Southern Landlords Association

September 2016, Newsletter 29

The SLA: A Service Provider
But Equally Importantly
A Trade Association For Members

Members will have seen from previous Newsletters that as from January 2017 it is proposed to have an additional optional subscription in order to fund activity in relationship to unfair/ unlawful legislation, whether implemented by Government, local authorities or by County Court decisions. The additional, optional, subscription of £200 per annum will be 'ring-fenced' to provide funding to assist in dealing with unfair/unlawful regulations.

Members will be aware of the recent Kumarasamy v Edwards case in which Mr Kumarasamy was ordered to pay damages to his tenant who had tripped on an uneven paving stone in the communal dustbin area of a block of flats. The case started in the County Court and eventually arrived at the Court of Appeal, who found in favour of the tenant. Mr Kumarasamy then made an application to the Supreme Court and sought contributions from landlords' associations towards the cost. This case was extremely important as it affected all landlords throughout the country who let flats. However, it seems that no association was prepared to support Mr Kumarasamy financially, except for our association. We, in turn, not only sought donations from our members but also from both national and local landlords' associations.

In the event, no other landlords' association contributed towards the cost of the Supreme Court hearing, and directly as a result of our members' donations, the SLA were able to fund a QC to represent Mr Kumarasamy at the Supreme Court hearing on 5th May 2016, and on 13th July a decision in favour of Mr Kumarasamy was announced by the Supreme Court.

Without our members' donations, this case would not have proceeded to the Supreme Court and the ruling of the Court of Appeal would have stood. The details of the decision are contained in an article within this Newsletter.

Our association acting as a trade association is, in the view of the Board, one of the most important objectives of the SLA. It is one thing

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being a service association providing members with information and documentation but it is quite another thing defending our members and acting on their behalf when unreasonable regulations / court decisions are made.

It is therefore the decision of the Board to offer, as from January 2017, the option of subscribing not only to membership of the association but also to providing £200 per member per annum to allow a ring-fenced action fund be established in order that the SLA can work either independently, or with other organisations, to defend the interests of our members. Your Board is sure that members will understand the need to provide such a fund in order that action can be taken without the necessity of always seeking donations.

Mike Stimpson's Column

I am dictating my column when the weather is particularly summery and many people are on holiday. One of the matters affecting landlords that I consider to be most important is the change of Prime Minister and Cabinet. I believe that Theresa May and her Cabinet understand and appreciate the value of private landlords in this country. I therefore think that in the Autumn Statement the Chancellor may well change some of the draconian regulations imposed by David Cameron and George Osborne, who appeared to think that the only way for housing is home ownership and not renting.

I hope that the Chancellor does away with the 3% stamp duty land tax on landlords who purchase properties for investment. I hope also that he removes the limitations to claim full interest payments due to be introduced between 2017 and 2020. I hope also, and am keeping my fingers crossed, that he may well extend the reduced Capital Gains Tax provisions to private landlords.

I also hope that, in time, some of the most unreasonable regulations emanating from Brussels will also be cancelled. For example, the inability to let properties with an EPC rating of 'F' and 'G' is not only, in many cases, unreasonable it will reduce the number of properties available at a time of housing crisis in this country. We would all like to see all properties with high energy efficiency ratings but in some areas it is extremely difficult, if not impossible, to bring up the energy efficiency at a proportionate cost and in some cases it simply cannot be done. Those properties should not be barred from being let until or unless there are sufficient properties available to meet the needs of the population. It is one thing to have high expectations of energy efficiency; it is quite another, when there is a crisis, to close down what are, in effect, good quality properties that for one reason or another cannot meet the energy efficiency requirements to bring them above 'F' and 'G' ratings.

Disposal of Household Waste & furniture

Some local authorities will not allow the disposal of household waste / furniture in their recycling depots. They insist that if a landlord is in receipt of rent for a property, then he has an obligation to dispose of waste as a business and pay for it in an appropriate commercial waste recycling depot. Obviously many landlords use cars or 4x4s when disposing of items etc. left by tenants. Others have commercial vehicles and it is those persons who are being denied the facility of using the council recycling depots. We are now checking the waste regulations to establish whether or not those local authorities that impose these restrictions are operating in accordance with those regulations. Our members pay council tax on unoccupied residential properties and expect therefore to use the facilities for which council tax is paid.

Kumarasamy vs Edwards

I personally would like to thank those members who sent donations, and as a result the SLA was able to provide the funding for a QC to act on behalf of the landlord. In this particular case, any member who has flats could have been faced with the same situation, not of his/her making. Would you, as a landlord, have been prepared to put up the money to take the case, if necessary, to the Supreme Court, with the possibility that you may lose and be faced with many thousands of pounds of costs? I would imagine that most of us would have given up long before the case progressed that far and as a result all landlords who have flats would have been faced with the possibility of claims for injury in respect of areas over which they have no control. Mr Kumarasamy was a brave man in pursuing this case but found in the end that the cost of pursuing it in the Supreme Court was too much. It is you, our members, who made that possible and the result, in my opinion, was inevitable by reasonable thinking judges.

This is a very real example of how a landlords' association can provide the necessary assistance to bring these cases forward and ensure that decisions made, for example in courts of law, are reasonable, proportionate and fair. Often the opposite is the case.

Exceptional Demand

One thing that has been very noticeable this year, and in particular in Brighton, is the exceptional demand by students for shared housing. This is despite the number of purpose-built student housing blocks being provided. The demand is vastly exceeding supply and cannot be reasonably met. With many local authorities applying Article 4 provisions restricting further expansion of shared houses, the local authorities concerned are not meeting the demand for shared housing required by students/sharers. In other words, local authorities have their own agendas, not necessarily meeting the needs of their residents.

Once again it seems that there is a belief by local authorities that by restricting the provision of shared housing (either for students or young working professionals) these properties will revert to family housing. What local authorities fail to understand is that once a property has been 'converted' to shared housing it becomes unrecognisable from a family house and it is most unlikely to ever return to family housing. Shared housing, in many places, is the only affordable accommodation that students and young people (and for that matter many older single people) can afford. It is not the responsibility of private landlords to provide family housing; it is the responsibility of local authorities and housing associations, the latter of which, in many areas, are providing luxury accommodation for sale, with no provision for social rented housing within the blocks. No doubt that makes money for the housing associations but it is not the reason they were formed, nor should they be competing in 'property for sale' markets and should stick to their original remit of providing affordable homes for people who are economically poor and not expect private landlords to do their job.

May I wish all members success in their lettings.

Mike Stimpson

Challenges to the Finance Bill

Capital Gains Tax

A Conservative MP (Kevin Hollinrake) has tabled an amendment to the clause 72 of the Finance Bill where the former chancellor had excluded buy-to-let landlords from having tax breaks on their property gains.

Because of the new measures imposed by Osborne landlords have to face paying 28% capital gains tax when they sell a property, the ex-chancellor admitted that it is one of "highest in the developed world".

Osborne had relentlessly targeted landlords and excluded them for the tax cut whilst other types of investors still benefit from the reduction of the higher rate of CGT down to 20% with the lower rate cut down from 18% to 10%.

Data Protection for landlords

Under the Data Protection Act anyone holding data about individuals must be registered with the Information Commissioners Office (ICO) if they make that data publicly available. The criterion is if that person can be recognised from the data held, and clearly landlords are holding names and addresses.

However it is unclear whether landlords have a mandatory obligation to register and even correspondence with them didn't clarify it.

So our recommendation is to voluntarily register – go to www.ico.gov.uk then the part 'for organisations' and then 'register your organisation'. It is very simple and costs £35 pa.

You might be interested to see some of the FAQ's on their web site:

Q - Can a landlord pass the names of new tenants to the Utility companies?
A - Yes. A landlord has a legitimate interest in making sure that utility charges are directed to those responsible. However, landlords should tell individuals when they first agree to the tenancy that their details will be passed on.

Q - Can a landlord see the references which were provided to the letting agent?
A - The agent can pass this information to the landlord, as long as, when the reference is asked for, they make clear to the tenant and the referee that this will happen.

Q – Can a landlord put up a list of tenants who are in arrears?
A - No. Information about an individual's debts should only be given out in limited circumstances. It is only justifiable to tell tenants if someone has not paid their rent if this has a direct effect on them, for example, if they become legally responsible to help meet any shortfall in shared maintenance charges.

Q – Can a landlord disclose details of a tenant who left without paying the rent?
A - Where a tenant leaves without paying the rent, and without making any arrangement to pay, landlords may provide their details to a tracing agent or debt collection company to help them recover money owed to them. However, it would be good practice to make tenants aware when they sign the tenancy agreement that in such circumstances this will happen. This may also help tenants think twice about not paying rent.

Q – Can a landlord pass the forwarding address of former tenants to the utility companies?
A - Yes. Sometimes a landlord will become aware that a tenant has moved leaving behind an unpaid utility bill or an account in credit. In addition a utility provider may need to contact a former tenant regarding continuing social support. In these circumstances landlords can pass a forwarding address (where known) to the utility companies as the Act is not intended to be an obstacle to disclosure in these situations. However, landlords must make tenants aware of these possible disclosures at the start of the tenancy.

Q – When can a landlord give out information?
A - In general, landlords should make clear to tenants when they sign the tenancy when and how their information will be given out. However, if an emergency repair needs to be carried out, it would not breach the Act to go ahead and provide tenants' contact details to the repairers. On the other hand, if a domestic contractor is looking for work the tenants should be left to contact the contractor rather than the landlord giving out the tenants' details without their knowledge or agreement.

Q – Can a landlord use CCTV in communal areas?
A - Yes, usually they will need to make you aware of this and explain why they have installed the cameras.

TV License Necessity

Students Now Need TV License for BBC iPlayer

A change in the law means from 1 September 2016, a licence will be needed to download or watch BBC programmes on demand, including catch up TV, on BBC iPlayer.

Research by TV Licensing has revealed iPlayer is the most popular catch up platform used by students, ahead of sites such as YouTube and services including Netflix.

The survey confirms 2 in 3 students view catch up TV, with many watching on demand programmes. With less than a quarter of students (22 per cent) taking a TV with them to university, online viewing on mobile devices has become by far the favoured way of consuming catch up TV content.

Caroline McCourt, spokesperson for TV Licensing, said:

> *"Watching catch up TV is really popular among students and we want to make sure students are aware of the change in law. From 1 September, everyone will need to be covered by a TV Licence to watch BBC TV programmes on demand – including catch up – on iPlayer.*
> *And, of course, you still need to be covered by a licence for all live viewing and recording, no matter which channel you are watching or what device you are watching on."*

Students who already have a licence will be covered automatically. Those who do not will need a licence from 1 September to watch BBC programmes on demand on BBC iPlayer, including where iPlayer is accessed through another provider such as Sky or Virgin.

A licence will not be needed to watch other on demand services, such as ITV Player or Netflix. This applies to all devices, including a smart TV, desktop computer or laptop, mobile phone, tablet, digital box or games console.

In limited circumstances, students can be covered by the licence at their parents' address. The device must be powered by its own internal batteries – e.g. a tablet or mobile phone - and must not be plugged it into the mains when receiving television.

www.tvlicensing.co.uk/cs/media-centre/news/view.app?id=1369782979800

The cost of a TV license is currently £145.50

Rent Smart Brighton & Hove

Rent Smart Brighton and Hove is a new partnership committed to supporting private rented sector tenants in the city.

The Rent Smart website, launching in November, will signpost current and future tenants to a wide variety of information sources, with the aim of ensuring they are fully aware of their rights and responsibilities. It will also encourage tenants using a letting agency to use the ratings site AllAgents.co.uk. Information for people who are not online will also be distributed.

Participants so far have included Southern Landlords Association, Brighton Housing Trust, Citizens Advice Brighton and Hove, the Universities of Sussex and Brighton, Sussex University Students Union, Sussex Student Lettings, Brighton and Hove Economic Partnership, Brighton and Hove Estate Agents Association, and the National Landlords Association. The initiative has been led by Councillor Tracey Hill, the Council's lead member for private rented sector housing.

Rent Smart Brighton and Hove's launch event will be on Tuesday 22nd November from 6.30-8.30pm at the University of Brighton's Grand Parade campus. For more information or to request an invitation please contact:

tracey.hill@brighton-hove.gov.uk

Gone for Good

Clearing out furniture and other possessions is something most landlords have to do from time-to-time. It might be stuff that tenants have left behind, or be because you're replacing furniture in your property.

Often times that might involve hiring a skip or a "man and a van" to take it away, or the hassle of taking the stuff yourself to the tip. But now there's an award-winning smart phone app, called Gone for Good, that can help SLA members clear out their properties for free - and support good causes at the same time!

Gone for Good is an app that allows you to get rid of any clothing, furniture, or other household items left over in your property, by finding a local charity that will come and take them away, at no charge. So, how does it work?

1. **First, download the app. It's free and available from the App Store and Google Play for iPhone or Android devices. Alternatively, get on the Gone for Good website (www.goneforgood.org.uk) and click on the relevant link**
2. **Second, take a photo, using the app, of the items you want to donate, and put in the address (in particular, the Postcode) The app produces a list of the charities that will come and take them away.**
3. **Third, click on your chosen charity. Gone for Good arranges for the charity to get in touch to agree when they can come and take the items away. It couldn't be simpler.**

The was launched across the UK in spring and already the app is getting noticed. It won an award at the technology-focussed Big Chip Awards in June. It's also been nominated for two Charity Times awards. National charities participating include Cancer Research UK, British Heart Foundation, Sue Ryder, Debra, Mind, Scope, Shelter and the Salvation Army, plus a number of smaller local ones.

The property industry is quickly catching on, with several large estate agency chains, such as Reeds Rains and Foxtons, starting to recommend the app to clients and use it themselves in their agency lettings businesses.

Mark Charnock, Managing Director of Gone for Good, said "SLA landlords can play an important role in increasing the number of goods donations that charities receive. The app has a house clearance function that should appeal to them. And the app also ensures a donation is offered out to other charities if the donor's chosen one can't take it. This also ensures a donation offer can be dealt with quickly, which is important to landlords. It's a win-win situation for them. It solves a problem and saves them money."

So don't waste money on a removals van – try the Gone for Good app!

The House Of Lords Report On The Housing Crisis

The House of Lords Economic Affairs Committee has released a report resulting from its enquiry into the economics of the housing market. The report stresses that Government has been too narrowly focussed on encouraging home ownership while neglecting the private rented sector and failing to substantially boost supply. The peers have called on Government to set an increased target of 300,000 new homes per year and enable councils and housing associations to borrow to fund house building.

Housing And Planning Act 2016 – The End Of The Beginning.

The Housing and Planning Act 2016 now sits on the statute book but nevertheless much work remains to translate various provisions into regulations and, eventually, practice. For example, the provisions to make it compulsory for letting and managing agents to have client money protection insurance were accepted in principle, as were the provisions for compulsory electrical safety checks for residential landlords.

Issue Of Warrants For Possession Of Residential Property

As from 25th July 2016 the fee to issue a warrant for possession is now £121, which is a 10% increase on the previous £110 fee.

Mike Stimpson comments: If landlords were to increase their rents by 10% or more, as the Government seems to do on all services affecting landlords, there would be uproar but it seems that there's one rule for the Government and a totally different one for private landlords. Government must understand that these significant increases, which add to landlords' costs and can only be recovered by rental increases, are not justified, especially when court services etc. are being stripped of staff.

Build To Rent – What Does It Really Mean?

It was most interesting to read an article in the Architects' Journal suggesting that build to rent could provide 10% of the new homes we need. Delving further into the article, the specific build to rent investors were suggesting that they would not look at any scheme which could not provide more than 150 apartments and that they have 3 schemes under way, namely 225 apartments in Salford, 168 apartments adjacent to Temple Meads station in Bristol, which is likely to increase to 220 units, and a third scheme in Walthamstow for 440 apartments.

It is interesting to note how these schemes demand a different design approach to homes for sale. The interior of the apartments that are being designed are for individuals sharing, rather than families: the provision of one bathroom for every bedroom, all en suite, with living rooms in the middle and bedrooms on the side. In effect, this is a variation on student housing and not build to rent for family housing. One wonders if these schemes provide a significant number of affordable homes to rent, or nothing at all.

Mike Stimpson comments: There is little doubt that the need for affordable shared housing is one of the most significant requirements for young/single people and contrasts completely with the attitude of most local authorities to private landlords who have traditional houses of multiple occupation. In those cases local authorities insist on a kitchen within the non self-contained accommodation, with shared bathrooms and toilets. This is not conducive to those tenants within such properties forming communities together, as in 2016 most tenants would prefer to share a kitchen rather than a toilet/bathroom but local authorities, for reasons of their own, insist that the sharing is in bathrooms and toilets and not kitchens.

It is time that local authorities worked with private landlords to ensure that those landlords not only provide safe accommodation but provide accommodation that the tenants who wish to occupy the accommodation would wish to have.

The build to rent sector, as described above, is no doubt being constructed to give the maximum return as in student accommodation but not provide family accommodation which is also necessary. A condition of build to rent in the quantities that are being built in Salford, Bristol and Walthamstow should also be that part of the development provides family accommodation as well as affordable accommodation. No doubt the institutional investors in those schemes would back out if the scheme was not viable with the provision of such requirements. It seems that both local authorities and Government expect private landlords to house families and provide affordable accommodation regardless of whether it is profitable or not.

Council Tax Demands

Many local authorities have imposed regulations whereby there is no period when a property is vacant when council tax is not payable.

A number of landlords have raised the situation whereby on one day a tenant leaves and on the next day a new tenant moves in, there being no vacant period between tenancies. Nevertheless it is not unusual for a landlord to receive a council tax bill for one day, when in fact the property was not vacant. One wonders therefore whether the outgoing tenant is given a concession on the last day of the tenancy or whether the new tenant is given a concession in respect of the first day of the new tenancy. I doubt that a local authority would not bill both for the last day of the tenancy and the first day of a new tenancy.

Members who receive a council tax bill in respect of one day when the property was not vacant should challenge the local authority and demand an explanation as to why council tax has been charged.

Universal Credits: A Solution, a Problem or a Joke?

Members who take tenants in receipt of Local Housing Allowance may well be finding that their tenants, especially if single, have been transferred from Local Housing Allowance to Universal Credit, which is paid monthly direct to the tenant. If, however, the tenant does not pay the rent that they receive to their landlord a Section 8 notice for possession can be issued once two months' rent is in arrears. Following that, an application form has to be completed for payments to be made to the landlord, together with evidence of the tenancy and that a Section 8 notice has been served.

This is then forwarded to the Universal Credit Department at Wolverhampton and should then be dealt with expeditiously and payments made to the landlord.

One member has reported that having not received rental for 8 weeks, an application was made using Form UC47 to the Universal Credit Department, together with all information required being supplied, but after 2 months has heard nothing. A reminder has also been sent, with no reply. The result is that the tenant will be in court within a couple of weeks and will be evicted.

It appears that the Universal Credit system may in theory be in order but when tenants do not pay their rent the system seems either inefficient or, at worst, ineffective. Members should be aware of this member's experience which has been reflected in other landlords' applications which remain unanswered.

If Government wishes to change the effective Local Housing Allowance system, then it should provide a system that is equally efficient, if not better. Experiences to date indicate that it is not doing so. Members who experience problems over Universal Credit will be well advised to contact their local MP about the situation and notify our association also.

Tenant Evictions Up In England and Wales

The number of households evicted from rental accommodation in England and Wales rose by 5% in the first 3 months of 2016, while the repossession rate for home owners fell to a record low. Figures from the Ministry of Justice show that there were 10,732 repossessions from rented homes by bailiffs between January and March 2016, up from 10,215 in the final 3 months of 2015. The number of tenants evicted from their homes by bailiffs reached a record high in 2015 according to the official figures for England and Wales which show that 42,728 households in rented accommodation were forcibly removed.

Income Tax

Two private landlords, Steve Bolton and Chris Cooper launched a campaign to challenge Clause 24 of the Finance Bill – this is the clause that the government introduced stopping landlords being able to offset mortgage interest cost before declaring their tax.

After a delay, the case has now been set to be heard in the High Court on Thursday 6th October. It is unlikely that the High Court will make any ruling that day.

Client Money Protection

The Government has issued a consultation paper and survey to review whether it should be compulsory for letting and managing agents to have client money protection. This follows an enabling provision inserted into the Housing and Planning Act by peers in the House of Lords. The consultation closes on 3rd October.

Mike Stimpson comments: Most members, especially those who have lost money from agents who have disappeared holding landlords' funds, will support any legislation that makes it compulsory for letting and managing agents to have client money protection. Regardless of whether regulations are implemented, members should always check, if they use a letting / managing agent, that those bodies have client money protection, as it is one thing looking for cheap management of properties but quite another not ensuring that the agent engaged has proper financial protection in the event of the business failing.

Deposits

In the last newsletter we had a long piece on whether to take a deposit or not. We have just seen a possible alternative whereby the tenant pays one week's rent to an independent company and they undertake to cover up to 6 weeks costs, including loss of rent.

Sounds like a scheme that takes away the possibility of getting it wrong and incurring a fine. For more details see www.getreposits.uk

Local Housing Allowance:
How Do You Solve A Problem Like LHA?

Members who take tenants in receipt of Local Housing Allowance will be only too aware that it has been frozen at the 2015/2016 level for 4 years from April 2016. All single persons under the age of 35 are only able to claim the single room rate, and this rate in many areas is well below the minimum rental charged for accommodation in a shared house. Many tenants therefore have to find between £5 and £20 per week to keep their rent up to date. In addition, many local authorities charge up to £5 per week council tax to such tenants where the single shared rooms in houses of multiple occupation have been banded at Band 'A'.

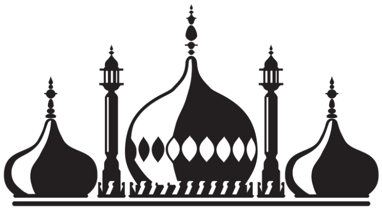
Local authorities and Government have no regard for imposing further regulation and costs on private landlords, yet expect those landlords to provide accommodation at rents that tenants can afford, regardless of the consequences.

It now seems that Government intends to restrict the amount paid to social housing providers, some of whom house the most vulnerable single people in this country, to such an extent that those housing providers are having to consider whether they are able or even willing to provide these services. If Government goes through with its proposals, then more vulnerable single people will be seeking accommodation from private landlords.

Our association has for many years made the point that we are not providers of social housing or, for that matter, providers of housing for people with serious mental conditions or addictions. Similarly, we should not be expected to be the providers of housing for vulnerable families. Those are the responsibility of local authorities and housing associations.

Members should take note of the Government proposals and be certain that if they take on single persons for shared accommodation, those persons themselves are not vulnerable, and in this respect need to take into account very carefully the past histories of such persons, for if any member takes on a person with serious problems we all know that it takes time and costs money to evict them and they often cause problems for other tenants residing in the accommodation.

Around The Branches



Gary Waller's News Update

Chairman of Brighton and Hove Branch

Brighton and Hove council have published the draft City Plan Part Two, and it is out for consultation. This builds on part 1 of the plan and covers 8 development sites in the City for future housing development.

There are over 23,000 people on the council waiting list in Brighton and Hove, with the huge demand for housing in the City, the City plan can never hope to fulfil that demand. We will all see housing density per hectare increase, so smaller houses and taller buildings. The Council has a Government requirement to build 18,000 new homes but this high figure does not include many groups like student and travellers sites.

The introduction of HMO licensing in November 2012 in five wards and then the extension of that programme last year to further wards around Seven Dials has improved the quality of accommodation. 3,500 HMOs have been registered and the intention is to expand that across further wards in the City. Article 4 is a planning constraint that deals with C3/C4 change of use from a small family home to an HMO. You need planning permission to let a house as an HMO in the affected wards. A number of landlords have applied for HMO use, sometimes retrospectively, had that planning turned down by the Council then appealed. The planning inspector has upheld the planning department decision and refused permission. Remember "Buyer Beware" for any future purchases.

The council is aware that some landlords have both more tenants than they are licensed for and also in come cases have built extensions, for example rooms, in the roof without planning permission. Please do not ignore the planning or licensing process. The penalties can be hefty.

As a landlord we all employ trades people, Decorators, Electricians, Gas Fitters, carpet layers etc. Most of these people are small businesses of one or two people and employ contract staff when needed. The biggest problem for all small businesses is cash flow. I have had numerous trades people talk to me over the summer about the problems they have getting payment. All too often it takes some months to get paid and all to frequently they have to resort to the threat of court action. If you have work done please make sure that you pay your trades person immediately, you will get a much better service next time. If you are genuinely unhappy with the work then raise it with the trades person immediately.

We ran our third social last week at the Nevill, good turn out and plenty of food. It is great to have an opportunity to discuss renting in Brighton & Hove with other landlords. I came away with so many ideas to make my life easier and to save me money that it was well worth attending.

Kumarasamy vs. Edwards

Supreme Court Decision & the Ensuing Effect

5th May - Supreme Court hearing
13th July - Judgment issued

The Supreme Court decided that before any claim can be made against a landlord of a flat in respect of injuries caused by defects in the common parts of a property, the tenant must first have notified the landlord in writing of those defects.

> **"This decision means that in the same way as a tenant cannot claim damages for injuries caused by a defect within his/her accommodation without first notifying the landlord of that defect in writing, it now applies similarly to the common parts of the property. A very significant number of landlords own flats in which there are common parts, i.e. entrance halls, stairs, paths, dustbin areas etc. and this judgment means that no claim can be made against a landlord unless the tenant has first notified the landlord in writing of the defect."**

Most landlords who own flats have no control over the maintenance of the public areas of a building. It is normally the responsibility of the managing agent / freeholder and therefore it is recommended that if a landlord is notified by their tenant of a defect in the public ways, the landlord notifies the managing agent / freeholder in writing of the defect, in order that if a claim is made it can be passed on to the party responsible for the maintenance of the public areas of the property. Members may say that this is commonsense – and it is – but the Court of Appeal judges did not see it that way and found in favour of the tenant. The landlord involved in this case could not afford to take the case to the Supreme Court without financial support. Had you, our members, not donated, then the case simply would not have been heard in the Supreme Court and the sensible decision made.

What is even more concerning is that when a landlord such as Mr Kumarasamy is faced with a decision of whether to appeal to the Supreme Court or not, it seems unreasonable that the landlords' association to which he belongs would not provide any financial assistance, and furthermore when our association sought financial assistance from those associations that have significant funds, none would contribute – but each has promoted the success of the case!

The SLA, in one form or another, has always believed that not only should it provide services to its members it should be there to defend unlawful or unreasonable legislation from wherever it comes. It seems that our association remains unique in this respect but in order to continue to be active in such matters it needs financial backing and it seems that that backing will only come from our membership. In this particular case, it may well be that the defendants (legal aid) will have to pay some, if not all, of the costs incurred by Mr Kumarasamy. If that be the case, any member who donated and would like their donation refunded should contact Peter Littlewood at the SLA:

Tel: 01732 56 56 03
Email: peter.littlewood@southernlandlords.org
Post: SLA, Riverside Centre, River Lawn Road, Tonbridge, TN9 1EP

However, donations not required to be refunded will be placed in the ring-fenced action fund that is being set up.

Finally, members may well be thinking 'How did this case get to the Supreme Court (the highest court in the land)'? The answer is quite simple: the tenant was defended on legal aid, i.e. public funds provided by all of us as taxpayers. The landlord therefore either had to give in and pay the costs or proceed as far as he could to obtain what can only be said to be a 'commonsense judgment'. It is not therefore a case of a landlord being difficult; it is a case where public funded lawyers pursued a simple case as far as they could because they thought the landlord would financially not be able to pursue it to the Supreme Court.

This is an excellent example of unfair justice where a tenant, using legally aided lawyers, can pursue a case without regard to costs because the tenant would pay nothing and the landlord, if losing, would be required to pay everything. Justice indeed has occurred, but without the support of the SLA the opposite would have happened.

Cost of Providing Local Housing Allowance To Landlords

It has been mentioned in the Press recently that the Housing Benefit bill in respect of payments to private landlords has doubled in the last 10 years. Those comments have been made by a leading housing association but no mention was made of the increased cost of Local Housing Allowance to housing associations during the same period or, for that matter, of the exceptionally high salaries enjoyed by some of the chief executives of housing associations or that those associations, or at least many of them, are now building properties for sale in competition with the private sector, when the objective of such associations is to provide affordable accommodation to families.

It is very interesting to note that when a young working couple decide to rent, they invariably apply for accommodation together. In other words, they both occupy the same property. No doubt this is because they wish to live together and need to use both salaries to be able to afford to live together and have sufficient money to meet financial commitments.

When one then looks at people in receipt of Local Housing Allowance, invariably it is a single person application for accommodation or a single parent with children application for accommodation. In very many cases what results is that another person lives at the property most of the time, no doubt also in receipt of Local Housing Allowance / Universal Credit – but for another property – which in effect means that those persons on Local Housing Allowance / Universal Credit who have partners can afford to have separate accommodation but in effect live together, simply as a result of the Local Housing Allowance being available to them and not having to pay for the accommodation out of their own pockets.

It is not for the SLA to comment on how people in receipt of Government funding benefit but it is important for Government to know that many people in receipt of these benefits choose to live separately but in reality live together. The cost of such situations must amount to many millions of pounds unnecessarily paid by Government. Instead of housing associations in effect trying to make a statement that landlords' rents are the contributory factor to the massive increase in Local Housing Allowance / Universal Credit payments over the past 10 years, they should also comment on the living habits of such people and propose to Government that it needs to look at the growing situation of individual tenants, who in effect are in a partnership, retaining 2 properties when one would quite simply be adequate.

This situation represents one system for those on benefits and quite another for those who are working and in effect paying for the accommodation of those who choose to live separately whilst in effect living in a partnership. It is also noted that the housing associations concerned did not comment that Local Housing Allowance has been frozen from April 2016 to 2020 and that any increases in rents by private landlords of those tenants on benefits will have to be paid out of their other income and certainly not by increasing the Housing Benefit cost.

Subletting By Tenants

It has been brought to the attention of the SLA that there appears to be a significant increase in the number of tenants who are either subletting their property or bringing in additional occupiers, particularly in shared houses where a maximum number of occupants is part of the conditions of a licence.

Members may well have experienced antisocial behaviour by some occupants who have been allowed in by the tenant. Members should be aware that if antisocial behaviour occurs by an occupier who is not a tenant, then it is the tenant's responsibility to deal with that behaviour and in the event of a landlord wishing to obtain possession, the possession claim must be made against the tenant and not any other occupier. Once a court order is granted it will include anybody else residing at the property. In other words, once the landlord has obtained a possession order against a tenant, the bailiffs will evict, if required, all occupiers of that particular property.

Mike Stimpson comments: Government has indicated that it may well bring in legislation prohibiting landlords from including clauses within a tenancy agreement which ban subletting. I consider this to be not only wrong but the suggestion has been made without proper consideration of the effect of such regulation. All landlords, including social landlords, should have the right to ensure that the property they let is let to the tenants that they choose and it should not be for tenants to bring in other people without the written permission of the landlord.

Government, it seems, thinks this is another way of reducing the housing crisis. It is not. The building of sufficient houses to meet the reasonable needs of the population is the only way that the housing crisis will be solved.

What's the future for landlords after the Referendum?

I must start by saying that this has to be a pure guestimate, as any look into the future is always wrong, and with our current situation only a Time Traveller would be able to stand a chance.

Factors Affecting Property Prices

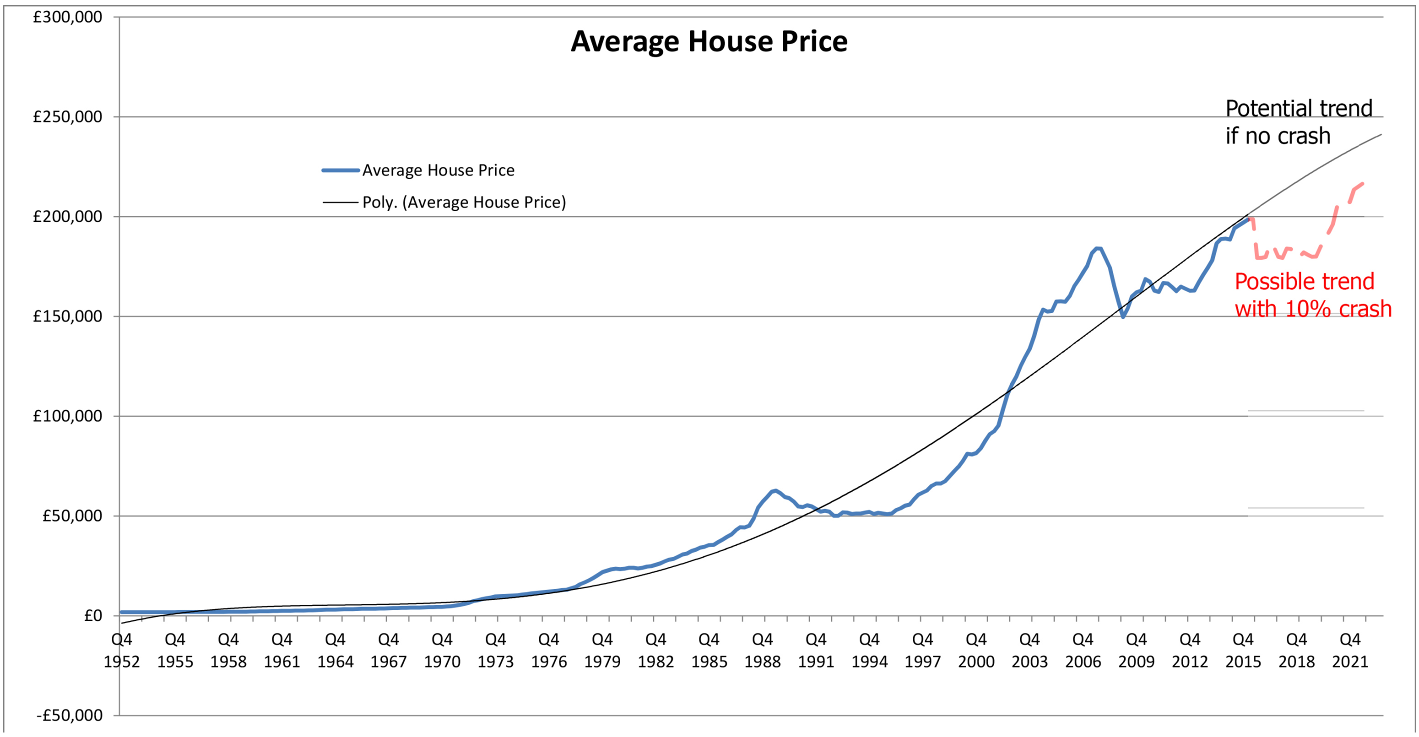
Property is bought for two main reasons, to earn money from; or to live in as an owner occupier. Owner occupiers aren't affected by property prices, unless they move, or re-mortgage. Then they are only of interest because of the:

1. Stamp duty liability
2. Potential to make a 'profit' if they trade down
3. Increased amount required if they trade up.

If they buy to the same value it won't matter if the property is worth £10M or £1, apart from the stamp duty liability, or potential negative equity with a mortgage. But it does matter if the property is intended to be sold purely to make a profit – capital gain.

Capital Gain

So the immediate question is arising from the Brexit vote is how will it affect property prices? This graph shows property prices since 1952 (courtesy of Nationwide Property Index). The black line is the overall trend since 1952, which I have extended to 2021. This shows that the average price across the whole of the UK now stands at £198,564, up from £1,891 in 1952 and could be circa £245,000 in 2021.



It shows that although prices fluctuate they have always risen over a long period of time – i.e. whilst someone might make a profit quickly, to be certain property has to be held for a long time to ensure selling an increased time. I've also extrapolated the graph to show what might happen if there were a 10% crash this year. Based on previous criteria it might not regain the current average value until the 2020/21 (4 to 5 years) – but who knows?

It is anticipated that the higher end properties are likely to suffer from the Brexit vote, as the high-earning bankers are unsure if they will still have a job in the UK. There was a lot of talk of jobs going to Frankfurt, but this appears to be going down. The effect on the lower end is unknown.

It is a funny time anyway. The market was slewed prior to March with many investors trying to beat the April deadline, and now it is depressed by the traditional summer interregnum, interestingly enough, anecdotal evidence seems to indicate that prices are generally holding.

Rents

According to the Office for National Statistics (ONS) rents have gone up evenly since the start of 2011 and this, on the basis that people are still going to need somewhere to live, is fed by supply and demand. It is unlikely that the supply will alter much over the foreseeable future, in spite of the provision in the 2016 Housing Act to provide more affordable housing. The question is what will happen to demand? Personally I think it will remain good for a while.

A lot of demand is due to the number of immigrants, who will tend to rent rather than buy. Whilst no-one knows what will happen to immigration in the long term, especially after we leave the EU, in the short term we are likely to see an increase in EU migrants taking advantage of current rules, along with the prospects of an amnesty on anyone legally living here.

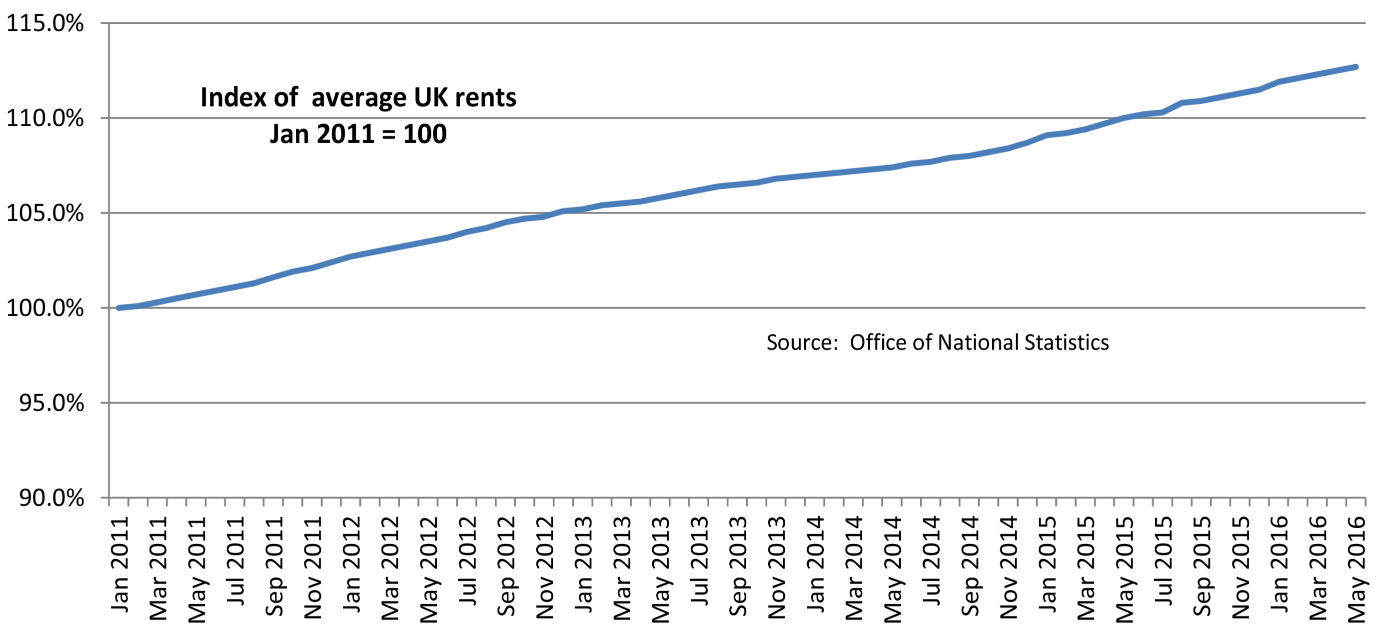
Right to Rent (i.e. Immigration Checks)

If there proves to be a substantial reduction in immigration (which personally I doubt) there might eventually be a relaxation on the need to do Right to Rent checks.

Given the public concern about Immigration I think this unlikely, and certainly not in the next 5 years. So I am guessing that the Right to Rent is here for a little while yet.

EU Legislation

At some stage the Government will have to look at legislation brought about because of the EU. Some might be retained, some might go. That ones most likely that affects the PRS to be looked at are:



- ***MEES – The Minimum Energy Efficiency Standard***
  This is the mechanism by which any residential property with an F or G rating will not be able to be re-let after April 2018; and will not be able to be let at all after April 2020. This has caused problems in Government; on one hand The Department of Energy & Climate Change (DECC) is tasked to reduce energy wastage, and this is one way of helping achieve this; on the other the Government are desperate for more residential property and don't want to lose too many – so they are in a quandary, solved by the EU pushing for energy reduction, and Shelter pushing for substantially improved housing. Hence MEES. Will MEES be amended/removed – we wait to see.

- ***EPC's***
  Also brought in by the EU after they signed the Kyoto Treaty in 1997 which bound all member states of the EU to reduce greenhouse gases. A main way of achieving this was the introduction of EPC's. In theory the UK could decide they are no longer bound by the Kyoto Treaty, and thus get rid of EPC's, etc. However this is unlikely.

- ***District Heating***
  Heat network metering and billing regulations - requiring some HMO-type accommodation, sheltered housing (and commercial premises) to have individual metering - quite easy to abandon or adapt as not yet fully enacted.

It is also not known how this review of EU legislation will be tackled. We could either repeal all EU led laws, and re-instate those we want, or could just adopt the ones we want to keep.

Whatever happens it is clear the Parliament is going to be very busy on Brexit for a long time, and one wonders what will happen to other matters. For instance, a lot of the recent 2016 Housing and Planning Act requires Parliamentary intervention to fully enact. Will this happen, or will it be a secondary victim to Brexit by running out of time?

Additionally last year the Government consulted on two matters, extension of Mandatory Licensing; and the potential to stipulate minimum room sizes. Will this see the light of day?

The Larger House Builders

The two sectors to be hit immediately after the referendum were banks, and large house builders. Uncertainty hitting both. Banks seem to have recovered fairly well, due to the Bank of England making soothing noises; house builders have now been hit by a fall in sterling, because so much is imported in house buying.

Conclusion

I attended a talk by a large firm of Chartered Accountants on the effect of Brexit, and one of the presenters jokingly said that if he had prepared his slides to take full account of Brexit alone they would have been blank! I.e. no-one knows.

But it is clear that the PRS is already undergoing radical changes due to the recent anti PRS legislation brought in by the Government. This appears to have had more of an effect than the Referendum. We now have a new Government, will they be so anti PRS, indeed will they have time to be?

So we all have to wait to see; fortune favours the brave, and that will continue.

It is very important that you have an exit strategy. If you have bought to rent, can you sell? If you have bought to sell, can you rent? Have you got your tax structure sorted out, to minimise tax problems if you do decide to sell. Have you got funds to buy if prices do drop?

Don't put your head in the sand.

By Peter Littlewood

One Man & His Van, Part II

By Gary Waller

So many of you liked the article in the newsletter about "What Every Landlords Needs" that I though I must write the second part. I have had my Volkswagen Caddy van for a few months and decided that first of all "I" and then "it" needed organising. All of my rental properties are in the Elm Grove, Lewes Road area and rarely do you get the luxury of being able to park outside. This means carrying tools, cleaning materials etc some distance. I looked around at various tool box and plastic crate options and decided to standardise on the Festool Systainer. These are very tough plastic tool boxes that have hinged lids and are stackable. They come in various sizes and when stacked they lock together.

I have taken the vast majority of my tools, grouped them and fitted them into a relevant sized "Systainer". So I have one for cleaning, one for sanding, a large one for painting, one for chisels and the plane, one for the electric drill and screwdriver etc. The most important box contains the tea, coffee, clean cups and biscuits! This now allows me to quickly load the van with the tools that I am likely to need, then when I get to the job, if I cannot park I can double park while I unload the boxes into the hall way, then go and park. All this has gone someway to ease the strain on a double garage, two sheds and a lockup garage, at least I can generally find things now.

After a few months of this new organisation, I decided that the next stage was some racking for the van, where I could put the Systainers on shelves for easy access. When you are next sitting in front of a computer late at night, go to Google images and type "Van Organisation ideas" you will see that man (and Women's) creativity truly has no bounds. After a bit of experimenting I decided on racking the front half of the van and leaving the back half of the van free so that I could load a washing machine, furniture or bags of cement. I decided against buying racks, instead using 18mm interior grade plyboard, that once fitted I then varnished. I can now store 6 Systainers on each side in racks, there are free form shelves are both sides for loose items, I can also if needed stack further Systainers.

Having left the computer industry a couple of years ago I decided that I wanted to improve my skills, so decided to do a course on Routing. I attended an excellent two days course with Axminster Tools (www.axminster.co.uk) at one of their training centres at Sittingbourne in Kent. There were five of us on the course with an excellent instructor, the end result was building a small cabinet or which I am very proud of. There is really no substitute for good training and being able to ask questions from an expert. Then at the end of the course you just have to take advantage of their course discount to buy a new router, router bench, dust extractor and host of other accessories. I quickly put my next skills to use on the van racking, cutting some lovely housing joints and routing out the indentations to keep the systainers in place. More importantly the course gave me the confidence to fit a complete kitchen, more of that next time.

Landlords and Capital Gains

An MP has spoken out in favour of buy to let landlords by insisting that they should never have been denied a tax break on their property profits after the Chancellor, George Osborne, excluded them from a significant Capital Gains Tax (CGT) cut in his budget statement. Landlords continue to be stung with a hefty 28% CGT bill when they sell up, at a rate that the Chancellor himself described as one of the highest in the developed world. Residential property was deliberately excluded from the tax cut that sees investors in other types of assets benefit from the higher rate of CGT reduced from 28% to 20% while the basic rate was reduced from 18% to 10%.

Kevin Hollinrake, the Conservative MP and co-founder of Hunters Estate Agents, is tabling an amendment to Clause 72 of the Finance Bill that would extend the new 20% Capital Gains Tax to private landlords when they sell their rented property to a sitting tenant. Members who are concerned about the unfairness of the reduction in the Capital Gains Tax not affecting landlords should write to their local MPs expressing their concerns.

Mike Stimpson comments: This is yet another example of how Government is treating private landlords. It sees a private landlord as a source of taxation and is doing its best to ensure that it takes as much money as it can through taxation or other methods from private landlords. This is another example of where Government action needs challenging through a judicial review but, to date, no association/organisation has suggested that course of action.

Many years ago, when a landlord rented a property for over 10 years a discount of 40% on capital tax liability was granted. Landlords also benefited from indexation or tapering. Currently, none of that applies and many landlords who have held their investments for very many years cannot sell because of the high level of Capital Gains Tax that will be imposed, quite unfairly, and this is yet another example of the Government's attitude towards private landlords, whom it continues to insist carry out an activity but not a business.

Upad is the UK's largest online letting agent with an unbeatable reputation for professional service from its team of ARLA-qualified Account Managers.

The company was started 6 years ago by Portfolio Landlord James Davis. He saw that his prospective tenants were increasingly looking online for their next property on sites like Rightmove but that to access them he had to pay huge fees to traditional agents. As a pro-active landlord he also wanted to choose his own tenants and deal with some of the process himself.

So James created Upad and today they look after the needs of over 10,000 private landlords. In the past 12 months they've advertised more than 10,000 properties and in October 2015 their properties received an average of 34 enquiries.

Find out more about their personal service and their range of landlord packages at upad.co.uk

A Message From... *Alan Boswell*

Don't Trust to Luck

The knock on the door could come late at night. A policeman stands there and tells you that your property has been broken into, or simply found empty with the door open – but no signs of forced entry – and the place vandalised. This may be every property owner's worst nightmare and one that will inevitably involve protracted negotiations with an insurance company, but it is something regarding which landlords can at least try to minimise the possibility.

Invalidated Insurance

It is very important to be aware that if there is no violent and forcible entry to the premises there is no insurance cover for theft and theft damage (including malicious damage). In other words, if someone has gained access to the premises by having a key (to which they were not entitled) your property owners' insurance could be worthless in respect of any damage done.

Basic Precaution

The basic step of simply changing your property's external locks after every change of tenant can be a good way of ensuring that you are less likely to be woken up in the early hours and told that your property is now unusable.

Squatters

It is not so much that the previous tenants are untrustworthy and liable to pass on copies of their keys to others who may squat in the property, or simply enter and cause damage. The issue is that, like any of us, they could become relatively negligent about taking precautions that might previously have appeared perfectly normal, once no longer directly interested in something. In this case, a tenant moves out and is therefore focussed primarily on their now home; they do not think carefully about the old place and may not therefore consider the security of keys that they may have failed to hand in – perhaps because they had duplicates made for friends or family members.

While these may not deliberately be given to miscreants, they could easily be neglected and, if there are any identifying marks, present a first-class opportunity for thieves or vandals to gain access and do damage – or even take illegal possession.

Beware of Professional Criminals

Not all issues relate to property being accessed by those with no right to be there, but who have 'found' a key. Discovering that your property has been taken over for use as a cannabis farm is not necessarily something that even the most stringent tenant checks will prevent, but it is essential to go through the steps, or legal expenses insurance could be ineffective.

Getting the Right Advice

It is important to seek independent professional advice before making any decision about your property owners' property and liability insurance as well as your financial obligations. You should always ask your insurance advisers what experience they have of dealing with residential and/or commercial rental property insurance.

ALAN BOSWELL GROUP

Meetings

London Social

First Monday of every month, commencing 6.30 pm. the normal venue is being refurbished, so may be different to usual. Check the website for each meeting.

Thanet Social

First Thursday of every month, commencing February. To be held in the newly re-furbished, and renamed Botany Bay Hotel (formerly the Fayreness)

Marine Drive, Kingsgate, Broadstairs, Kent CT10 3LG. 01843 868 641. Commencing 7.00 pm If using Sat Nav put CT10 3LH

Brighton & Hove

The Brighton & Hove Branch of the SLA will be meeting in a new hall. The meeting on Monday 7th November 2016 will be held in the Magrill Room at Ralli Hall (www.rallihall.co.uk)

Ralli Hall, 81 Denmark Villas, Hove, BN3 3TH
Tea and Coffee will be provided before and during the meeting.

The venue is very close to Hove station and opposite the Esso petrol station and the Tesco Metro. Street parking is available as is parking in the Hove Station Car park. After the meeting members can retire the 50m to "The Station" public house.

Southampton

Meetings are at Highfield House Hotel
Highfield Lane (corner of Shaftesbury Avenue), Portswood, Southampton, SO17 1AQ

Meetings/Exhibitions 2016

Make a note in your diary, details on the web:

- Monday 3rd October - London Social
- Thurs 6th October - Thanet Social
- Friday 7th / Saturday 8th October - Property Investor & Homebuyer Show *(Excel London)*
- Tuesday18th October - Medway forum
- Thursday 20th October - Dover and Shepway forum
- Thursday 3rd November - Thanet Social
- Monday 7th November - London Social
- Monday 7th November - Brighton branch meeting
- Tuesday 8th November - Landlord Investment Show *(Olympia)*
- Monday 28th November - Southampton branch meeting
- Thursday 1st December - Thanet Social
- Monday 5th December - London Social

Meeting Subjects & Newsletter Content

We are always happy to hear from you if there are any particular subjects we should be covering at our landlord meetings – let us know.

Likewise if you woud like us to cover a particular topic in the newsleter, or if you would like to contribute an article then please make contact with Gary Waller on:
gary.waller@southernlandlords.org

HOWDENS

JOINERY CO.

The Southern Landlord Association are delighted to have opened a trade account with Howdens which is a trade only joinery and kitchen supplier, the largest kitchen supplier in Britain.

Our members are welcome to use our account terms with prior authorisation from us. Quote account number 1101177436; all transactions will require payment on our account prior to supply of goods. Tel: 01273 476920 for more information.

Want to let your portfolio HASSLE FREE for the next 3 to 5 years and with GUARANTEED RENT? We are looking for all types of property in most areas and at the end of the tenancy we will offer to carry out a refurb so that it is in the same, if not, better condition than when you gave it to us. Email us today to find out more: jcsdevelopments@gmail.com

The finer details...

JSC developments have a contract with a large contractor who are looking for accomodation for their workers who do not live where they shall be working. Thus we would sublet to them. In 1 bed properties it would just be the worker and in larger places we try to home the worker and their family - we would not be using the properties to rent out to individuals as a HMO and all tenants would have to clear checks so landlords can be assured that only good tenants who are in full time work will be placed in the properties.

Riverside Centre, River Lawn Road, Tonbridge, TN9 1EP
Tel: 01732 56 56 01; 01732 56 56 02(help-line)
01732 56 56 03 (accounts); 01732 56 56 04 (Boswells - insurance)
info@SouthernLandlords.Org; www.SouthernLandlords.Org