The Professional Association for

Landlords

Riverside Business Centre, River Lawn Road,
Tonbridge, Kent TN9 1EP
T: 01732 56 56 01
E : info@ihowz.uk W: www.ihowz.uk

February 2019, iHOWZ Newsletter 36
£5 where sold

Tenants Fee Act

Royal Assent highlights the potential importance of this act.

From June 1st, it will not be possible for anyone, landlords and agents alike to charge tenants for most things. There will be a small number of exceptions, principally any charges associated with:

- A change or early termination of a tenancy when requested by the tenant
- Utilities, communication services and Council Tax
- Payments arising from a default by the tenant such as replacing lost key
- And rent. But note that a late rent payment cannot be charged unless 14 days have passed since the full rent was due and has still not been paid. Taking into consideration each day that the rent remains unpaid, late rent charges will be capped at 3% above the Bank of England base rate (currently at 0.75%); and any charge above this will be classed as a prohibited payment.

We will be reviewing the iHowz AST (Assured Shorthold Tenancy) for any charges mentioned to remove any to be dis-allowed, and suggest you do the same for any agreements you use.

The Government have said that they will be publishing guidance on this, but have a habit of publishing guidance and the Act very close to the actual implementation date; so keep watching.

There was quite a long piece in the recent monthly update on this, including an excellent article from Woodstock, the solicitors who take the Help Line on a Wednesday morning.

If you are unable to access the internet ring the office on 01732 56 56 01 to request we mail you a hard copy.

Note also that a recent opinion from the Regulatory Policy Committee (RPC) rated its impact assessment as 'fit for purpose'. The RPC states that the MHCLG's (Ministry of Housing and Local Government) *'assumptions around homelessness and affordability are not clearly evidenced and it would be helpful if the views of landlords and others could be presented alongside those of tenants'.*

Agents are in for a bad year

Government are bringing out a lot of legislation this year. Along with the Tenants Fee Act (above) it is intended that all agents will have to belong to a scheme to protect the tenants and landlords money, a Client Money Protection Insurance.

Most decent agents already have this protection in place, especially if they are an ARLA agent, but some smaller independent ones won't.

Additionally there is a committee sitting under the chairmanship of Lord Best charged with reviewing property agents, especially:

- A possible industry regulator;
- A Code of Practice for agents;
- Minimum entry qualifications, and continuing professional development;
- Agency charges.

All of which will increase costs and stress levels for agents. Expect many to go under this year, and quiz yours on what they are doing about all the changes coming up. If they have no plans we suggest you think about moving.

Selective Licensing

Members will be well aware of the successful action taken to stop the licensing of some 27,000 properties in the City of Brighton and Hove. Members may also be aware of the conditions under which Selective Licensing can be implemented.

Your committee spent many hours producing the evidence necessary to stop Brighton and Hove City Council in its attempt to licence what is virtually 50% of properties owned by private landlords within the City. The case against Brighton and Hove City Council is that it did not produce the evidence required to implement such a scheme and this was supported by the Secretary of State for Communities. There has been the threat of a Judicial Review by Brighton and Hove City Council against the Secretary of State in respect of not allowing the scheme. However Brighton and Hove City Council are well out of time in making their application and although it is not indicated whether it intends to take further action, our association believes that the matter is now dead. This is a very significant success which could have ramifications for other local authorities attempting to bring in Selective Licensing without first producing proper evidence in which to do so.

Members will also be aware that there is currently a review of Selective Licensing as mentioned in another article in this newsletter.

Once an HMO, Always an HMO

With the continuing build of student properties by mainly institutional investors and Universities, it is often muted by local authorities that when such buildings are completed in sufficient quantities to house the vast majority of students, then landlords currently letting houses in multiple occupation to students will have little option but to let those properties to families. Our association has made clear both to Government and local authorities that once a property has been converted into a house in multiple occupation, either to be let to University students or sharers, then it is most unlikely that it will ever revert back to family housing.

There are good reasons for this. Houses in many areas of high demand cost sums that would mean if let to produce a reasonable profit could not be let at a rent the average family could afford. It follows therefore that if landlords were to revert their HMO's into family houses they would very likely make a loss on their investment and therefore would not consider that option. If such properties were unable to be let, it is most likely that landlords would then sell them rather than let them at uneconomical rents.

One thing giving an advantage to private landlords, compared to Institutional investors is that their HMO accommodation is usually let at between 40-50% less than that of purpose built student accommodation. Also many tenants like to live in smaller family units, often in City centre areas so the proposition that by building large numbers of purpose built student accommodation will release private landlords HMO's to be let to families is unrealistic and local authorities should not be of the impression that such properties will in the future revert to family use.

The only reason there is a proliferation of purpose built student accommodation in many areas is that it is the only current new build that produces a reasonable return.

> "Perhaps the Government and local authorities should look at the possibility when institutions and Universities propose more purpose built student accommodation, that part of that accommodation should be built for families as part of the planning permission. However, I have little doubt that those organisations building student accommodation would not wish to be burdened with family units which would significantly reduce their rental income/profit ability."

iHowz -v- Brighton & Hove City Council

The Current Situation

Members will be well aware of the action taken by our Association against Brighton & Hove City Council in respect of its proposal to implement Selective Licensing in twelve wards, covering some 27,000 family homes. Your Board took action, as it considered that Brighton & Hove City Council had not demonstrated that there was sufficient evidence to establish its claim that a significant number of the 27,000 tenants were causing antisocial behaviour that landlords were not taking action that they should have been. Also, that many of those properties were in poor condition. Members will be aware that the Secretary of State agreed with us and initially refused to grant permission on the grounds of antisocial behaviour but gave permission in respect of poor property condition. Directly as a result of iHowz representations, via our legal advisors, the Secretary of State subsequently rescinded its permission and the scheme was turned down, which means that Brighton & Hove City Council could not implement licensing of some 27,000 properties within the twelve wards.

We have now learned that Brighton & Hove City Council are not proposing to bring a judicial review against the Secretary of State and therefore the case is now closed.

This is the only major Selective Licensing case where there has been a successful action to stop a local authority acting unreasonably and without the evidence to support its case. Taking such action does not come cheap. The use of expert barristers who understand public law inside out is absolutely necessary and this case demonstrates to Brighton & Hove City Council, Government and local authorities that our Association will challenge unfair regulation wherever it occurs. Brighton & Hove landlords owning properties in the twelve wards will together have saved £12,420,000 in licensing fees alone and also would have been put to completing onerous documentation, attending inspections and carrying out works required by the local authority. A tremendous saving.

The cost to our Association to date is £59,689. To that sum will have to be added certain costs incurred by Brighton & Hove City Council, as directed by a High Court Judge, which are anticipated to be £8,238. Therefore, the anticipated full cost of our action is £67,927.

As at 5th February 2019, 69 members have donated £10,450, leaving £57,477 to be paid by the Board member who underpinned the cost. We have over 600 members and if each paid £100 the majority of iHowz costs would be covered.

Members will see from the above that in order to take such actions for cases in the future, we need to have members behind us, not only generally supporting but also understanding that they cannot rely on individual officers within the Association to pay the difference between the cost of such cases and the donations received. In the past we had a ring fenced £100,000 to allow for such costs, but today our Association does not have sufficient income from membership fees to set aside such large sums of money. The Board thanks all members who have already contributed, but the purpose of this article is to make clear the actual cost of bringing such a case and the shortfall from donations.

The Board of iHowz, once again, request that if you feel able please donate, in order that we can have sufficient funds to bridge the gap between what has already been donated and what is having to be paid. Your Board is sure that you will understand the need for the extra money.

iHOWZ, Riverside Centre, River Lawn Road, Tonbridge, TN9 1EP
any cheques should be clearly marked 'Fighting Fund - ' *your membership number*'

Alternatively donations can be paid direct into our account 55149480, sort code '60-21-28 again clearly marked with the reference. We will issue appropriate receipts.

Keeping in Touch

Monthly email update.
We would like to remind you that due to a combination of cost and the plethora of changes coming out, members will need to be able to see the monthly email updates, and/or the news section on the web. It is just not possible, nor feasible to keep you informed by any other means. Apologies to anyone struggling with the internet.

If you do have an email address, but have not been getting them please let us know, but also check your Spam folder in case they are going there. The last one was sent out Monday 04/02/2019 @ 15:52. We try to send them out as near to the beginning of the month as practical.

Note that all past newsletters and email updates are in the members section of the web –www.iHowz.uk

New Web site for iHowz
We are pleased to tell you that we are working a new, easier to use web site, which is due to be launched at the beginning of March.

Keep an eye out for it.

Around The Branches

Brighton and Hove Branch: Gary Waller

As you have seen elsewhere in this newsletter landlords are under the public spotlight at the moment, you might have hoped that Brexit might have been a distraction! Councils are keen to be tough, but then there are many times more tenant voters than landlord voters. The government, council and the public do have a point, both my daughters are renting flats in London and the standard of professionalism from landlords and agents has been frankly appalling. Poor quality, damp property and ancient furniture. Many of the properties seen did not need any significant amount of money spent just someone's time to tidy up and finish the little jobs. It has taken me 3 months to get a deposit back for my youngest and her flat mates, to be honest unless everyone in the letting business ups their game you are going to face even stiffer regulations and penalties. Remember that buying an investment property can require significant amounts of someone's time mainly yours, the agents and trusted tradespeople.

All that said, there is still solid demand for rented property, I was quickly able to rent all my student properties for the coming academic year and I could have rented them many times over. Students are however, being more careful and demanding a higher standard. Renters currently have a lot of choice. As I write, Rightmove is showing a total of 2,014 properties to rent in Brighton and Hove,. When you have a tenant issue rather than reaching for the eviction notice it is well worth trying to have a conversation with you tenant, try and understand their problems, be they family, money, loss of job etc. If you can perhaps meet half way you get to keep to keep a happier tenant, you don't have a void period and you probably then don't need to spend money redecorating the property.

Stop Press

At the time of going to press Anne Meadows, previously the Labour Councillor chair of the Brighton and Hove Housing Committee has quit the Labour party and joined the Conservatives. This changes the dynamics of the Council with Labour losing their slim majority until the local elections in May where councillors are re-elected.

Thanet Warned

The Secretary of State for Housing has written to Thanet Council about their low level of housing supply, and has warned them to amend its Local Development Scheme within 8 weeks

Protection Against Troublesome Tenants

Problem tenants can be the bane of a landlord's life. From those who can't, or won't, pay the rent, to tenants who cause damage to yours or surrounding properties, and those who refuse to leave the property should eviction become a necessity, there are a host of things that can go wrong. So how can a landlord protect themselves from falling foul of a troublesome tenant and the associated costs that go with it? There are three inter-linking, but entirely distinct, ways of both helping to prevent problems before they occur and ensuring you're not out of pocket should the worst happen. Each type of cover can be bought separately, but the most comprehensive – and cost-effective – protection is when landlords take out the triple-lock of tenant referencing, plus rent guarantee and legal expenses insurance. All three are available from Alan Boswell Group, and cover can be provided whether you're letting private dwellings, including HMOs and student lets, direct or through letting agents.

Tenant referencing

The natural first stop is the tenant referencing service, which also opens up full cover for rent guarantee insurance. Finding the right tenant can be difficult; without knowing who they are, their renting history or their financial background, landlords are completely in the dark and choosing on a wing and prayer. Tenant referencing removes the guesswork, providing a high degree of peace of mind that your prospective tenant can, and will, pay the rent. The full service leaves no stone unturned in carrying out a range of checks to help landlords find the right tenant:

- Employment history check
- History of residency with previous landlord reference (if applicable)
- Data confirmed, bank account, identification etc.
- Tenant credit check and affordability calculation
- Full written report

A more basic service includes just an identification check, credit check and an online report, while a company credit reference will look into business activities, CCJ history, profit and loss accounts and confirm business activities. All of which will shine a light on the likelihood of your prospective tenant being as good as gold, or a potential risk.

Should a prospective tenant fail the referencing checks, landlords can either proceed, reference a guarantor who can pay the rent in the event of any problems, or look for a different tenant. Once a landlord has found a tenant they are happy with and who has passed all the reference checks, they still need to protect themselves from unforeseen problems. Even the best and most reliable tenant can run into financial difficulties, whether as a result of redundancy, long-term illness or a reduction in their income.

This is where rent guarantee insurance, which includes landlord's legal expenses as standard, can prove vital.

Rent Guarantee and Landlord's Legal Expenses

Rent guarantee cover protects your income from rental payments should a tenant default on payments, providing cover for monthly rental income up to £7,500, or up to £2,500 for multi-tenancy properties up to 25 tenants.

Cover also includes legal expenses (available as a standalone policy) up to £100,000 to cover the costs of evicting a tenant as set out in the Housing Act 1988, and other disputes including recovering costs for damage to the property above normal wear and tear, and tax investigation. Landlord legal advice is available via a 24/7 helpline, while rent guarantee insurance provides online access to a range of health and safety documents.

With the full suite of cover in place, landlords will have the benefit of not only having the best chance of choosing the right tenant, but also protecting their income and mitigating against legal costs should the need arise.

We're Here to Help

Alan Boswell Group is one of the country's leading suppliers of landlord building insurance. Having worked with landlords for more than 20 years, we understand the buy-to-let sector and the challenges landlords face. Our experts can advise you on insurance for all property types, as well as more specialist topics such as rent guarantee and legal expenses, as mentioned above.

To speak to friendly and professional expert, call the Alan Boswell Group landlord team on **01603 216399** or visit **alanboswell.com/landlord-insurance** to find out more.

ALAN
BOSWELL
GROUP

Housing Court Consultation

The Government are considering setting up specialist Housing Courts, along the lines of the Family Courts.

iHowz responded to this, concluding that the current court system is generally fit for purpose. The main problem lies with the Section 8, and the way the law is written. We recommended that the Section be amended so that any uncontested, fully proven Section 8, Ground 8 case (unpaid rent) be rubber stamped without the need to go to court. Naturally if the tenant(s) wished to contest the notice it must go to court.

Interestingly enough the Civil Justice Council (the body responsible for overseeing and co-ordinating the modernisation of the civil justice system) published its response to this consultation in which they also concluded there was no need for a specialist court, and preferred a 'ticketing system' under which specialist Judges are 'ticketed' to deal with these cases.

Income Tax

We have been asked by a member to point out that one consequence of earning more 'profit' is that you are liable to lose your personal allowance.

Note that we do not offer tax advice, as we are not qualified to do so, but strongly recommend you get appropriate advice from someone qualified to do so, and who has current experience of letting laws. There are some handy hints from Inland Revenue on the news section of the web.

New Complaints Scheme for Landlords Likely

The Housing Secretary of State, James Brokenshire, recently announced plans to make landlords belong to a property redress scheme stating

> *"From broken boilers to cracks in the wall, the new Housing Complaints Resolution Service will potentially help millions by providing a straight-forward way of getting help when faced with unresolved disputes about problems with their home – such as repairs and maintenance.*
>
> *Unlike other sectors, such as financial services, the housing market has several different complaints bodies, with homeowners and tenants having to navigate their way through a complicated and bureaucratic system just to work out where to register a grievance.*
>
> *Establishing a single housing complaints service for all residents – no matter whether they rent or own their home – will prevent people from battling with their landlord or builder to resolve issues on their own and make it easier to claim compensation where it's owed."*

At this stage it is not clear if it is proposed to use one of the two existing schemes, or to set up yet another one. We will keep you informed via the news section of the web site.

Review of Selective Licensing

The Government are investigating whether Selective Licensing is working in its current form or not. iHowz are providing input, and we will keep you informed.
On 24th January 2019 the Chartered Institute of Housing (CIH) and the Chartered Institute of Environmental Health (CIEH) published a report analysing the impact of selective licensing schemes run by 20 councils across England.

It finds that selective licensing schemes help to tackle poor standards in the private rented sector but could be even more effective with further government support.

The report says that whilst it may take several years for tenants to see results, many schemes are now delivering significant benefits. High numbers of serious hazards and defects have been identified and addressed as a result of property inspections: in schemes that have ended, between 69% and 84% of homes in licensed areas needed work to raise them to a decent standard.

Changes to Electrical Safety Announced - Again

The Housing Minister also announced plans to tighten up electrical checks on rented property, announcing 'As part of the government's commitment to drive up standards in the private rented sector, landlords will be legally required to ensure that the inspectors they hire to carry out safety inspections have the necessary competence and qualifications to do so – with tough financial penalties for those who fail to comply.

Ministers will also publish new guidance which sets out the minimum level of competence and qualifications necessary for those carrying out these important inspections, meaning both landlords and tenants can be assured their home is safe from electrical faults.'

In fact I have lost count of the number of times the Government have announced their intention to improve electrical safety. I'm not sure why Government always treats electricity as a poor relation to gas. We've had mandatory gas checks since 1998; it has been a requirement for all gas engineers to be on the Gas Safe Register since 2010, but we don't have a similar thing for electricity even though there are some 1400 fatalities and injuries caused by electrical fires; but 30 from CO (Carbon Monoxide) poisoning (all for 2015).

So I for one will be pleased when the Government throws some light on what is required. But be warned, we are told there won't be enough electricians to carry out all the new checks, let alone repair any problems; so get ahead of the game and get your electrics checked now.

English Private Landlord Survey

On 31 January 2019 the MHCLG published the English Private Landlord Survey. The main report states that since the last survey in 2010, the private rented sector has undergone substantial growth and change. The number of households in the sector rose by 25 per cent between 2010-11 and 2017-18, from 3.6 million to 4.5 million households.

In 2017-18, 35 per cent of households in the private rented sector included dependent children (1.6 million households, up 37 per cent from 1.1 million in 2010-11). There are high rates of turnover in the private rented sector, with the number of house moves significantly higher than in the owner occupied and social rented sectors, both within the sector and between it and the other sectors.

English Housing Survey 2017-2018

On 31 January 2019 the MHCLG published the English Housing Survey 2017 to 2018. Some of the findings are:

- 70 per cent of landlords kept their rents the same when they most recently renewed a tenancy showing that landlords prioritise keeping good tenants for a long term.

- The average length of time a private sector tenant had lived in their current home was up from 3.9 years in 2016/17 to 4.1 years in 2017/18.
- The proportion of private rented homes with the most serious hazards in them has fallen considerable in the last decade. In 2017 14 per cent of rented homes had a Category 1 hazard, down from 31 per cent in 2008.
- 57 per cent of those aged 35-44 were owner occupiers, up from 52 per cent in 2016-17.
- The private rented sector accounted for 4.5 million or 19 per cent of households. The social rented sector, at 4.0 million households (17 per cent), remained the smallest tenure.
- The social rented sector had the highest rate of overcrowding (8 per cent, compared with 6 per cent of households in the private rented sector and 1 per cent of owner occupied households).

See the news section for more details, a link to the actual report and to an article from the CIH (Chartered Institute of Housing).

Buy to Let Bubble Has Burst

A recent article in the Mail has revealed the extent of problems for small landlords.

Entitled 'How Britain's £239bn buy-to-let bubble burst: Their devastating report reveals landlords ruined by tax penalties - and their pension plans hit' it goes on to list:

- A tax crackdown on rental income has disrupted the finances of small landlords
- They are now taxed on their revenue rather than profit after mortgage costs
- Meanwhile, a 3% stamp duty surcharge has delivered huge bills for buying
- Tax hit has meant that for many landlords the numbers no longer stack up
- Existing landlords are offloading around 3,800 properties a month

Abandonment

You may be aware that the Housing and Planning Act 2016 proposed to make it easier to recover your property if it has been abandoned.

Unfortunately this part of the Act has not been enacted, so cannot be used. Personally I believe it to be a seriously flawed piece of legislation if enacted as it is, so won't be advising members to use it, assuming it ever becomes law.

Best to continue using Section 21, and or Section 8 – you can issue both at the same time if required.

Goods Left Behind

If you have goods left in the property it is vital you follow the correct procedure. There is a fact sheet in the members section of the web dealing with this.

Management of Leasohold Properties: Law Commission Proposals

The Law Commission has recently commissioned a consultation on proposals to make it easier for leaseholders to take back day to day management of their building.

The proposals include:-

- Extending the qualifying criteria so that leasehold houses, not just flats, qualify for the 'right to manage' (RTM) which gives the homeowners, rather than their landlord, responsibility for management functions relating to services, repairs, maintenance and insurance.

- Permitting multi-block RTM on estates, and removing the 25 per cent commercial space restriction.
- Reducing the number of notices that leaseholders must serve as part of the claim process.
- Introducing deadlines for procedures and exchanges of information between the landlord and RTM company, so that the process doesn't stall.
- Exploring options for a more balanced costs regime.
- Giving the tribunal exclusive jurisdiction over RTM disputes so it can resolve disputes quickly, and waive minor procedural mistakes made in the process of claiming the RTM.

More details are in the news section of the web.

Mike Stimpson's Column

Once again we are in another New Year and 2019 could well be one of the worst years for private landlords.

I read an article a couple of weeks ago in the Sunday Times where it states that the private landlord has never been more regulated than today. I concur exactly with that view. Having been a private landlord and hopefully treating my tenants in a reasonable manner, I find that I am being questioned more and more about my integrity and the need as Government so often puts it, "for tenants' rights without corresponding obligations".

Members will now be well aware of the way in which interest on their mortgages is being calculated and that we are the only sector that is only allowed to deduct interest payments, soon to be limited to 20% after profit has been established.

The new regulations being introduced on the 1st June 2019 banning most fees previously payable by tenants may seem a simple exercise but when one looks more closely at the "ban of fee" regulations, it may well become a charter for so minded legal aid centres in trying to stop landlords against obtaining possession of properties by accusing them of taking fees in one form or another when it is banned.

To not allow the use of Section 21 where a fee has been irregularly taken is yet another step, another hurdle a landlord must jump over when using the accelerated possession procedure. In addition, if it is established that a landlord or agent has taken a fee that is banned, (and I am sure it won't be difficult for the legislation to be confusing for landlords), then the first penalty is a fine of up to £5,000 and for any further offence, a fine of up to £30,000. How balanced is that? Firstly, to not allow the use of Section 21 if it is established a banned fee has been taken and secondly to make the penalties extremely high does not equate with fairness at all.
It will be the local law centres once a landlord applies for a possession order under Section 21 who will ask the following questions of their tenant applicants:

- Did the landlord take a deposit?
- Is the property in disrepair?

Now in addition. Is there any way in which the landlord could be construed as having taken a banned fee?

Government has once again given law centres, acting on behalf of tenants, a further opportunity to stop an eviction taking place. In my mind, landlords seeking possession, especially for rent arrears, will be well advised to use the Section 8 process and not the Section 21 as many currently do. What of course is even more important is that members understand fully the legislation concerning fees and ensure they don't fall foul of them.

Whilst talking about the banning of fees, I think it essential that landlords ensure that they are not out of pocket. If they use an agent, it is the landlord who will have to pay the agents costs and that can only be balanced if the agent is able to raise rents to cover the costs which landlords will now have to bear. For my part I have always charged £100 in administration fees when setting up a tenancy. I personally shall now ensure that I am no worse off by increasing rents of all new tenants after the 1st June to cover my administration fee. I suggest members do the same.

Finally, I would like to just make a few comments about the legal action, the costs that have been incurred, and some £12.2 million savings by stopping the implementation of Selective Licensing in 12 wards. Bringing such cases and using well qualified Barristers to promote our case costs significant sums of money. Detailed separately in the newsletter are the total costs incurred to date and the value of donations paid by members – there is a substantial shortfall. Members should understand that if we wish to fight unfair legislation, we should find the money together not expect any individual to have to find very large sums when we all benefit from the actions that are taken. I trust that members will look again as to whether they have made a donation and if possible help reduce the outstanding balance.

May I wish you all a successful 2019.

Mike Stimpson

The End of Section 21?

We seem to be getting lots of left wing organisations suggesting the abolition of the Section 21, as they have already done in Scotland.

On 28th January 2019 the Institute for Public Policy Research (a left wing think tank whose primary aim was to provide theoretical analysis for modernisers in the UK Labour Party) published Sign on the dotted line? A new rental contract in which it calls for the ending of the Section 21 to give more security of tenure for tenants.

It goes on sets out "a programme of radical but necessary reform to the private rented sector which would address the challenges, which the IPPR sees as unaffordability, poor conditions, a lack of tenure security and limited control against a background of cuts to benefits and welfare reform, a slow court system and a lack of strategic policy."

Also, in a recent report, Shelter has called for all private renters to be given permanent tenancies as a legal minimum. The calls come in Building for our future: A vision for social housing which makes 23 recommendations designed to shake up the social and private rented sectors.

The report says: "Social renters are more protected from eviction but they face stigma and indifference – and their complaints go nowhere."

"Too many private renters are stuck in insecure, unaffordable tenancies, too frightened to complain about poor conditions or rent increases for fear of eviction."

It goes on to say "Unless we act now, we face a future in which a generation of young families will be trapped renting privately for their whole lives, where more and more people will grow old in private rentals, where billions more in welfare costs will be paid to private landlords – and hundreds of thousands more people will be forced into homelessness."

It further recommends:

- All private landlords with over 25 homes would have to register with a new consumer regulator
- This body would set consumer standards for all private rented housing
- The Government should increase resources for local enforcement to tackle bad landlords and poor housing conditions, in line with the growth in the number of households renting privately
- The Government should end Section 21 – so-called no fault eviction, so that permanent tenancies are the legal minimum for all private renters
- Private renters should be protected from above-market rent increases and the Government should make available information on rent prices for different property types at local government ward level.

This follows on from Jeremy Corbyn calling for an end to the Section 21 in an article in the Independent December 2017. This was echoed by Croydon Council last October.

Be careful how you vote in the next General Election!!

Home (Fitness) Act Allows Tenants to Sue Landlords over Property Condition

A new Act of Parliament was passed a few days before Christmas 2018, giving tenants in England new powers to fight unfit housing – including the ability to sue landlords for not carrying out repair work. It also allows tenants to take a Local Authority to court for the first time and rightly puts them on the same standing as private landlords.

There are exemptions to when a tenant can apply to court:

- If the problem has been caused by the tenants failing to act in a 'tenant-like manner', e.g. deliberate damage to the property.
- 'Inevitable events', e.g. damage caused by fire, storm, flood, etc.
- Repairs of items that the tenant can remove, e.g. their own furniture in an unfurnished property.
- Works which would breach the landlord's other obligations, e.g. planning permission.
- Work that requires third-party consent, e.g. from the freeholder.

If you are a decent landlord and carry appropriate maintenance on your property you have nothing to worry about with the Act; it is aimed at those landlords who allow standards to slip.

Help Line

Slight change to the Help Line. Woodstock solicitors will now be taking the Help Line Wednesday morning between 10am-1pm, rather than Wednesday afternoon.

Dial the same number **01732 56 56 02**, then select option 1.

Death of a Tenant

What happens to a tenancy when the tenant dies?

There is often a lot of confusion and misunderstanding about this.
First off – a tenancy does not end when the tenant dies. What happens depends on the circumstances.

If the tenancy is in joint names then the living tenant will acquire the deceased tenant's share by what is known as the 'right of survivorship'. So if a husband and wife rent a property jointly and the husband dies, it will then belong just to the wife.

If there is only one 'sole tenant' then what happens depends on what sort of tenancy it is.

- **If the tenancy is still within the fixed term**, then the remainder of the fixed term is a property right, the ownership of which will pass to the deceased tenant's Personal Representatives* as part of the tenant's 'estate' (i.e. everything he owns when dies)
- **If the tenancy is a periodic 'statutory' tenancy** under the Rent Act 1977, then the tenancy will pass either to the spouse (if there is one living) or in some circumstances to a member of the tenants family living at the property at the time of death (for full details see the act)
- **If the tenancy is a periodic assured tenancy** under the Housing Act 1988 then it will normally pass to the spouse (if any). This will also happen with an assured shorthold tenancy, but here the landlord can easily end it by serving a section 21 notice (again, for full details, see the act). A landlord can also recover possession through the courts under ground 7
- **If there is no-one eligible to succeed to the tenancy under the 'succession' provisions** of the Rent Act 1977 or the Housing Act 1988, then the tenancy will, as with a fixed term tenancy, pass to the tenant's Personal Representatives as part of his estate

So what rights and obligations do the personal representatives have?

Basically the same as the tenant's were. So if there are rent arrears due to the landlord, these will have to be paid from the estate before any money or assets can be given to beneficiaries under the tenant's will or intestacy.

However note that the Personal Representatives are not liable themselves, in their personal capacity, for any money. So if a tenant, Fred, dies with no assets and owing £2,000 rent arrears, the landlord will get nothing. He can't expect, for example, Fred's sole surviving niece, Alice, to sell her own house to pay off her uncle's debt. It's not her debt.

If Fred died with money in the bank and other assets however, then Alice may lose her inheritance as the £2,000 rent will have to be paid to the landlord before she can take anything.

It is important to realise, particularly if there are any assets in the tenant's estate, that the tenancy will not necessarily be ended just by telling the landlord that the tenant has died and handing the keys back.

Where, for example, the fixed term has not yet ended, then rent will still fall due on a month by month (or for a weekly tenancy, week by week) basis. Although in the Fred/Alice scenario, I see no reason why Alice could not move in for the remainder of the fixed term if she pays the rent.

Normally, however, the landlord will agree to take the property back, even if the fixed term still has a while to run, as they will want to re-let.

If the tenancy is a periodic one, then the Personal Representatives will be able to serve a notice to quit on the landlord and end the tenancy that way.

How can the landlord end the tenancy on the death of the tenant?

What usually happens is that the landlord will want to take the property back and re-let it. However, he does not have the right to just do this, unless this is with agreement with the tenant's Personal Representatives.
To formally end the tenancy, he will need to serve notice on the Personal Representatives, and then, if they don't agree to give up possession, or if there is someone else living at the property, obtain a possession order through the courts.

- For an AST he should serve a section 21 notice.
- For an assured tenancy he can serve a section 8 notice citing ground 7
- For a common law/unregulated tenancy, he should serve a Notice to Quit.

Ground 7 was initially only available for periodic tenancies but can now also be used during the fixed term.

What happens if there are no personal representatives?

If the tenant has no friends or relatives and there is no-one able to deal with the administration of his estate after his death, then an official called 'The Official Solicitor and Public Trustee' has the authority to deal with this.
So for example, if the landlord wants to serve a notice, he will be able to serve it on the Official Trustee.

In conclusion

I suspect in most cases, the landlord just takes the property back, in agreement with the tenants family. In most cases this will be the most sensible way to proceed. However, there is no agreement, it is as well to know what the rules are.

'Personal Representatives' includes both the executors under a will and administrators appointed when the person dies intestate (i.e. without having made a will).

You should always get independent legal advice before taking any action.

Income Tax

We have been asked by a member to point out that one consequence of earning more 'profit' is that you are liable to lose your personal allowance.

Note that we do not offer tax advice, as we are not qualified to do so, but strongly recommend you get appropriate advice from someone qualified to do so, and who has current experience of letting laws.

Meeting Venues

London Meetup

First Tuesday of every month, commencing 6.30 pm. To be held upstairs at the Constitution - 42 Churton Street, SW1V 2LP. Tel: 020 7834 365.
Note the change from the first Monday of the month – the venue remains the same.

Thanet Meetup

First Thursday of every month. Held in the 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

Meetings are held at The Ralli Hall, see web site for times.
81 Denmark Villas, Hove, BN3 3HT (Easy Parking in Hove Station)

Southampton

Meetings are at Highfield House Hotel, see web site for times.
Eastleigh Rooms, The Concorde, The Old Schoolhouse, Stoneham Lane, Eastleigh, Hampshire, SO50 9HQ.

Meetings/Exhibitions 2018

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

- Monday February 25th – Southampton branch meeting, evening meeting
- Tuesday March 5th – London Meetup, discussing the Tenants Fee Bill
- Wednesday March 6th – Dover & Folkestone landlords forum
- Thursday March 7th – Thanet Meetup
- Thursday March 21st – Landlord Investor Show, Olympia
- Friday March 22nd – Ideal Home Exhibition opens
- Tuesday March 26th – Accreditation training in Brighton. Is your mandatory license due for renewal? Get a discount.
- Friday March 29th – ATLAS/Llas Conference and Awards
- Tuesday April 2nd – London Meetup, discussing HMO's
- Thursday April 4th – Thanet Meetup
- Fri/Sat April 12/13th – Property Investor Show, Excel
- Monday April 29th – Southampton branch meeting, day meeting
- Thursday May 2nd – Thanet Meetup
- Monday May 6th – London Meetup, discussing taxation matters
- Monday June 4th – London Meetup, discussing how technology can help you
- Thursday June 6th – Thanet Meetup
- Monday June 10th – Brighton and Hove, evening meeting
- Monday July 2nd – London Meetup
- Thursday July 4th – Thanet Meetup
- There will be no meetings in August

The next printed newsletter will be the end of June. In the meantime keep up to date with the news section, and the monthly updates.

iHOWZ LANDLORDS' ASSOCIATION
Riverside Centre, River Lawn Road, Tonbridge, TN9 1EP
info@iHowz.uk / www.iHowz.uk

Tel: 01732 56 56 01
Help-Line: 01732 56 56 02
Accounts: 01732 56 56 03
Insurance: 01732 56 56 04