Newsletter No 11 September 2011

# SOUTHERN LANDLORDS ASSOCIATION

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**WE ARE DELIGHTED TO ANNOUNCE FOUR NEW LEVELS OF MEMBERSHIP - SEE BELOW**



## Welcome to our September 2011 - Show Special - newsletter

### OLYMPIA SHOW

We will be at the Landlord & Letting Show at Olympia again, on September 7th and 8th.
See www.landlordshow.com for details.

In addition to our expertise on landlording practicalities, and Boswells insurance expertise; we will have Ian Harvey, from The Harveys Mortgage Service to take questions on mortgages; Shula Rich, an SLA Director, and leasehold expert will give leasehold advice on the Wednesday (7th); and No Letting Go Inventories (a previous award winner at this show) will cover inventories. This will allow us to invite landlords to ask any question they like.

Also we will be mounting an expert panel in Seminar Room 1 @ 1.45 each day.

So come and get all your questions answered.

But most of all, make sure you tell all your landlord friends about this show.

### NEW DIFFERENT LEVELS OF MEMBERSHIP

In response to enquiries, we have now set up different levels of membership:-

- Bronze – £10. Just gives access to membership discounts.
- Silver - £35 pa. As above, plus:-
  - all on-line documents;
  - on-line newsletters.
- Gold - £75 pa. As above, plus:-
  - posted newsletter;
  - help-line;
  - annual insurance to cover an Inland Revenue investigation.
- Corporate - £195 - please contact us at info@southernlandlords.org for full details

Your current membership will automatically be converted to a Gold membership, allowing you to retain access to the Help Line and the insurance to cover an Inland Revenue investigation.

We trust that you will be aware of fellow landlords who haven't joined, because they didn't want all the facilities – but who would be interested in this new structure - let us know, and we can send them details.

### MIKE STIMPSON'S COLUMN

Following the unprecedented riots that have occurred recently, I consider it pertinent to assess the situation and how landlords are being expected to act as 'guardians' for their adult tenants.

It seems that the regulations that have been applied over the last couple of decades have given belief to many people that from birth to death they will be provided for by the state, whether or not they contribute – even if healthy and fit. In addition, the words one often hears are, "It is my right". One rarely hears, "I have responsibilities".

In society, there are those who need support, as a result of either mental or physical disabilities, and it is quite right that such people are provided for, even if their problems are self-induced. What is not acceptable is that people who have no such disabilities are often allowed to act as though they have no responsibility towards society, yet expect that same society to provide for them. Nobody in this country needs to go without. Our welfare system provides for those who are in need of assistance. When it was originally set up, the purpose of welfare benefits was to provide assistance to those who were in need, and was a contract between the state and the claimant. On the one hand the state provided in times of hardship, whilst on the other the claimant had to agree to seek work if capable of so doing. This contractual obligation needs to be made again between state and claimant.

One might say, what has this to do with private landlords?

Over the years, our association has campaigned for fairer regulation but often it has fallen on deaf ears. For example, why should a landlord be required to provide accommodation when a tenant declines to pay the rent? No other private business would be required to do so. There are 'professional tenants' in society who go from one property to another, often building up substantial rent arrears, moving on without paying anything. There is hardly a landlord who has not suffered rent arrears in one form or another. Having to give notice, seek a court date and then, often, once possession has been granted, obtain bailiffs to effect the eviction takes time and costs landlords money. In this day and age, the Government should have a procedure in place, as the Western Australian Government has, that gives landlords the facility to repossess property for rent arrears in a very short period of time and without the costs currently involved.

The objective of seeking such changes is to give good warning to tenants that if they do not act responsibly and pay the rent they will be evicted and that the opportunity to occupy landlords' properties free of charge for long periods will not be so accessible as it is today. When the consultation on deposit regulation was being held, our association's representatives recommended that it should be combined with quick and effective means of eviction when tenants fail to pay rent. Very few tenants are affected by unlawful withholding of deposits by landlords. Few landlords are not affected by tenants refusing to pay the rent. The Government acted in the interests of tenants but not in the interests of landlords and continues to insist that the procedures for evicting tenants who do not pay the rent are balanced and fair. This is just one example of Government allowing one section of the community to disregard their obligations.

Another example is where local authorities implementing discretionary licensing schemes are insisting that landlords take responsibility for the antisocial behaviour of their tenants within the curtilage of the buildings that they occupy. Government, on the other hand, has provided no tools whatsoever for landlords to effectively deal with the few tenants that act in an antisocial manner. The possession ground for antisocial behaviour is a discretionary ground and judges are often reluctant to grant possession, even when it can be established. Similarly, advice agencies working on behalf of such tenants do everything in their power to ensure that the tenant can retain his/her tenancy. In most cases where a landlord is faced with an antisocial tenant, all that the landlord can do is serve a Section 21 Notice seeking possession after two months, followed by the usual court procedures.

Neither the Government nor local authorities seem to consider that the person behaving antisocially, i.e. the tenant, has a responsibility not to act in such a manner, and it seems, once again, that the attitude of both Government and local authorities is that landlords should take responsibility for the antisocial conduct of their tenants. Of course, if antisocial activity occurs within a property, landlords should take steps to stop it, but it seems that the perpetrators of antisocial behaviour, along with the tenants who fail to pay their rent (often the same people), are accepted by Government as normal and acceptable, and that the responsibility to act falls on landlords, rather than the perpetrators of those acts.

Unless Government now takes the opportunity to ensure that those responsible for not paying rents, acting antisocially, etc are the ones who will, in future, be targeted and not their landlords, then we will continue to see a society that believes it has rights without corresponding responsibilities.

Just to mention another point, I note that many British youngsters are said to be out of work and it is being blamed on those jobs that they would seek to fill being taken by immigrants.

I have recently advertised for a full time cleaner / handyperson and received over 50 replies. I received two from university students who were seeking work during vacations. I did not receive any from British youngsters but a significant number from people who were clearly young immigrants seeking work. I do not think it is good enough for it to be said that it is immigrants who are taking the jobs of our youngsters, when many youngsters are not even applying for jobs. Again, it is the way society has evolved over the last two decades that gives many people the opinion that they can take but do not need to contribute.

Hopefully, lessons from the riots will be learned and Government will restore the means to apply discipline and make people understand their responsibilities in society as well.

*Mike Stimpson*

## PROTECTING DEPOSITS

If you protect a deposit with 'mydeposits' you need to be aware of the scheme's regulations, otherwise you will not be able to use its dispute resolution service or be able to regain possession of your property using a Section 21 Notice, simply because you failed to re-protect the deposit correctly.  The situation is as follows.

If you have a deposit protected with mydeposits and at the end of the fixed term period you grant a further tenancy **to the same tenants**, then you need to re-protect the deposit.  This, in effect, means that if you have the same tenants in your property for a long period but renew the agreement after each fixed term, then you need to re-protect it every time you issue a new agreement.  If, however, you allow the tenancy to go from a fixed term to a periodic tenancy (by simply letting it rollover), then the deposit does not need to be re-protected.

The moral is that unless it is essential to give a further fixed term tenancy, simply allow the original tenancy agreement to continue as a periodic agreement.  One wonders how many landlords do grant new tenancies every six months and how much money mydeposits is making for the "unnecessary" re-protection of those deposits.

## PARLIAMENT AND THE PRIVATE RENTED SECTOR

Members will be pleased to know that an All Party Parliamentary Group for the private rented sector has been launched.  The Chair of the group is Robert Syms, MP for Poole, Dorset (Conservative).  There are 16 Conservative MPs, 11 Liberal Democrats and 19 Labour members on the group, as well as Lord Best, Caroline Lucas, Green MP, and Elfyn Llwyd, Plaid Cymru.  The Residential Landlords Association is providing secretariat to the group, and the SLA will also be there representing our landlord members.  Hopefully, this group will consider a wide range of issues affecting small and large landlords alike.

## DEPOSIT REGULATION

Members will be aware that there have been two Court of Appeal decisions in respect of the regulation of deposits.

The first, made last year and already notified to members, is that a tenant cannot claim three times the value of the deposit, provided the deposit is regulated prior to a court hearing.

The other decision is that a tenant cannot bring a claim for three times the value of the deposit after the tenancy has ceased.

The Government does not agree with either of these Court of Appeal decisions, but rather than appealing them to the Supreme Court, it has decided to introduce amendments in order to make those decisions valueless.  Under the Localism Bill, the Government proposes to make the following changes to the deposit regulations.

1. That the deposit must be regulated within 28 days of being received.

2. That the courts will have discretion if a case is brought against a landlord for failing to regulate the deposit of fining the landlord between one and three times the value of the deposit.

Our association will keep members informed if and when the changes are implemented.

## JUDICIAL REVIEW

Members will be aware that our association is seeking permission of the High Court to bring a judicial review against Thanet District Council for what our association considers is the unlawful implementation of a selective licensing scheme within areas of Margate and Cliftonville.

Our application was made four months ago and we still await a decision by the High Court.  In the meantime, landlords in the selective licensing areas are being required to pay substantial fees, not only for the licence but also for having detailed floor plans of their properties drawn up and for completion of a complicated application form.

There is an expression that "justice delayed is justice denied".  This is a prime example, where the delay in not making a decision is causing additional injustice.

*Comment by Mike Stimpson:* When Government decided to delegate the authority for implementing discretionary licensing schemes to local authorities, it should have set up a procedure for appeals that was proportionate both in the evidence required and the costs involved.  Government should also, if it was acting fairly, have imposed a requirement that any scheme being proposed could not be implemented until the appeal decision was made.  Government has done neither and has made it extremely costly and difficult for landlords to object where councils are imposing unfair/unlawful schemes.

## BRIGHTON HOUSING TRUST AND PRIVATE LANDLORDS

Brighton Housing Trust (BHT) does a tremendous amount of good, both campaigning for the homeless as well as assisting people with mental problems and addictions. Unlike Shelter, it provides recovery units, housing, as well as many other activities along the south coast from Brighton to Hastings.

As a landlord, I have always supported the activities of BHT and continue to do so. There is, however, another side to Brighton Housing Trust, and that is the legal aid service.

Over the years, I have received a number of complaints about the way in which solicitors in BHT act against landlords, in the interests, often, of tenants who either act very antisocially or do not pay the rent. Those same tenants, on some occasions, have been recommended to landlords through BHT advice centres but, once in the property, some act in a deplorable manner and the landlord is then faced with having to evict them.

Often, the very same tenants seek assistance through legal aid from BHT. Instead of the solicitors attempting to ascertain the reasons why eviction notices have been issued, they turn up at the county court claiming, on behalf of the tenant, that he/she denies the allegations made, i.e. amount of rent owed or even that the notice was served at all, and invariably ask for an adjournment, which of course delays the landlord getting possession, often at the expense of the quiet enjoyment of the property by other tenants living there.

Such actions by these solicitors, allegedly acting in the interests of their clients, makes landlords consider that Brighton Housing Trust itself controls the agenda of those solicitors. On the one hand, Brighton Housing Trust is doing everything to assist the homeless as well as people in need; on the other hand, landlords see its legal aid service doing just the opposite and in fact going out of its way to protect the interests of tenants who not only should not be protected but should not, in any case, be protected unfairly on legal aid.

Unless Brighton Housing Trust can come to an agreeable arrangement with its legal aid department to ensure that the solicitors working within it take all steps, before they represent clients, to establish the real situation by speaking with the landlord, then more and more landlords will not use the services of BHT in housing their clients.

As this matter has been raised by our members, it would be most helpful if any member who has, say, in the last two years experienced what they consider to be unfair representation of tenants by BHT legal services, the SLA will be pleased to hear about it. Please send any comments to Mike Stimpson at 162 Milner Road, Brighton, BN2 4BQ or email: mike.stimpson@southernlandlords.org

## ANTISOCIAL BEHAVIOUR

Members will be pleased to note that Government is consulting on ways in which the social sector can deal with antisocial behaviour in a more effective way.

Although the private rented sector is not included in the consultation, there is little doubt that any regulations making it easier to evict antisocial tenants from social housing properties would be a strong precedent for making such regulations applicable for private landlords as well. We will keep members informed of developments.

## CONSULTATION ON SQUATTING

Most members will have received our email concerning the consultation which proposes to make squatting a criminal offence, and may I thank those members who have written with their experiences. If any member has experienced squatters and has not replied, would they please consider doing so. The more replies we get, the better our case promoting criminalisation. Please send to Mike Stimpson at 162 Milner Road, Brighton, BN2 4BQ or email: mike.stimpson@southernlandlords.org.

## HOT OFF THE PRESS: YET ANOTHER COURT OF APPEAL CASE CONCERNING THE TENANCY DEPOSIT SCHEME

In this particular case, which was heard in the Court of Appeal on 27th July 2011, the tenant had appealed against a decision in the High Court not allowing the appellant three times the amount paid for the deposit.

The circumstances of the appeal are these: that at the time the tenant brought the case to court, the deposit had been regulated and, for that matter, had also been returned to the tenant. However, the prescribed information required to be given by the landlord to the tenant had not been carried out and the Court of Appeal held that if a landlord regulates a deposit but does not pass on to the tenant the prescribed information, then the tenant is able to claim three times the value of the deposit, even if the deposit has been returned prior to the case being heard.

It is most important therefore that landlords, when regulating deposits, must also ensure that they have given the prescribed information to their tenant, otherwise they could find themselves in a similar situation to the one that has just been heard in the Court of Appeal.

To my knowledge, this is the third Court of Appeal case affecting deposits, and one begins to understand why there is such a backlog in the High Court / Court of Appeal. Bad legislation, badly drafted, does not assist.

*Mike Stimpson*

## MORTGAGE MUSINGS

Its been a while since we last addressed the mortgage market. Perhaps the first thing to look at is interest rates, and in particular Bank of England Base Rate. As we all know this has been static at 0.5% since February 2008. The August Bank of England MPC actually all voted to hold rates at 0.5%. This is significant as for the last few months one or more members had voted for an increase. How many so called "experts" have we heard predicting interest rate increases variously in late 2010, early 2011, spring 2011, summer 2011, etc etc, you get the picture! There have now even been suggestions by other "experts" that rates could go down before they go up. I think this is unlikely however there are certainly some very low fixed rate offers currently available suggesting lenders are now expecting it to be further into the future before Bank base rates and "cost of money" goes up. Unfortunately the best fixed rates are not available for investment mortgages. Chelsea Building Society for example have a 10 year fixed residential mortgage available at 3.99%

So, you ask, how is the Buy to Let mortgage market? Well, it is certainly improving. It however fair to say that the number of lenders, while increasing, is still fairly restricted, as is the supply of funds. Lenders are under pressure to lend primarily to owner occupiers. Having said that those landlords with a good financial track record and decent deposit (35% or more) can get some good deals.

At the time of going to press there was a 2.99% tracker BTL mortgage available, requiring a 40% deposit, and a 3.74% scheme requiring a more reasonable 25% deposit. Whilst not of the same competitiveness as the "Bank Base Rate + 1.25% (and similar) of 4 years ago these are a considerable improvement on rates of even a few months ago. So whilst there is still a long way to go in returning to the financial heyday of 4-5 years ago we are certainly heading in the right direction.

We are often asked "should we remortgage (or fix) now"? There is of course no straight and simple answer to this and it largely depends upon your particular circumstances and also your view on risk. If however you have a mortgage based on Bank of England base rate +0.99% for life (as some of the writers' clients have) the answer is almost certainly going to be "keep what you have"! Even an existing mortgage based on BoE + 1.5 or even + 1.99% is pretty irreplaceable at present. There are of course other reasons to remortgage as well as interest rates, such as raising money for another project, and in such cases you need to consider the overall project costings; it may make sense to take a higher rate as a cost of raising capital in order to conclude the other project.

If you would like to discuss matters please call Ian on 0845 269 1051 or email ian@harveys-mortgages.co.uk

## INVESTMENT PROPERTY FOR SALE

A member has a property for sale which consists of 4 units and produces approximately £30,000 per annum gross. It is situated in a very good location in Brighton and has been owned by our member for over 30 years. The price required is £440,000. Any member interested in this investment should contact Andy Lees on 01273 601060.

## IPHONE APPS

Are you using the SLA app?

Did you know that you can easily access the SLA web site whilst on the move?

Here is the SLA app, available from an iPhone:-

By installing the app on your iPhone, you will automatically be informed of changes to the web site.

## Members and Other News:

As mentioned earlier we are delighted to offer Corporate Membership, to help members identify potential suppliers. Corporate Membership provides:

1. Advert / company details and information on our web site
2. 1/8 page advert in each newsletter (larger available, subject to space, at extra (but discounted) charge)
3. Advertorial upon joining, and priority editorial space on matters relevant to them, (subject to space and editor's discrettion)
4. 25% discount on "this newsletter sponsored by " charge previously agreed to be £195
5. Preferential rates and priority if and when we decide to take advertising on web main pages

- We WILL NOT release membership lists or members details

Corporate membership £195 per annum.

Please contact info@southernlandlords.org for more details.

## MEMBER's DISCOUNTS

We remind you that we have negotiated trade suppliers' discounts for members; details in the Members Area of the web site.

## ADVERTISING WITH SLA

We are pleased to offer the facility for both members and non member service providers to advertise here in SLA eNews.

The rate for a quarter page advert is £50 for approved non member service providers. Members get a 20% discount to £40.

If you need some typesetting, then we may be able to assist, for a small extra charge.

## TELEPHONE NUMBERS

We are fortunate to have several people who help run the SLA. This means that we are not able to give out a geographic number, but have to use non-geographic numbers to allow us to switch the telephone to whomever is manning it at that time.

Note that you should only be charged the local rate for your call, and that the SLA makes no money from their use - it is purely for your convenience. Any other numbers might not be answered. To remind you, our numbers are: -

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|---|---|
| Main number | 0845 475 35 83 |
| Fax | 0845 475 32 83 |
| Help Line | 0845 475 24 83 |
| Landlords Insurance | 0845 475 13 83 |
| Private Health Insurance | 0845 475 23 83 |

## WANTED - YOUR CONTRACTOR or SUPPLIER - Recommended by Member:

Do you have a supplier that you would like to recommend? Why not ask them to take up Corporate Membership?

## REASONS FOR BEING A GOLD MEMBER

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 helpline
- web site, including dedicated and secure members area
- 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.

*If you have any contributions, ideas or wish to communicate please contact editor@southernlandlords.org.*

For general enquiries: info@SouthernLandlords.org
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