Newsletter No 19 Autumn 2013

SOUTHERN LANDLORDS ASSOCIATION

This edition's featured Corporate Member

GOVERNMENT PROPOSES THAT PRIVATE LANDLORDS / AGENTS PERFORM IMMIGRATION CHECKS ON PROSPECTIVE TENANTS

Members may be aware that the Government is bringing forward an immigration bill which, if adopted, will implement new requirements on private landlords and agents to undertake immigration checks on potential tenants.

Our association understands the need to ensure that illegal immigrants should not be able to remain in this country and will do what is necessary to assist, provided the regulations are reasonable. Government has just concluded a consultation consisting of some 62 pages, setting out its objectives and private landlords' obligations. Basically, the Government is saying that private landlords, as small businesses, should undertake checks to ensure the immigration status of potential tenants, and that sounds reasonable. However, what follows is most unreasonable.

Firstly, there is no incentive to landlords to carry out this non-core work. Secondly, if a private landlord / agent makes a genuine mistake, a penalty of £1,000 per immigrant can be imposed and if a landlord is considered to have taken on illegal immigrants deliberately a penalty of £3,000 per illegal immigrant is the penalty for such actions.

Government has stated that the checks will be simple, but having read in detail the consultation paper it is clear that that is simply not the case. Further, landlords will be expected to keep records for up to two years. This is, once again, a Government proposal stating that landlords are small businesses, whereas no landlord can operate as a small business in real terms, as Treasury regards all private landlords as investors, thereby denying them the usual benefits associated with a business activity. If Government expects private landlords to carry out non-core business functions, then it should recognise landlords as businesses and allow a proportion of the rental income as earned income and not all income as investment income.

Government has also stated that £1,000 per illegal immigrant is a proportionate penalty for making a mistake. In effect, what Government is saying is if a landlord makes a mistake carrying out a non-core operation, with no incentives, a proportionate penalty is £1,000 per illegal immigrant. Our association has no objection to the penalties proposed where a landlord deliberately accommodates illegal immigrants but for a penalty of £1,000 per tenant to be imposed when a genuine mistake has been made is not only disproportionate, it demonstrates the way in which Government treats landlords with disdain. No civil servant is likely to be required to undertake work not appropriate to their discipline. In addition, no civil servant would be fined £1,000 for making a genuine mistake.

What makes Government believe that private landlords carrying out work for which they are not paid or given any incentives should be subject to such penalties? It makes one wonder what Government is thinking about. If Government requires private landlords to carry out work which is not part of their business operation, they should offer incentives, and if penalties are to be applied, those penalties should be proportionate and not extortionate. If these regulations are implemented, it is thought that landlords will not accept a tenancy from any person whose immigration status is unclear, and then how long will it be before a landlord is challenged in the courts for discriminating against such a person?

Landlords who have their properties managed by agents will find that those agents will charge for performing immigration status checks. Those charges will no doubt reflect the proposed penalty levels for making mistakes. Landlords will, of course, be able to claim tax relief against such costs but why should landlords not receive allowances paid for by Government for carrying out what is an immigration service responsibility?

Our association has no confidence whatsoever in the parliamentary draftsmen who prepare the regulations in respect of Government decisions. We have already seen the most unacceptable draftsmanship of regulations under the deposit regulation requirements, and there is little doubt that the same parliamentary draftsmen will leave the regulations open to High

Court challenge at the expense of private landlords. Your association has made very strong representations to both the Department for Communities and Local Government and the Justice Department and has submitted a paper pointing out the unfairness of the proposals and we await the result of the consultation.

This is, once again, a prime example of Government expecting private landlords to carry out duties that are not part of their business operation, without benefit but with high penalties in the event of making mistakes. Government alleges that it is just a simple operation for private landlords, but one wonders, if it is so simple, why a 62-page consultation document was really necessary.

RENT IN ADVANCE

Members will be pleased to know that in a Court of Appeal decision made on 25th April 2013 the Appeal Court has stated that rent paid in advance does not count as a deposit. This landmark ruling means that landlords and agents are not obliged to treat rent paid in advance as a deposit which would require protection under the Housing Act 2004.

Members should nevertheless ensure that in the written agreement with the tenant, the terms under which rent in advance is accepted must be clearly stated, and under no circumstances can rent in advance be used to cover damage, dilapidations or for any purpose other than rent. Please ensure that when taking rent in advance it is clearly stated what it is for and how it will be used.

CAPPING OF BENEFITS

Members may well have read in the press that the Government has implemented the maximum amount that any family can receive in benefits. What members may not know is that the Department for Work and Pensions has decreed that any reduction be taken from Local Housing Allowance payments, which in effect penalises landlords and possibly not the tenants at that time.

In Brighton and Hove, for example, all tenants affected by the cap, both social and private, are being assisted in dealing with their individual situations. For example, certain tenants will be encouraged to obtain employment and then the cap is automatically lifted. Similarly, if a disability is able to be claimed, the cap, again, is lifted. Many such tenants are also being assisted in the initial stages with the help of discretionary housing payments.

However, at this point in time your association does not know how different local authorities will act in assisting such tenants, and our recommendation to any landlord who finds a tenant's Local Housing Allowance substantially reduced is to give notice to that tenant as soon as possible. It will then be for Government to re-house such tenants and not for landlords to subsidise their accommodation.

As this information has only just come to us, we cannot give more detail at this stage.

If any member experiences such reductions, it would be most helpful if they would ring Mike Stimpson on 01273 571580 or email stimpsondirect@ntlworld.com giving information on what is happening in their local authority area.

MAKING WORK PAY - IT CERTAINLY DOES FOR THIS TENANT

A member has a tenant of six years standing who is a single mother with one child. She occupies a two-bedroom cottage in the centre of Brighton. This tenant has been in receipt of Local Housing Allowance for most of the time she has been in occupation and the Local Housing Allowance paid has covered all her rent.

Recently, she obtained part-time employment and consequently her Local Housing Allowance was reduced, requiring her to pay approximately £42 per week towards her rent. She paid £52 per calendar month, a substantial shortfall on the rent payable. When she was asked to pay the £42 per week she visited the landlord's office and said that she earned take home pay of £445 per calendar month and therefore was unable to clear the arrears or pay any more out of her earnings towards her rent. She then asked that she be given notice so that she could obtain Council accommodation.

At this stage the landlord felt compassion towards her and said that as Government had made it clear that work would always 'pay' compared to living on benefits, the landlord checked to ensure that she was receiving what she was entitled to. Upon checking, it was discovered that with a net income of £445 per calendar month she was entitled to the full level of Local Housing Allowance, which would have paid her rent. What this meant was that either the Housing Benefit Department had got its figures wrong or she was not telling the truth and that her income was substantially more than she was indicating to her landlord. The result, as you can imagine, was that the tenant was taking home a much higher income than she had declared to the landlord, was keeping it for herself and was intent on not using any of her earnings towards payment of her rent.

A Section 8 Notice requiring possession for rent arrears has been served and whilst this tenant believes that she and her 13-year-old daughter will be housed in a nice two-bedroom flat, it is very likely that she will find it difficult to obtain any decent social housing once possession has been obtained for rent arrears.

The message to be learned from this scenario is that landlords should always check the facts and not rely on information given to them by their tenants.

REGULATION OF DEPOSITS - YET ANOTHER COURT OF APPEAL CASE AFFECTING MOST LANDLORDS

It is with utter disappointment that our association has to report yet another case in the Court of Appeal affecting deposit regulation. This case comes some six years after deposit regulation was first introduced.

Members will remember that our association stood out as the association that believed regulation of deposits should only occur at the point of dispute and not at the point of acceptance, and that the whole case for regulation was based on grossly exaggerated figures supplied by Citizens Advice and Shelter, alleging that up to 44% of all deposits were unlawfully withheld by landlords. Members will also be aware that the true figure is now around 2% that go to dispute resolution and, at that level, regulation should never have been implemented or even considered.

Members may wonder why our association makes much play about deposit regulation, but what has happened, in reality, is that the cost of regulation has become massive. There are industries consisting of inventory clerks, companies providing the dispute resolution services, as well as lawyers who seek to challenge every point of regulation where they consider that landlords can pay and tenants, as well as themselves, can benefit.

The current Court of Appeal case concerns a tenancy that was commenced before April 2007 (the date when deposit regulation was introduced) on a fixed term and converted to a periodic tenancy following expiration of the fixed term. The Court of Appeal has ruled that the change from a fixed term to a periodic tenancy constitutes a new agreement and that the deposit should therefore have been regulated (again) upon the commencement of the periodic tenancy.

What has now transpired is whether as a result of that judgment all tenancies converting from fixed term to periodic have to have the deposit re-registered. What this means in fact is that many landlords will have received and regulated a deposit in accordance with the regulations but will not have, if they have allowed the tenancy to go into a periodic tenancy, re-registered the deposit. The question that comes to mind is: should a landlord who regulated the deposit when the tenancy was a fixed term re-regulate it if it has now passed to a periodic or does the landlord simply let matters lie and see what the Government does about sorting out this mess?

The advice given by most associations representing landlords and letting agents is that the landlord can either re-regulate the deposit or just leave the deposit regulated without re-registering it. Either way, the landlord could fall foul of the current deposit regulations, which state that a deposit must be regulated within 30 days of being received. In the case of the fixed term, that was in order, but if the deposit has to be re-regulated upon passing into a periodic tenancy, clearly it was not regulated within 30 days of being received in respect of the periodic tenancy. If, however, the landlord does not re-regulate the deposit, will he/she be accused of having not regulated it at all in respect of the periodic tenancy? Either way, it appears that the landlord could be held responsible for failing to comply with the regulations as a result of abysmal drafting of the original regulations, which has allowed numerous successful court actions against landlords in either the High Court or Court of Appeal since the implementation of deposit regulation.

The fact that the penalty of between one and three times the value of the deposit is very attractive to those lawyers who wish to pursue any minor breach of the regulations on a 'no win, no fee' basis illustrates that lawyers can make significant money directly as a result of the high level of penalties and attractive gains to tenants as a result of the failure of the civil service draftsmen to produce a set of regulations that were tight enough to ensure that such cases could not be brought, and certainly not be brought some six years after the implementation of the deposit regulations.

One may ask, has the Government challenged this Court of Appeal decision? You will be unsurprised to know that it has not. The reason is, no doubt, because it knows that the Court of Appeal has made the right decision and the civil servants in drawing up the regulations failed to understand the implications. Has the Government taken steps to inform landlords of the effect of this Court of Appeal decision or has it, through secondary legislation, taken steps to ensure that landlords who have already regulated deposits will not find themselves in a position where they could fall foul of this decision as a result of not re-regulating the deposit if the tenancy has moved into a periodic tenancy?

To date, it appears that Government has neither issued secondary legislation nor set out the effect of this ruling but are expecting landlords' organisations to sort it out for them whilst many thousands of private landlords could well be brought before the courts for failing to comply with the requirements of the regulations and, as a result, could be fined up to three times the value of the deposit.

Landlords will be confused as to what to do in such circumstances and associations are unable to give specific advice. As a landlord, you have the choice of re-regulating the deposit or just letting matters stand as they are. Most landlords regulated the deposit when received in good faith but are now, as a result of the abysmal drafting of the initial regulations, faced with being brought before county courts for not complying with the regulations as set out in the Court of Appeal decision. Your association, through the British Property Federation, has made the strongest condemnation of the Government for not coming forward with proposals to put right the failure of the regulations to protect landlords who have regulated a deposit but are now faced with court proceedings as a result of this Court of Appeal decision.

We have no time for landlords who unlawfully withhold deposits. Equally, we understand that penalties must be applied to those landlords who fail to regulate deposits within the prescribed period, i.e. 30 days. What our association is totally opposed to is that the same penalties apply for the most minor breach of the regulations, and this is at the core of the problem. If Government continues to allow the penalties for failure to regulate a deposit to be applied equally to the most minor omission of the regulations, then it can expect lawyers to exploit any error made by a landlord and to bring them before the courts.

What Government should do is distinguish between a minor error and a deliberate failure to regulate a deposit. If penalties have to be imposed for minor errors, they should not exceed £50. This would immediately stop those so-minded lawyers bringing 'no win, no fee' cases before the courts, as the amount to be gained from it would not be worth their actions.

In summary, the regulation of a deposit should occur once during the period of the tenancy, whether either renewed or converting into a periodic tenancy. There should be no requirement to have to re-regulate the same deposit time after time upon renewal of the same tenancy or when that tenancy falls into a periodic tenancy.

Government needs to understand what its original objective was, namely the regulation of deposits to ensure that deposits were not unlawfully withheld by landlords. What Government has created through abysmal regulation is an industry of lawyers looking at the regulations to find any way they can to take money from law-abiding landlords. Government must understand that it has failed landlords in implementing deposit regulation in the way it has. It has cost landlords overall millions of pounds through unnecessary regulation, and now Government seems to be content to sit back and allow landlords to be brought before county courts for doing no other than failing to comply with regulations that were unforeseen at the time deposit regulation was introduced.

Mike Stimpson comments: This is a prime example of where Government was intent, politically, to regulate deposits, whether or not it was justified and, having done so, failed to pull together regulations that ensured that deposits, when regulated, would not cause landlords to be brought before the courts for failure to comply with unforeseen or unnecessary elements of the regulations. It is quite clear that the draftsmen who drew up the regulations did not do so thoroughly and in consequence have caused the courts to sort out the failure to implement reasonable legislation to the serious cost of landlords and, in fact, tenants alike.

Government now states that it will introduce immigration checks that will be simple and straightforward, but if it cannot implement legislation that is straightforward on deposits, and that legislation is being challenged even after six years, how can it be relied upon to bring in any legislation on immigrant checks that is going to be proportionate and fair to landlords? Your association's representatives will continue to fight for reasonable requirements - but don't hold your breath!

SECTION 8 NOTICES - APPLICATION TO COURTS ONLINE

A member has notified our association that when attempting to make an application online in respect of a Section 8 Notice he was debarred from doing so, as no part of the claim included rent arrears.

Our association has examined the procedures and finds that unless rent arrears are part of a Section 8 application for a court hearing, the online process will not allow you to deal with the application online. For example, if the case refers to antisocial behaviour, etc you cannot proceed and have to make the application on paper and thus a fee of £175 is payable instead of the £100 fee online.

The inability to proceed online for such Section 8 applications has been taken up with the relative department of Government and we await a reply.

ARTICLE 4 IMPLEMENTATION AND PERMITTED DEVELOPMENT RIGHTS

It has been brought to the attention of our association that when a council implements Article 4 directions, any property classified as C4 under Article 4 directions, it seems, no longer enjoys permitted development rights, and all applications for small extensions / alterations will require planning permission.

In view of the uncertainty of whether C4 properties require permission, clarification is being sought, but any landlord with a property subject to C4, i.e. shared houses, needs to check with the local authority prior to making any alterations which under C3 provisions, i.e. family houses, would be allowed under permitted development.

OBITUARIES

Geoffrey Cutting MBE

I am sorry to have to announce the death of Geoffrey Cutting on 13th June 2013.

Geoffrey was, with Elizabeth Cline, instrumental in forming the Small Landlords Association (SLA) (now the National Landlords Association (NLA)). The Small Landlords Association was formed approximately two years before our association.

Geoffrey Cutting was employed as a trade association negotiator and was not originally a private landlord. However, he became involved as a result of the unfairness of the Rent Acts, which severely controlled the rents that could be charged on properties, yet required private landlords to maintain those properties, with the result that few made any profit from being private landlords, and many landlords were unable to keep their properties in a reasonable condition as a result of the rent control imposed by Government.

Geoffrey purchased a property in London divided into two flats, with both tenants being subject to the rent control provisions. As a result, he was able to experience first hand the unfairness of the rent regulations, and the whole purpose of the formation of the Small Landlords Association was to campaign to have such regulations overturned and decent rents obtained for landlords. Over many years, the penmanship and energy of Geoffrey Cutting brought about significant changes, both through the political system and by challenges in the courts. Without such people as Geoffrey, willing to devote significant time for the benefit of landlords, we would not have the successful private rented sector that we have today.

I worked alongside Geoffrey Cutting for many years and it was his idea to form the National Federation of Residential Landlords (NFRL) to bring together all associations, with a common objective of improving the lot of private landlords. He served as the first Chair of that organisation and upon the takeover of the National Federation of Residential Landlords by the National Landlords Association Geoffrey became lifetime President.

Geoffrey was a superb penman and always researched most carefully any matters that he was pursuing. He worked endlessly for the benefit of private landlords throughout much of his working life and well into his retirement. He is survived by his wife, one daughter and one son. The likes of Geoffrey are simply rare to find, and landlords of today have benefited from his energy, dedication and hard work. He will be sadly missed and our sympathies go to his wife, daughter, son and family.

Mike Stimpson

Kenneth Hall

Long serving Director of our association

It is with sadness I have to announce the death of Ken Hall, who served as a Director of the old Southern Private Landlords Association (SPLA) for many years. He was instrumental in setting out the policies that have long been the backbone of our association. He also worked with David Barling, our Honorary Solicitor at that time, to produce legal documents for use by the association. He gave much time to the association and our thoughts go out at this time to his wife and family.

Mike Stimpson

MIKE STIMPSON'S COLUMN

In this newsletter I would firstly like to make personal comments regarding both Geoffrey Cutting and Ken Hall.

In the days of the formation of landlords' associations, people such as Geoffrey and Ken came forward, giving up their personal time and expending much energy in pursuing the rightful objectives of landlords to be treated fairly by Government. The result, as members may know, is that there are over one million landlords in this country and in fact it is said that for every 60 people there is at least one landlord amongst them.

Relaxation of rent control has been welcomed. The private rented sector is now the largest sector in the industry but few landlords join landlords' associations and our voice is not able to be heard as it should with such a large number of landlords. Government has for many years treated landlords badly. It continues to do so. As members will note from the comments about deposit regulation, it has become a monster and has achieved virtually nothing but has cost the industry tens of millions of pounds in regulation. Government has still not got the regulations balanced or fair, yet it still claims that deposit regulation is a success.

Members will now know that Government proposes to make them responsible for checking the immigration status of tenants but has offered no incentives and totally disproportionate penalties for making a mistake. No person in work would find themselves in a position of losing their whole salary for making a mistake. Government considers landlords fair game for being treated in this manner. Not only does it believe that landlords are businesses, which of course they are but Treasury does not accept them as such, it considers that taking on non-core work should be accepted without challenge and the penalties for mistakes accepted as reasonable. I cannot imagine any industry where a mistake costs £1,000 for doing something that is not part of your business and you're given no benefits for so doing. Such high penalties will cause agents either not to be prepared to undertake such checks for their landlord clients or to charge high fees for doing so, just in case they get fined £1,000 for making a mistake.

Of course landlords should do their bit to assist Government, but on the other hand Government should not expect landlords/agents to do such work for nothing, keep records without compensation and expect to be fined for making a mistake when they get it wrong. Unless landlords and landlords' associations stick together to oppose such unfair regulation, Government will continue to sit on landlords, knowing that it can get away with it. We must not let it happen.

This brings me to one piece of what I would describe as good news. Members will be aware that for many months we have been working on a 'no deposit' scheme where landlords can protect against damage but avoid the regulations of the Government scheme. At last the finer points have been settled and the launch of the 'no deposit' scheme is now imminent.

What this means is that landlords will be able to insure against damage at no cost to themselves, and tenants will be able to access accommodation without having to pay large upfront deposits but simply pay an insurance fee to cover damage. We will be recommending this scheme, which will be provided by our insurance partners, the Alan Boswell Group, to all landlords and will do away, once and for all, with the problems associated with the Government deposit regulation scheme. It will also help tenants to move without having to find a deposit when their original deposit is still being held by the previous landlord / deposit protection scheme. We hope it will meet your requirements, as its success depends on members using it!

Mike Stimpson

REVEALED: WHEN TENANTS SEARCH FOR A HOME

So you've just put your property on the market, but when will people be enquiring and asking to come for viewings?

Research published recently by Upad, the UK's largest high street letting agent, reveals that Saturday is the most popular day for viewings, some 82% of those who took part said, followed by Sundays (72%) and weekday evenings (50%).

Times when viewings are least popular include weekday morning and afternoons which only 20% said would be an ideal viewing time.
But the survey also reveals when tenants are most likely to send an email or make a phone call about a property.

A third of enquiries are made outside of office hours fairly constantly between 8am and midnight, Upad has found, presumably as tenants finish dinner and then settle down to a night of home hunting.

But Monday and Tuesday lunchtimes are the daytime 'spikes' for enquiries to landlords as, during their midday break, tenants set up viewings for that week.

James Davis, CEO and Founder of Upad, says it is crucial that landlords reply quickly to enquiries and that "as these results show, with people's lives busier than ever, landlords need to be flexible about showing their properties to suit the tenant," he says.
"Even though there are few things more important than finding somewhere to live, this has to fit in with other commitments and engagements, not the other way around. The popularity of Saturdays and Sundays shows the continuing benefit of taking an 'open house' approach. We often recommend this as a prospective tenant is also likely to have a little more time at the weekend and most properties look better in the daylight. If you like the sound of a tenant, let them lead you as much as possible however. Remember they're you're customer at the end of the day."

Upad offers the services of a high street agent at a fraction of the price. By combining the power of the internet with 5 star customer service, they've convinced over 6,000 landlords to make the switch. **Visit Upad.co.uk** for more information

THE LONDON RENTAL STANDARD

Many years ago the London Landlord Accreditation Scheme (Llas) was set up to give responsible landlords the opportunity to gain training, giving them a good foundation in appropriate landlord law.

A spin off umbrella organisation (UK Landlord Accreditation Parnership - UKlap) has also extended into Wales, and the Midlands.

Now in its 7th year Llas has accredited over 12,000 landlords, on a voluntary basis; and is seen as a success by all 33 London boroughs. And it has extended to cover much of Kent and Sussex.

In the last London Mayoral election (May 2012) Boris Johnson pledged to extend the scheme to accredit a total of 100,000 (London) landlords by the next election in 2016. This has been worked on and has resulted in the London Rental Standard.

The fine details are still being worked on, but the main thrust is to allow organisations to be licensed under the Llas model to carry out training, and accredit landlords, and agents to gain a GLA badge. At the same time the GLA would encourage tenants to ask for accredited landlords when seeking properties. In fact, Llas started accreditation for tenants a few years ago, and this is also proving moderately popular.

We are pleased to say that the SLA have sat on the Llas steering group for many years; and they also sit on the GLA steering group. Interestingly this project has brought an eclectic group together including ARLA (Association of Residential Letting Agents); Shelter; RICS (Royal Institute of Chartered Surveyors).

Thus far, the London Rental Standard has had reasonable reviews - although many are quick to point out the voluntary nature of the scheme.

We will keep you informed of progress.

SMALL CHANGE TO TENANCY DEPOSITS.

When the tenancy deposit scheme started in April 2007 there were 3 schemes licensed by the Government; 2 insurance based; 1 custodial.

This was extended in April this year when the DPS (the Deposit Protection Service) was licensed to run an insurance scheme, as well as the custodial scheme they have run since 2006.

Additionally a new player was also licensed to run an insurance scheme. Capita were formed in 1984 (actually by the ex Finance Director of Brighton & Hove Council), and run various facilities for many local authorities - making annual profits of nearly £300m in the process.

Although awarded a contract, commencing April 2013, they were very quiet at launch; and since. On September 14th they suddenly announced they would not be accepting any more deposits, and would cease trading in this area completely in September 2014.

So, if you have used them, don't worry - but start to make plans to move your deposit within the next 12 months.

THE AFTER EFFECTS OF 'SUPERSTRIKE'

The Superstrike case was brought in respect of a tenant believing their deposit should have been protected.

The Judge found for the tenant, but in peculiar circumstances.

The original deposit had been taken before April 2007, and the only change had been that the original fixed term agreement had been allowed to go to periodic after April 2007.

Everyone was of the opinion that this, on its own, was not a reason to protect the deposit. Indeed all help lines, including the actual schemes; and our own, reassured landlords of the need to not to re-protect the deposit if the only change was change from Fixed Term to Periodic.

The Judge pointed to the fact that the 1988 Housing Act refers to the passage of a Fixed Term to Periodic as being a 'new' agreement; therefore the deposit had to be protected.

This has caused all sorts of problems, with the Tenancy Deposit Schemes thrown into some disarray. The Government has commented that they propose to legislate to close this loop-hole; but the general feeling is that this might be a long wait.

In the interim, if you have an agreement that has started as Fixed Term, and has been allowed to go Periodic, contact your Deposit Scheme urgently to ask what they advice. It is likely they will request a re-protection take place.

Secondly. It is not known what will happen to any Section 21 issued within the Fixed Term, but not actioned until the Periodic might not be valid. Whilst this is the technically correct, most legal experts are of the opinion that a court would allow the S21 to be actioned. But it will take a court case to establish; so as Dirty Harry said 'are you feeling lucky Punk?'. Do you want to be the first one to find out?

The answer is; don't take a deposit; and/or don't issue a Fixed Term AST. Both are common myths; you don't (legally) have to take a deposit; and you don't have to (legally) issue Fixed Term.

SOUTHAMPTON ADDITIONAL LICENSING - IMPLEMENTED AT LAST - BUT AT LEAST WITH SOME COMMON SENSE

Back in November 2004, before the ink was even dry on HA04, Southampton City Council (SCC) passed a resolution to "implement additional licensing" at the first opportunity. In 2007, the then Labour controlled council announced that it was to seek permission to introduce additional licensing forthwith. The local landlords committee (then NFRL) checked on the protocols that were supposed to be followed, and believed that many options should be tried first. A meeting was devoted to explore such options. Representatives were invited to speak from SCC; Residents association; local universities; local agents etc., it was concluded that a closer co-operation between interested parties might indeed obviate the need for licensing. Despite this, SCC informally sought advice from the central government department responsible, but was informed that their evidence was out of date. The licensing intent was therefore dropped.

With a change of administration, and then under Conservative control, there was never seen any need for additional licensing, and for the next few years it was "business as usual."

At a national level, HA04 had always necessitated that any council should apply to the secretary of state before introduction of any discretionary (additional or selective) licensing scheme. As a last act of the outgoing government in 2010 however, the then secretary of state removed that necessity by declaring "general approval." From our viewpoint, this removed the essential "check & balance" on local councils, and strongly advocated to the incoming coalition that this "check & balance" should be reinstated, or at least be transferred to the Residential Property Tribunal Service (RPTS.) Unfortunately this fell on deaf ears, and it was accepted that the only challenge could be by an expensive & unpredictable judicial review. Despite the general approval, it was deemed still necessary to follow the legal guidelines that had been established and still remain in HA04. In essence, however, the "general approval" has given local councils carte blanche to introduce such schemes with little chance of being challenged. Many have indeed done just this.

Meantime, back in Southampton, another change of administration occurred, with Labour again gaining control. Once again there was an assertion of "problems" with HMOs, and an intent to introduce additional licensing city wide. During 2012 a "consultation" was undertaken, and SCC (housing cabinet member & staff) were invited to speak at another SLA meeting. Despite our contention that much being proposed was illogical and in fact unlawful, SCC decided in January 2013 to implement additional licensing, albeit not city wide, but initially restricted to four wards. In view of this, SLA thought it was a political decision, not substantiated by the evidence, and formally applied for permission to bring a judicial review. Because of our long standing approach of being non-political, and having established a good rapport with SCC (both staff and councillors) we also pursued a parallel path with SCC in trying to negotiate some more rational approach to additional licensing detail.

This culminated by end July with SCC & SLA agreeing many changes and innovations to the additional licensing scheme. With this agreement, on 1st August 2013, SLA instructed counsel to formalize this agreement with SCC , and to withdraw the JR application. To show a spirit of co-operation, SLA advised all members to get applications in before 30th September - the period during which discounts were agreed. It is believed that the JR gave us a good negotiating position, but equally well, we acknowledge the willingness of SCC to discuss the implementation, and indeed acknowledge that SLA had been most helpful in tailoring a workable system.

Although SLA still believes that there are reasons why the implementation is unlawful (as indeed for many other schemes being implemented around the UK) it was felt that in the current climate, and the vagaries of the courts, it was preferable to take a pragmatic approach, and continue our rapport with SCC. SLA sincerely believes that the scheme now being implemented in Southampton will save much time and effort from an administrative viewpoint, and also result in far less financial exposure for both landlords, and ultimately tenants, than the scheme originally envisaged. Clearly this will benefit ALL landlords with property in Southampton.

PLACING YOUR RENTS INTO THE BIGGER PICTURE - VOA

A big thank you to all the SLA landlords who visited us at the Landlord and Investment show at the Thistle Hotel, Brighton in June. Your continued support is part of a good news story about landlords that you don't often read about. Each and every landlord who provides rental information to us is part of that story. Aside from the role that plays in setting Local Housing Allowance rates, I thought you'd be interested in the difference you're making across the wider private rented sector (PRS).

Around 12,000 landlords and letting agents provide their rental information to Rent Officers. They trust Rent Officers to protect the commercially sensitive data they provide on a goodwill basis. This relationship delivers around half a million records each year, every one an achieved rent. New, renewal and period tenancies help us build a unique picture of prevailing market rents. It's a public/private partnership like no other, and a credit to landlords and letting agents.

How landlords are helping improve rental information for everyone

We are uniquely positioned to place your rents into the bigger picture. What I mean by the bigger picture includes official Private Rental Market (PRM) statistics, PRM maps, rental indices and measures of prices inflation.

The best analogy for the PRS is a continually changing jigsaw picture. Statistics help to reveal the picture. They piece together the fragmented views each landlord holds (think individual pieces of the PRS jigsaw). The details of individual rents and addresses are never shared or identifiable. Commercial confidence is never compromised because statistics 'aggregate' data - they group all the rents together for particular types/sizes of property in a specific area and present the bigger picture. This helps us to better understand the complexities of local markets across wider geographies.

To see this in practice, take a look at our PRM Maps for the nine regions across England. They show median rents for 1, 2 and 3 beds in each local authority and are freely available from our website. In May 2013, the average rent across our sample of 848 two bedroom properties in Brighton and Hove Unitary Authority was £1007pcm. The median rent (mid-point of the sample) was £950pcm.

VOA rental statistics have been quoted in a number of discussions relating to Government policy. VOA statistics have also been used by the Office for National Statistics (ONS) to improve the consumer price index (CPI) and retail price index (RPI) measures of inflation that affect us all. Our rental statistics also feed into a new ONS national rental index which tracks historical changes in rent levels. It shows rents in the South East have increased by 7.6% between May 2005 and May 2013.

So why ask for more?

There is growing interest in our rental statistics. In their Newsroom article entitled 'New official stats slay rent myths' the British Property Federation commented on the ONS rental index:

"The BPF has long argued in favour of better rental statistics, given the growth of the private rented sector in recent years. Today's release follows improvements by the ONS and Rent Service (VOA Rent Officers) in the way that the bodies collect data on private rented sector rents.'

At the moment our statistics are experimental and very simple. They just give a snapshot of prevailing market rents. With your help we want to improve them.

As professional landlords you'll all appreciate there isn't just one market, the PRS is made up of many smaller niche and local markets. A larger sample of rents will help us develop statistics at geographies smaller than local authority and better track change over time. We intend to consult landlords to ensure the development meets users' needs.

You can join the professional landlords working with Rent Officers by contributing basic the rental details of your lettings: the rent, full address, property type/size and the tenancy start date. Email me for a simple submission template or give me a call. I look forward to hearing from you.

Richard Burrows
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www.voa.gov.uk/lettingsresearch

VOA PRM statistics -
http://www.voa.gov.uk/corporate/statisticalReleases/PrivateRentalMarketStatistics.html
VOA PRM Maps -
http://www.voa.gov.uk/corporate/RentOfficers/PrivateRentalMarketStatistics.html
ONS national rental index -
http://www.ons.gov.uk/ons/rel/hpi/index-of-private-housing-rental-prices/historical-series/iphrp article.html

FORTHCOMING MEETINGS

<u>The dates for meetings are:</u>

- Tuesday October 29th - Bromley Landlords Forum; 4th Floor, Bromley Central Library, Bromley BR1 1EX
- Monday Nov 11th - Southampton branch meeting;
- Wednesday - Nov 6th - London social - From 6.30 pm at Windsor Castle, 23 Francis Street, Victoria, London, SW1P 1DN
- Tuesday December 3rd - Hillingdon Landlords Forum - Civic centre, Uxbridge, UB8 3UA;
- Wednesday - December 4th - London social.

<u>Dates for next year:-</u>

Brighton & Hove:-

- Monday 20th January 2014;
- Monday 28th April 2014;
- Monday 21st July 2014;
- Monday 13th October 2014;

Southampton:-

- Monday 27th January 2014;
- Monday 31st March 2014;
- Monday 15th September 2014;
- Monday 10th November 2014;

London social - first Wednesday of every month.

See the web for more information
www.southernlandlords.org

TENANT'S DEPOSIT PROTECTION - WHAT YOU MUST GIVE THE TENANT

Information landlords must give tenants

From the Government web site:

Within 30 days of getting your deposit, your landlord must tell you:

- the address of the rented property
- how much deposit you've paid
- how the deposit is protected
- the name and contact details of the TDP scheme and its dispute resolution service
- their (or the letting agency's) name and contact details
- the name and contact details of any third party that's paid the deposit
- why they would keep some or all of the deposit
- how to apply to get the deposit back
- what to do if you can't get hold of the landlord at the end of the tenancy
- what to do if there's a dispute over the deposit

THE GOVERNMENT WEB SITE:

www.gov.uk/tenancy-deposit-protection

is very informative

It is essential that you fully and exactly meet the above requirements as the penalties for failure are severe!

MEMBERSHIP OPTIONS:

	Affiliate Free (on-line only)	Full member £75 pa	Corporate member £195 pa
email notification of meetings, etc, in your area;	SLA	SLA	SLA
all member trade discounts;	SLA	SLA	SLA
on-line newsletter;		SLA	SLA
all documents (AST's/notices, etc);		SLA	SLA
insurance cover for HMRC investigation		SLA	
fact-sheets;		SLA	
posted newsletter;		SLA	SLA
unlimited use of advice line;		SLA	
Classified advert and company details and information on our web site			SLA
1/8 page advert in each newsletter			SLA

If you have any contributions, ideas or wish to communicate please contact:

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Fax:	**0845 475 3283**
Help-line	**0845 475 2483**
Accounts	**0845 475 5583**
Insurance	**0845 475 1383**

MEMBER'S ADVERTS

If you would like to place an advert in our next edition please email to: editor@southernlandlords.org