information has been published by the Government following the latest English Housing Survey.

"There was a decrease in the number of owner-occupied households from a peak of 14.8 million in 2005/2006 to 14.6 million in 2008/2009. In contrast, the number of households renting privately rose by one million since 2001 from 2.1 million to 3.1 million in 2008 to 2009".

Members will wish to note that the private rented sector has accounted for nearly all household growth over the past decade. With over one million additional households now in the sector, the percentage of private rented sector homes is up from 13.9% of households in 2007/2008 to 14.2% in 2008/2009.

Other interesting facts from the survey:

- There are almost as many families with children in the private rented sector as there are in the social rented sector.
- Only 11% of private renters are dissatisfied with their accommodation, compared with 16% of social renters.
- There are twice as many people in full time work in the private rented sector as in social housing.

Members can obtain the full report from

<http://www.communities.gov.uk/publications/corporate/statistics/ehs200809headlinereport>.

Members will be relieved that their properties are not as bad as Government and, often, local authorities state, and members should remember the above facts and quote them when being told just how good social housing is and how poor private rented sector housing is. We should all be proud that we provide a good service and offer choice where subsidised social housing providers are often unable to do so.

#### **THE RUGG REVIEW: LACK OF ANY MOVEMENT**

Members will wish to note that the recommendations and consultation following the Rugg Review has not been progressed, no doubt as a result of the forthcoming General Election.

The word from Government indicates that the only item likely to be implemented in the near future is the raising of the limit for Assured Shorthold Tenancies from £25,000 to £100,000 annual rent. Members will be aware that the maximum at present for an Assured Shorthold Tenancy Agreement is £25,000. Above that annual rent a Common Law Tenancy Agreement has to be used, but increasing the level from £25,000 to £100,000 will mean, in effect, that most tenancies will in the future be Assured Shorthold Tenancies and will therefore be subject to tenancy deposit regulations. We shall keep members updated on any changes and the date of implementation.

It is important therefore to remember that if you grant a tenancy, particularly in shared accommodation, where the annual rental is over £25,000, you cannot use an Assured Shorthold Tenancy Agreement but must use a Common Law Tenancy Agreement. Our help line advisors can assist if necessary.

#### **PLANNING CLASS CHANGES**

Members will be aware, as a result of our E-letter communication, that Government intends to introduce changes to planning classes by "negative resolution" (that is without Parliament debating the issue) and, if passed, will require planning permission to be obtained for any property that is to be let to three or more unrelated persons. This is still waiting to go before the House, but Government hopes the regulations will be introduced in April 2010, and will not be retrospective.

The good news, therefore, is that all landlords currently letting properties to three or more sharers will not require planning permission to continue that usage. From discussions with Government, it seems that if a landlord currently lets to sharers and then decides to let the property to a family and after that to another group of sharers, then planning permission will still not be required. The bad news is that any landlord anticipating purchasing a family house will need to ensure that, if it is to be let to sharers, planning permission is likely to be obtained before making the purchase and, in reality, unless assurances can be given, may choose not to make the purchase.

Landlords' associations, the Local Government Association, tenants' representatives, organisations representing students and some Government departments are all opposed to these changes. It appears to be a defiant Labour administration, led by the Secretary of State, John Denham, that is determined to bring in these regulations without considering the effect of them or listening to the reasoned opposition. It is, in effect, the worst side of government.

In the Rugg Review, Julie Rugg comments on what she calls "studentification", which is large numbers of students living in small concentrated areas where universities are situated.

She made note that very few towns/cities are affected and that any problems could be dealt with by using existing regulations in the locations concerned and not by changing the planning regulations.

From our association's point of view, we are aware that the majority of shared accommodation already exists and that landlords have provided such accommodation at affordable rents in areas where the students wish to live. For that, this Government only has criticism, rather than congratulate landlords for providing the necessary accommodation to deal with the ever-increasing numbers of students encouraged by Government to seek university education. It appears, therefore, that any changes to the planning classes will, in any event, be too late to deal with the alleged problems!

Local authorities that support the planning class changes should look at what they have done to control, through existing legislation, any problems, such as antisocial behaviour, litter, etc, and then reflect on how planning changes made at this point in time will alter the situation and then, perhaps, realise that what they needed to do prior to any change will still need to be done after it.

The effect of this legislation, which could well be in force in April 2010, is likely to decrease the value of family houses and maybe increase the value of shared houses in such areas. It is also thought that even when the legislation is in place, it cannot become effective within a local authority unless their planning framework incorporates it.

This is a subject that many members will be very closely involved with, and your association representatives will ensure that you are kept fully up to date with the changes as they are implemented. However, at the time of the production of this Newsletter, it is believed that the necessary regulations have not been placed before Parliament.

### **GOOD AND BAD LOCAL AUTHORITIES**

Members who have time to watch "Match of the Day 2" on Sunday evenings will see where the "good" and "bad" comes from.

The "good", in this Newsletter, is Southampton City Council, who we would like to highlight. Following significant and sustained work by the South Hants Branch Committee of the Southern Landlords Association, Southampton City Council has revised its HMO licensing fees and made them reflect the good landlords against the bad ones. The HMO licensing fee, if the inspection is carried out by Southampton City Council officers, is £225 if the applicant has made the application for licensing/renewal him/herself. However, if Southampton City Council finds an unlicensed property, the fee increases to £1,300.

This is how your association representatives would expect local authorities to act and we congratulate both the Committee of the Southampton Branch and the Local Authority for producing such a fair set of charges.

For the "bad" we go to Shepway District Council in Kent. It appears that the Housing Benefit Department of Shepway District Council does not understand the Local Housing Allowance – how it is designed and implemented. Our example of bad practice is that a tenant has moved in to the property of one of our members and the rent is over £15 less than the Local Housing Allowance and, as a consequence, the Local Authority, quite rightly, has paid the tenant £15 per week.

In this particular case, however, the actual rental payments are being made direct to the landlord, and the tenant has a previous overpayment to repay.

One would have thought, therefore, that the overpayment would be taken from the excess payment made to the tenant, as this is simply part of the Local Housing Allowance payment. Not so. Shepway Housing Benefit Department has decided, quite wrongly, that it cannot make a reduction from the Local Housing Allowance excess payment but has done so from the payment going to the landlord, thus meaning that each time a payment is made the tenant goes further into arrears and is likely to face eviction.

The commonsense approach, as adopted by reasonable local authorities, is to firstly take an overpayment from any excess payment made to the tenant, as it would had all the payment been made to the tenant and not part to the landlord and the remainder to the tenant, and then if there is still an overpayment to be made, take the remainder from the landlord's payment.

We have advised the member concerned to take this matter up with his local Councillor and, if necessary, his MP to ensure that this Local Authority acts in accordance not only with the regulations but with commonsense.

## **NATIONAL MEETINGS**

### **SLA Attends New Government working groups**

SLA will be attending Government working groups on the Regulation of Letting Agents and on the development of a National Landlords' Register.

These are proposals which came out of the Rugg report. The procedure is that working groups are set up so that different interests can advise the top civil servants of the pros and cons of any new measures.

There is a genuine consultation process - in general the Minister wants to be advised of proposals which will work. Proposals which are very controversial may be held up for several years ( for example accounting regulations for Managing Agents) until Ministers are satisfied that they will have industry approval and co-operation.

Please e-mail us any proposals you have on these topics. Shula Rich will be attending on behalf of SLA.

## **NEWS IN BRIEF**

### **GUILDFORD BRANCH INFORMAL MEETINGS**

The Guildford branch are launching a series of informal lunchtime meets at the Parkway pub, adjacent to the Premier Inn, on the Parkway, Guildford, conveniently close to the A3 junction. Why not pop in for a drink, or lunch, and friendly chat / informal advice. We will have members there from about 12.30 - 14.00 on the First Wednesday of each month. All welcome.

Contact [Ian.Harvey@southernlandlords.org](mailto:Ian.Harvey@southernlandlords.org) for details.

### **DEPOSIT REGISTRATION**

At a recent meeting attended by SLA committee members and others the following came to light:

Since April 2007, any deposit taken has to be lodged with an approved scheme (see SLA fact sheet), and the tenant has to be informed within 14 days of taking it.

If this does not happen, the landlord risks being ordered to pay a 'fine' of three times the deposit amount to the tenant.

A court recently ruled that if a landlord realised they had not followed this procedure after 14 days, but subsequently voluntarily registered, they would not be liable to the fine. However, if they were discovered unregistered, no matter how, they would be fined.

### **ENERGY EFFICIENCY PARTNERSHIP for HOMES**

The SLA recently attended a meeting arranged by Energy Efficiency Partnership for Homes (EEPH). The theme was how to give landlords incentives to make energy saving changes to their rental properties.

This was arranged because it is recognised that there are very few incentives for these changes, as generally the landlord will have to pay the cost, whilst the tenant will reap the benefits.

The event was well attended with a keynote speech from Joan Ruddock - Minister of State, Department of Energy and Climate Change. Ian Austin, Parliamentary Under Secretary of State, Communities and Local Government was also due to make a keynote speech, but was unable to attend. However, there were many senior Civil Servants from both Departments there for most of the day.

Many ideas were discussed in three workshops, which will be summarised later. When this summary is available, we will make it available on the web.

The general feeling was that it was the time to threaten landlords with legislation, but to find financial incentives. An extension of LESA (the Landlords Energy Saving Allowance) was discussed.

The Dept of Work and Pensions (DWP) have proposed a scheme whereby payment of the Local Housing Allowance (LHA) is dependent upon the landlord making changes to his/her property to improve its energy performance rating.

The SLA, among others, have strongly resisted this.

The above LHA changes, and the possible Planning changes have led to several landlords stating that they would not be taking sharers, or tenants on benefits.

**So much for the Government's insistence on the need for affordable housing.**

### **TENANCY DEPOSIT SURVEY**

On 6 April 2007, the Government launched its Tenancy Deposit Protection Scheme. This makes it a requirement for the deposits of Assured Shorthold tenancies, with a rent not exceeding £25,000 per annum, to be safeguarded in one of three government-approved schemes: The Deposit Protection Service (the DPS), mydeposits, or The Tenancy Deposit Scheme (TDS).

The University of Winchester is conducting a survey and members are invited to take part.

If you are interested please respond by 29th March by visiting their web site: [www.survey.winchester.ac.uk/tenancy](http://www.survey.winchester.ac.uk/tenancy)

### **WEEKLY DROP IN ADVICE FOR MEMBERS**

A reminder that SLA members are welcome at our landlord drop ins each Thursday at the Friends Meeting House in Ship Street, Brighton. 5.30 to 7pm.

Shula Rich, an SLA Director and Leasehold Expert, is there every week and a Solicitor also attends most weeks. Your membership includes these consultations.

There is no need to book. Please check on 01273 705432 prior to coming in case there have been any changes to the times. email [shula@leasadvice.org](mailto:shula@leasadvice.org)

### **IF YOU HAVE NOT YET JOINED US THEN NOW IS THE TIME!**

For a low annual membership fee of £75 (£82.50 for couples, £5 discount if paying by Standing Order) you get all the great benefits of membership of an association dedicated to YOU and your interests:

- representation to government
- excellent expert assistance on our help line
- web site, including dedicated and secure members area (coming soon)
- free access to quality documentation, including ASTs, Section 21s and Section 8s
- discounted insurance via our insurance partner, Alan Boswell
- insurance to cover the cost of defending an HMRC investigation
- and so the benefits go on - don't delay, join today!

Many members find that they cover the membership cost just on the buildings insurance premium savings.

### **WANTED - YOUR CONTRACTOR or SUPPLIER**

**DO YOU HAVE A GOOD, RELIABLE CONTRACTOR or SUPPLIER THAT YOU CAN RECOMMEND?**

We are wishing to establish a list of recommended contractors, particularly builders, electricians and heating engineers / plumbers for your benefit. If you use a person / organisation that you could recommend, please let us know. This is not an advertising spot, but an opportunity for members to recommend trusted tradesmen and suppliers.



# MEMBERS CORNER

## PROPERTIES for SALE

A member has the following investment properties for sale, which may be of interest to members:

- Three-bedroom terraced house in Newhaven let at £165.00 per week. Price £140,000.
- Semi-detached Edwardian property in Seaford, between the town and the seafront. Parking for three cars. Consists of two one-bedroom flats, one two-bedroom flat and one three-bedroom flat. Each flat has its own entrance and there are no communal areas. One of the one-bedroom flats is vacant but was rented at £525 per month. The other flats are let at £525, £595 and £775 per month. Full fire precaution works have been carried out. uPVC windows, soffits and gutters fitted. Price £460,000.

Any member interested in viewing or seeking further information should contact Rodger Stevens on Tel: 01273 737450 or by email at [rodgerstevens@hotmail.co.uk](mailto:rodgerstevens@hotmail.co.uk).

## FORTHCOMING MEETINGS

We are holding meetings throughout the South East starting immediately. These will be at convenient suitable venues, with two significant local speakers who can address topical local issues. Meetings are open to members and non members (who we will hope to recruit to membership). If you are not involved in your local group but wish to become involved please contact us.

High Wycombe	24th March
Brighton	12th April
Bromley	19th May
Guildford	5th May Informal meeting 12.30+ at Parkway Inn, Parkway Guildford
Southampton	26th May

All are provisional and subject to change, especially if market or legislation situation dictates.

**The LONDON branch are having a series of Social meetings (all welcome):**

Tuesday 6<sup>th</sup> April - The New Fairlop Oak, Fencepiece Rd, Fairlop, Essex, IG6 2JP (Fairlop Tube {Central Line} about 5 minutes walk)

Tuesday 4<sup>th</sup> May – The Catford Ram, 9 Winslade Way (shopping centre) London SE6 4JU (Catford, or Catford Bridge, British Rail about 5 minutes walk)

Meetings start at about 5.30p.m, and go on until about 8 or 9p.m. If you need any further information please contact Derek Jenkinson on 07831 115 127

## COFFEE BREAK - the lighter side of landlord life:

*Letter received from student tenants of an anonymous landlord member:*

Here are a few minor problems and thought the best idea would be to write a list

1. Linda's sink is blocked
2. Ellie's hot water doesn't seem to be working it goes cold half way through a shower even when she has had the boiler on for over two hours.
3. There are a few leaks, one outside of the kitchen and one in Ellie's room. Also I am not sure if it is a leak but the wallpaper in the bathroom is coming away.
4. The sink in the kitchen is very slow to drain.
5. If you could give Charlotte a ring when her window is going to be changed that would be great, purely because she wants to make sure her room is going to be tidy enough to work in for the builder person.
6. Not sure if the heating in the kitchen is connected or not but we sat on the radiator and do not want to mess around with it and break it.
7. Finally Linda and Ben were wondering if you could get a quote to get a wireless internet connection.

That's about it. Hope you are well and we shall see you soon. Charlotte, Chloe, Ellie, Linda and Ben **XX**."

Thanks to "Anon". If you have amusing anecdotes or situations for publication please share them!

**If you have any contributions, ideas or wish to communicate please contact the editor, Ian Harvey, at: [Ian.Harvey@southernlandlords.org](mailto:Ian.Harvey@southernlandlords.org).**

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