

Wishing Our Members a Merry Christmas and a Prosperous 2018!

Another successful year for your association. Membership increased, accredited membership increased and close ties with our partnership local authorities continue apace. The association's website is complete and fully functional and has been well received by members. We also have a Facebook page, so if inclined please 'follow us and like' for regular updates and news.

Most members are now renewing via BACS, renewal invitations this year have been sent by email. If you have missed the email renewal invitation, you can still renew now by paying your £45.00 membership by BACS to Sort Code 20-68-10, Account Number 50498610 quoting your name and membership number. If BACS isn't available to you, you can call the office to pay by card. SWLA represents remarkable value for money. We take this opportunity to remind you that all training courses are subsidised by local authorities, providing a free venue. The training itself is carried out by Training for Professionals of Poole, Dorset. We hope to run an Agents Training day in the new year, so watch the website for details.

If you can no longer access the members area to download stationery etc, once you have renewed your membership, you will regain full access. Don't delay! Membership is due on 1st November each year.

SWLA Landlord Training in Plymouth

Thursday 25th January 2018 - Landlord Accreditation Course
9.30 – 4.30 – Covers all aspects of letting, can lead to accreditation.
(Cost for SWLA members, £65.00)

Monday 5th February 2018 - 2 half day courses
AM; 9:30 – 12:30 – Repossession Procedures
PM; 13:30 – 16:30 – Compliance and Safety Related Issues
(Cost for SWLA members, £35.00 per half day course or £65.00 for full day)

DON'T MISS OUT! BOOK EARLY AS NUMBERS ARE LIMITED.

Please see our website for further details –

www.landlordssouthwest.co.uk

December 2017

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Finance and tax

Stamp duty land tax – The government will raise the price at which a property becomes liable for SDLT to £300,000 for first time buyers. The relief will not apply to properties worth over £500,000. **Capital Gains Tax (CGT) payment window** – The introduction of the 30-day payment window between a capital gain arising on a residential property and payment will be deferred until April 2020.

Rent-a-room relief – The government will call for evidence to establish how rent-a-room relief is used and make steps to ensure it is better targeted towards longer-term lettings.

Raising income tax bracket – The personal allowance for income tax will be increased from £11,500 to £11,850 from April 2018. The threshold to pay a higher rate of income tax will rise from £45,000 to £46,350.

Mileage rates for landlords – The government will continue to allow unincorporated landlords the choice to use the government's fixed mileage rates or actual vehicle running costs and capital allowances when it comes to calculating deductible motoring expenses.

Supply and rents

Empty homes premium – The government is keen to bring empty properties back into use. To help achieve this, local authorities will be able to increase the council tax premium from 50% to 100%.

Longer tenancies – The government will consult on landlords offering longer, more secure tenancies to those tenants who want them.

Review of build out – The government will set up a panel to explain the gap between housing completions and the planning permission given, and make recommendations for closing it.

Register of planning permissions – The government will create a central register of residential planning permissions to improve information on where permissions are held and progress towards them being built.

Small sites – The government will provide a further £630 million to accelerate the building of homes on small sites. Helping boost housing supply.

New garden towns – The government will bring together public and private capital to build five new garden towns.

Welfare

Universal Credit – The government will provide more support to Universal Credit claimants. From January 2018, those who qualify will be able to access up to a month's worth of Universal Credit within five days via an interest-free advance.

The government will extend the period of recovery from six months to twelve months, making it easier for claimants to manage. From February 2018, the government will remove the seven day waiting period so that entitlement to Universal Credit starts on the first day of application.

From April 2018 those already on Housing Benefit will continue to receive their award for the first two weeks of their Universal Credit claim. The government will make it easier for claimants to have the housing element of their award paid directly to their landlord.

Targeted Affordability Funding – To support Housing Benefit and Universal Credit claimants living in areas where private rents have been rising fastest, the government will increase some Local Housing Allowance rates.

Rent payment data – The government will support firms developing innovative solutions that help first time buyers ensure their history of meeting rental payments on time is recognised in their credit scores and mortgage applications.

Rough sleeping – The Budget sets out the government’s first steps towards its commitment to halve rough sleeping by 2022, and to eliminate it by 2027.

Housing First pilots – The government will invest £28 million in three Housing First pilots in Manchester, Liverpool and the West Midlands, to support rough sleepers with the most complex needs to turn their lives around.

Article abridged from RLA



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Understanding Carbon Monoxide

Carbon monoxide is known as the silent killer. Odourless and invisible it can be fatal if you are exposed to high levels, with 50 people a year dying from CO poisoning and thousands more needing treatment. Carbon monoxide (CO) is created when fuel does not burn fully and household appliances, such as gas fires, boilers, central heating systems, water heaters, cookers and open fires which use gas, oil, coal and wood may be possible sources of CO gas. CO poisoning can lead to lasting neurological damage and death.

In 2009 a landlord was given a 16-month suspended sentence and fined £4,000 at Derby Crown Court after her tenant died of carbon monoxide poisoning when she failed to carry out gas safety checks.

What does the law say?

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on 1 October 2015. The rules, which also cover smoke alarms, state PRS landlords must have a carbon monoxide alarm in any room containing a solid fuel burning appliance, e.g. a coal fire or wood burning stove.

Government guidance also encourages landlords to ensure that working carbon monoxide alarms are installed in all rooms with gas appliances.

After that landlords are responsible for making sure the alarms are in working order at the start of each new tenancy. SWLA recommend that each alarm is tested by the landlord with the tenant present. This should be documented and signed/dated within the tenancy agreement or inventory. Remind tenants that it is their responsibility to test the alarms on a monthly basis.

It should be noted that carbon monoxide alarms do have a shelf life of around five – seven years.

Carbon dioxide, what are the warning signs?

- Boiler pilot light flames burning orange, instead of blue
- Sooty stains on or near appliances
- Excessive condensation in the room
- Coal/wood fires that burn slowly or go out
- Families suffering prolonged flu-like symptoms.

Gas appliances in your rental homes must also be serviced annually by a qualified Gas Safe Registered engineer.

Understanding Carbon Monoxide

WHAT TO LOOK FOR IN A CO ALARM

- Seek out the Kitemark: Look for the BSI Kitemark.
- Pay for protection: Pay around £20 for a CO alarm. Lookalike brands all cost around £10.
- Reputation matters: Choose brands that are widely available from well known shops
- Battery types: Alarms with sealed batteries usually last around five to seven years, with some lasting 10 years, after which the alarm will need replacing. Replaceable battery alarms need new batteries every two to three years.
- Install correctly: Fit your alarm high up in the same room as the potential source of CO, 15cm from the ceiling and at least one metre away from boilers, cookers and fires.
- Beware patch detectors: Patch-style detectors change colour in the presence of CO, such as from a faulty boiler. But they are silent, and therefore less effective.
- LCD screens aren't essential: All you need is a noisy alarm that sounds when needed.

Article abridged from RLA

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Section 21 – Changes to Court Form N5B

In order to serve a Section 21 (no fault eviction) notice a landlord needs to have complied with certain regulations in order for the section 21 notice to be valid.

This information applies to assured shorthold tenancies which began or were renewed on or after 1st October 2015.

Updates have been made to the accelerated possession claim form (N5B) that is used to seek a court order based upon a Section 21 notice. The new form reflects the need (for tenancies starting or renewing on or after October 1st 2015) for a landlord to have provided their tenant with the EPC of the property, a periodic gas safety record and a 'How to Rent Guide'.

The form asks when these were given to the tenant and in the case of the 'How to Rent Guide' how it was given.

Landlords need to have protected any deposit taken within 30 days of receipt and given their tenants the prescribed information. If this is not complied with, and a Section 21 notice is served, the Section 21 notice is not valid. If a deposit has not been protected in accordance with the regulations, it needs to be paid back in full before a Section 21 notice is served. The updated accelerated possession claim form gives landlords who are in this situation an opportunity to state when the deposit was returned and on what date.

A Tenant's Right to know their Landlord's Address

We are often asked what address a landlord should use in a tenancy agreement. An address for service is an address where landlords or tenants will receive notices and other documents about the tenancy. This needs to be an address which is regularly monitored where correspondence will be dealt with promptly. An address for service can be your own address or somewhere that mail can be received upon your behalf. As well as providing an address, you can also provide a PO Box number, fax number or email address as additional addresses for service.

If your address for service changes during the tenancy, you must give your new address for service to your tenant (or landlord) within ten working days. There are two main statutory rights that tenants have relating to their landlord's address;

The civil law right is under section 48 of the Landlord and Tenant Act 1987

The criminal law right is under section 1 of the Landlord and Tenant Act 1985

Failure to provide an address is a criminal offence and may result in a fine.

Landlord Banning Orders, Rogue Landlord Register and Changes to HMO Licencing

These are expected to come into force in April 2018. The same timescale is also expected for changes to mandatory HMO licencing. A response from the Government is due in the next few months to be implemented in April 2018. Landlords will have a grace period to comply with the new HMO regulations.

Is your rental property ready for winter?

Insurance;

Have a good level of landlord insurance, problems are much more likely in the winter months. Before renewing your current insurance, feel free to call Excaliber (01752 340183) or Landlord Insure UK (0800 731 6689 Option 2) who are happy to assist SWLA members by providing a free quote which is both competitive and comprehensive.

Check the heating system;

Make sure it's working as it should. Aim to have the boiler serviced to keep it in good working order.

Check the pipes and brick work;

Check for signs of leaks, breaks or blockages. Serious problems can happen when blocked or leaking pipes freeze then burst. Check the brickwork for cracks.

Sweep the chimney;

If there is an open fire, make sure the chimney has been swept and provide a fire guard.

Keep draughts out;

Fit draught excluders to any doors or windows that need it. Ensure the property is well insulated.

Inform your tenants;

The property should not go to temperatures of lower than 8 degrees Celsius to avoid pipes freezing and bursting. Heating should be set to come on if temperatures reach a low level.

Avoid condensation;

Adequate ventilation and heating should help prevent condensation. If condensation levels are high then mould growth will occur, usually in colder parts of the property or rooms. Tenants should avoid drying clothes on radiators, windows should be open if a tumble dryer is in use or when cooking, extractor fans and open windows will prevent condensation in bathrooms.

Vacant properties;

If you have a vacant property over the winter, make regular visits and check the items above.

Please see the SWLA trade listing on our website for trusted local traders and for all your landlord insurance requirements. All companies listed are happy to support SWLA members.

Conservative Party Conference

Several announcements were made by Sajid Javid MP (Secretary of State for the Department of Communities and Local Government) affecting the private rented sector;

- Ban on letting agents' fees – legislation will be published soon for parliament to pass.
- Regulation of all letting agents so they meet strict minimum standards.
- All landlords will need to be covered by a redress scheme, with an Ombudsman, so that tenants have a quick and easy resolution to disputes. Membership will be directly or via a letting agent.
- The Department will also consult with the judiciary on a new, specialist Housing Court to enable faster and more effective justice.

English Housing Survey Summary 2015/2016.

The private rented sector remains the second largest tenure in England, and has grown in the last decade or so.

In 2015-16, 4.5 million households were renting in the private sector. This represents 20% of all households in England. There are now 2.5 million more households in the private renting sector than there were in 2000.

The increase in the size of the private rented sector has been particularly pronounced among younger households who are now more likely to be renting in the private rented sector than to own a home.

The proportion of younger people in this sector has increased over the last decade. The proportion of those aged 25 to 34 who lived in the private rented sector increased from 24% in 2005-06 to 46% in 2015-16.

There has been a large increase in the number of families in the private rented sector, particularly lone parent families.

The proportion of households living in the private rented sector who had dependent children increased from 30% in 2005-06 to 36% in 2015-16. This increase was particularly apparent for lone parents with dependent children. An increase from around 229,000 households to 519,000 households in the last decade.

One in five private renters are dissatisfied with their status as a private renter. In 2015-16, 21% of private renters were dissatisfied with their status as private renters (9% of whom were very dissatisfied with their current status), compared less than 1% of owner occupiers.

Private renters spend a significantly greater proportion of their household income on their housing costs than social renters, but are less likely to be in arrears.

On average, households in the private rented sector spent 35% (including Housing Benefit) of their income on rent. Social renters spend, on average, 28%.

Some 9% of private renters were either currently in arrears or had been in the previous 12 months, compared with 25% of social renters.

Churn in the private rented sector is higher than in other sectors.

In 2015-16, 787,000 households moved within the private rented sector (i.e. from one privately rented home to another) and 196,000 new households were created. There were 187,000 moves into the sector, of which 72%, (135,000) were from owner occupation. There were 256,000 moves out of the sector, with 67% (172,000) of these moving to owner occupied accommodation and 84,000 moving into the social rented sector.

Most private renters move because they want to but one in ten was asked to leave by their landlord.

When asked about their most recent move, most private renters said that their last tenancy ended because they wanted it to (73%). A tenth (11%) said that their landlord or agent ended the tenancy.

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EPC Update

The Government has published official guidance to landlords of privately rented domestic and non-domestic property on complying with the 2018 'Minimum Level of Energy Efficiency' standard (EPC band E).

A brief summary;

The domestic minimum standard will be introduced in a phased manner, with triggers for new tenancies signed from 1 April 2018 onwards, and a backstop date for all tenancies from 1 April 2020. This means that, from 1 April 2018 landlords must not let any sub-standard domestic property to new tenants, or renew or extend an existing tenancy agreement with existing tenants, unless either:

- a. The landlord has made all the relevant energy efficiency improvements that can be made to the property (or that there are none that can be made) and the property's energy performance indicator is still below an EPC E, and this exception has been registered on the national PRS Exemptions Register; or
- b. No improvements have been made but a valid exemption applies which has been registered on the Exemptions Register.

Then, from 1 April 2020, landlords must not continue to let a sub-standard domestic property, even to existing tenants (where there has been no tenancy renewal, extension or indeed new tenancy), unless:

- a. All relevant energy efficiency improvements have been made (or that there are none that can be made), the EPC remains below E, and the exception has been registered on the Exemptions Register; or
- b. No improvements have been made but a valid exemption applies and has been registered on the Exemptions Register.

Therefore, from 1 April 2018, where a landlord intends to let a domestic property (or from 1 April 2020 continue to let such a property) they will need to check whether their property is covered by the minimum level of energy efficiency provisions, and, if so, ensure that the EPC rating is at E or above. If the EPC rating is below E, they must either take appropriate steps to improve the rating to meet the minimum standard, or register an exemption if applicable.

Buy-to-Let landlords and mortgages/re-mortgages

Buy-to-Let landlords might find it far more difficult to get buy to let mortgages if their properties don't have the right EPC rating. From April 1st 2018 (and maybe sooner if lenders implement the new checks beforehand) Buy-to-Let borrowers should expect to submit a valid EPC with an agreeable rating. If this is not possible, the mortgage application may be refused.

Maintaining a valid EPC may also be written into your mortgage contract conditions, too. Surveyors may even down-value properties which have unsatisfactory EPC ratings.

Landlords fined over 'Right to Rent'

Penalties totalling over £160,000 have been issued to landlords under the Right to Rent scheme since 2016. Fines have been issued to 236 property owners between February 2016 and June this year. The Right to Rent scheme was introduced in February 2016 and requires landlords to check prospective tenants' immigration status and refuse housing to those without the right to rent in the UK.

Landlords can face up to 5 years in prison and unlimited fines for getting it wrong. This has created a climate of fear for some landlords.

Immigration Minister Brandon Lewis said that 'Landlords can avoid the risk of a civil penalty by conducting simple and straightforward checks on tenants' documents in accordance with Home Office regulations.'

For further information and for a clear guide of how to check your prospective tenants' documents, please refer to the gov.uk guide; www.gov.uk/check-tenant-right-to-rent-documents

You must check ALL tenants aged 18 or over. This even applies to tenants who aren't named on the tenancy agreement, also if there is no tenancy agreement in place/in writing.

SWLA Member Benefits

Have you applied for a B&Q Trade Point card via the SWLA? If not, please contact the office and we will arrange for one to be sent to you.

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Deposits and what to do if you get it wrong

Deposits MUST be lodged

Any deposit taken in connection with an Assured Shorthold Tenancy ('AST') since 6 April 2007 must be registered with an authorised tenancy deposit scheme, and the tenant must be provided with prescribed information within 30 days of the receipt of the deposit.

The sanctions against the landlord for non-compliance are:

The landlord will be prevented from serving a section 21 notice to recover possession of the property; and

The landlord may be liable to pay a fine to the tenant in the amount of once, twice or three times the deposit amount.

If a landlord has not lodged the deposit, the landlord would need to return the deposit to the tenant before serving a section 21 notice otherwise that notice will be invalid.

Deposits taken before 6 April 2007

The Deregulation Act 2015 was introduced to help clarify some of the requirements around protecting deposits, particularly those taken before 6 April 2007.

- Deposits taken before 6 April 2007, for tenancies which have subsequently moved onto a periodic tenancy on or after this date, need to have been protected in a tenancy deposit protection scheme if the tenancy is still running. Landlords had until 23 June 2015 to protect the deposit or potentially face a fine.
- For deposits taken before 6 April 2007, where the tenancy became periodic before this date, landlords are not required to protect the tenant's deposit. However, landlords won't be able to serve a section 21 notice to regain possession of a property unless the deposit is protected or returned. In this instance there would be no financial penalty against the landlord.
- If a tenancy is renewed or rolls over on a periodic basis, landlords don't need to reissue Prescribed Information to a tenant if the deposit remains with the same authorised scheme, and the parties and premises remain the same.
- The legislation has also clarified that the reference to 'the landlord' within the Prescribed Information includes those acting on behalf of the landlord, such as letting agents.

A landlord has not lodged a deposit and needs to regain possession, what should they do?

It is too late to return the deposit after the section 21 notice has already been served. The landlord would need to return the deposit to the tenant and serve a new section 21 notice.

Failure to comply with the initial requirements relating to deposit protection will not prevent a landlord from serving a section 8 notice on the tenant where there has been a breach of the terms of the tenancy.

Rent in advance or deposit?

Whether or not funds paid to a landlord are 'advance rent' or a 'tenancy deposit' will depend on the facts of each case and the terms of the tenancy agreement. If it is agreed that the payment is made in advance for a 2 month period and the tenant is not required to pay any other sums to the landlord for that period then it is likely that the payment will be an advance rent and not a deposit.

If the payment has any conditions attached to it then it may be deemed to be a deposit.

If the tenant does not have registration details of the deposit, is the S21 notice valid?

If it is the case that the deposit was registered with a tenancy deposit scheme on time (within 30 days of receipt) but the tenant has not been made aware of this, the landlord must provide the tenant with the prescribed information before a valid section 21 notice is served.

Can you protect a deposit after the 30 day period has passed?

Section 215(2A) of the Housing Act 2004 (which was inserted pursuant to section 184(13) of the Localism Act 2011) requires the deposit to be returned. There is no provision in the Act allowing 'late' registration of a deposit.

Once the deposit has been returned, the landlord can serve a section 21 notice. However, the return of the deposit does not prevent the tenant from issuing a claim against the landlord for payment of a fine as a result of the initial non-compliance.

What can you do if tenants refuse to take the deposit back?

You should return the deposit by cheque to the named tenant by registered post or hand delivery. Keep a copy of the letter for your records. Once the deposit has been returned you need to allow the tenant an opportunity to cash the cheque before serving a section 21 notice. It is clear that the deposit must be returned before the service of the section 21 notice. If the cheque is cashed then there can be no dispute over whether it has been returned. However, the legislation does not specify what happens when a tenant does not accept the cheque. Case law suggests that you would need to show that you had attempted to return it and that you had waited for a reasonable amount of time for it to be cashed before serving the notice. You would then have to ask the Court to consider the section 21 notice as valid. This would be at the Court's discretion but given that the purpose of the legislation is to protect the deposit and not to obstruct a landlord then one hopes that the Court would take a reasonable view on this.

If you were a few days late registering the deposit at the beginning of the tenancy, are you still unable to serve a S21 notice?

Yes, you cannot serve a valid section 21 notice. The requirements are that the landlord must register the deposit within 30 days of receipt of the deposit. Failure to comply would mean that the deposit will need to be returned to the tenant before the landlord can serve a valid section 21 notice.

If there is a delay in adding a new tenant to the deposit certificate, with a change of sharer, should you just return the deposit or is it worth risking going to court for possession?

The tenancy deposit requirements insist that the deposit is to be registered within 30 days of receipt. It is suggested that each time there is a change of tenant that the deposit be returned and a fresh deposit be obtained and registered so that it is clear as to which tenancy the deposit relates to.

Student Accommodation in Plymouth

The following information has been condensed from information contained in the Plymouth and South West Devon Local Plan.

Student population changes;

Since 2010/2011 student numbers enrolling at Plymouth University have declined by almost 35%. From 32,100 in 2010/2011 to 20,871 in 2015/2016. The most significant decline occurred in the last academic year 2015/2016 with a reduction of nearly 20%. The University has projected that student numbers will remain stable over future years.

The University of St Mark and St John (Marjons) has experienced a similar decline over the same period, down from 2,645 to 2,046 in the year 2015/2016.

Demand for student accommodation;

In the academic year 2015/2016 there were almost 25,000 students enrolled in higher education institutes in Plymouth. 18,500 were studying full time, with just over 4,000 first year undergraduates in Plymouth University and Marjons. First year students are considered to have the greatest need for PBSA (purpose built student accommodation). Plymouth University estimates that around 20% of their first-year students will live at home.

Supply of student accommodation;

Students require a range of housing options based on cost, quality, facilities, type and location. There is currently a diversity of choice which is often influenced by course year.

PBSA;

In the academic year 2015/2016 there were 5,420 bed spaces in use with 1,281 under construction and an additional 1,048 planned. If all planning applications are delivered there will be 7,749 spaces available by 2018/2019. The weekly room cost in the PBSA ranges from £85.00 - £215 per week. Based on previous years, occupancy rates in PBSA was around 90% - smaller halls dropping to 70-80% in the larger halls.

HMOs in the private rented sector;

There are currently 771 licenced houses in multiple occupation (HMOs) in Plymouth. (5 sharers or more, housed on 3 levels or more). Plymouth City Council, using Council Tax data calculates that 512 are occupied by students. They also estimate that in the academic year 2014/2015 there were an additional 3,373 non-licensable HMOs. By 2016/2017 this number had decreased by 514 (15%). Plymouth City Council estimate that a further 318 HMOs will be released into the PRS market by 31/03/2019.

The full report can be viewed online;

www.plymouth.gov.uk/sites/default/files/PlymouthStudentAccommodation.pdf

Comment;

PBSA is continuing to be built and planning applications are still extant. Student numbers have fallen dramatically over the past seven years. Standards in the PRS market have risen over this period, as have rents. Both Plymouth University and Marjons believe student numbers have stabilised, with Marjons forecasting an increase. A greater number of Letting Agents are chasing fewer students. Article 4 Direction is operative throughout the student letting hotspots. Many HMOs freed up by non-student occupation have been taken up by EU workers (the effects of Brexit are unknown). It is the local authority's aim to increase the supply of housing suitable for family occupation but releasing former HMOs will not meet this need. Interesting times in a changing market.



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Call 01752221551 or email Colin Palmer, Senior Clerk, on colin@kbgchambers.co.uk

Rory Smith, Enigma Solicitors

Rory Smith is a highly experienced specialist in a wide range of disputes and their resolution. Rory can also recommend to you other law firms in Plymouth who will all offer free initial advice to SWLA members in other specialist areas.

Contact Rory on 01752 600567 or by email at rls@enigmamalaw.com Enigma is located 5 minutes away from SWLA's office at Farrer Court, 77 North Hill PL4 8HB The office is open 8:50 a.m. until 5:00 p.m. weekdays.

Richard Gore Solicitor in Bristol
Richard is with Greg Latchams on

0117 9069424 and will support initial telephone calls to discuss your problems

Rebecca Mabelle, Solicitor, Howard & Over LLP

Rebecca is a specialist in landlord and tenant issues and dispute resolution.

She is very happy to support SWLA members by offering free initial telephone consultations as well as ongoing legal assistance for more complex matters at competitive rates.

Contact her by phone – 01752 284053 – or email – becca.mabelle@howard-over.co.uk

SWLA

South West Landlords Association

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You can contact our answerphone service on 01752 510913 or E-mail us at info@landlordssouthwest.co.uk, visit our website www.landlordssouthwest.co.uk

Or visit our office in Dale Road, it is open week days from 10am to 3pm

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