

## AGM

March 2015

South West Landlords Association held our Annual General Meeting at the Future Hotel, Derriford, Plymouth on 20th January 2015. Attendance was lower than in previous years. This was perhaps because there were no contentious issues and the general consensus was the Association was well administered and directed.

The Chairman gave an opening address before getting to the Agenda. Contrary to his report the Vice-Chairman and Office Manager were not absent due to attending the UKIP Conference! They were in fact attending the Accreditation Network UK (ANUK) Conference. SWLA has no political affiliation.

The Treasurer gave a Financial Report and two members who had carried out the audit raised some relevant points. It was felt that the annual subscription of £40 was low compared with other associations and the value for money on offer. A rise in subscription would be put towards increasing the money on deposit/reserve. The money charged for training courses should also be addressed to ensure no significant loss was made. Both issues should be raised at the next Committee Meeting.

After completion of the Agenda and approval of the minutes for 2014, the Chairman covered some subjects he thought would be of interest in the forthcoming year, including change of Government, Green Deal, EPCs and Retaliatory Section 21s. A finger buffet and refreshments were available at the close.

### AGM

**Shelter report: Safe and Decent homes**

**Prison sentence for landlord**

**Check your gas fitter is registered**

**Asbestos**

**Cornwall Council prosecutes landlord**

**Green Deal home improvement fund**

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**Tax Breaks proposed for Accredited Landlords**

**Deposits - Fit for purpose?**

**Choosing an agent**

**Keep communicating to avoid rent arrears**

# SHELTER REPORT: SAFE AND DECENT HOMES

This report sets out the extent of poor conditions in the private rented sector and puts forward solutions to drive up standards and ensure everyone can access a decent, affordable, secure private rented home.

## Summary

The private rented sector has almost doubled in size in the last decade and there are now more than 9 million private renters in England. People are now renting for longer and nearly a third of renters expect to be renting for the rest of their lives. A third of privately rented homes however fail to meet the government's Decent Homes Standards. Our research found that over six in ten renters (61%) have experienced at least one of the following problems in the past 12 months in their homes: damp, mould, leaking roofs or windows, electrical hazards, animal infestation, and gas leaks. In its current state, the private rental market does not function to ensure that homes are let in a decent condition.

Greater consumer power, more professional landlords, better informed and better resourced local authorities would help the market to function more effectively and ensure that the private rented sector provides safe and decent homes.

## **Shelter is calling for:**

Improved renter's consumer bargaining power

Legislation to protect renters from retaliatory evictions

Improvements to the evictions process, making landlords and renters more aware of their rights and responsibilities

A legal duty to be placed on local councils to provide a tenancy relations service, which can mediate between landlords and renters when problems arise

Reinstate legal aid for issues of disrepair

Amend the Landlord and Tenant Act (1985) to ensure all homes are fit for human habitation

Improve skills and knowledge in the sector

The introduction of a national register of landlords. This would require landlords to undergo basic training on their rights and responsibilities.

*continued...*

National registration would also provide local authorities with basic information on private rented homes, and allow them to carry out their work more effectively.

Lenders should encourage landlords to carry out an assessment of the conditions of any homes purchased with a buy-to-let mortgage.

Improve local authority ability to enforce the powers they have

Councils should be able to require that landlords license properties in areas where there is a high demand for homes, or conditions are particularly poor. The government should also provide more guidance and support to councils.

Local councils should consider setting up social lettings agencies, which can help improve conditions and make renting more affordable.

*From the CRLA newsletter*

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## **Prison Sentence For Landlord Who Ignored Fire Safety Rules**

A landlord with a property portfolio in Leicester has been jailed for eight months for failing to comply with fire safety regulations. Haresh Rambhai Patel pleaded guilty to seven offences under the Regulatory Reform (Fire Safety) Order 2005 after ignoring fire safety warnings and advice from the local council following a fire in two of his adjoining properties. The properties housed eleven separate bed-sits and flats and at the time of the fire there were nine occupants. They had caught fire 18 months previously and fire fighters had to rescue three residents. In spite of the warnings, it was found that there were no working smoke alarms or emergency lights, fire exits were blocked, there were combustible obstacles such as furniture left in corridors, fire doors were missing, left open or jammed and a fire extinguisher had not been inspected for 25 years. In addition to his prison sentence Mr Patel will have to pay over £13,000 in prosecution costs and he has since spent £36,000 on fire safety measures.

## CHECK YOUR GAS FITTER IS REGISTERED

An illegal gas fitter and the director of the company that hired him have been fined after dangerous work in six homes in Cornwall putting lives at risk.

Company director Lee Curnow (Varcurn Marble Ltd) contracted Mark Lawson, an unregistered gas fitter to install gas fires at six homes in the Camborne, Redruth, Truro and Helston areas between January 2012 and October 2013. The incidents were investigated by the HSE which prosecuted the pair. HSE launched an investigation after a Gas Safe Engineer found significant failings in the work carried out, following reports of fumes from a gas fire in one of the properties. Mr Curnow failed to make proper checks to see if Mr Lawson was on the Gas Safe Register, a legal requirement for anyone carrying out gas work.

Of six gas fires installed by Lawson, four were classed as immediately dangerous, meaning if operated or left connected to a gas supply, there would be an immediate danger to life or property. One fire was classed as at risk with one or more faults that could constitute a danger to life or property, and the sixth had a previously reported gas leak following work by Lawson, which could be classed as immediately dangerous. On at least two occasions Lawson falsely claimed to be on the Gas Safe Register by using the registration name and number of a properly registered fitter and commissioned documents for the fires he installed. Lawson pleaded guilty to three breaches of safety regulations and was fined a total of £10,666 and ordered to pay costs of £274. Curnow pleaded guilty to a single breach of safety regulations and was fined £10,000 and to pay costs of £274.

An HSE inspector said that Lawson had put lives at risk by claiming to be Gas Safe Registered. He said “ it is a **legal requirement** for all engineers working on gas to be registered. Badly and poorly maintained gas appliances cause gas leaks, explosions and fires. To avoid the risks of dangerous or illegal gas work, people should check that anyone who works on their gas systems is Gas Safe Registered”.

Further information about gas safety can be found on the HSE website <http://www.hse.gov.uk/gas>. If you suspect an illegal gas fitter report it to Gas Safe Register on free phone 0800 408 5500

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## Asbestos

Twenty tradespeople a week die from asbestos related diseases. It is vital that workers and employers understand and follow the correct safety procedures to protect themselves. The Health and Safety Executive have a new safety campaign to help protect Tradespeople which includes a "Beware Asbestos" web site –

***[www.beware-asbestos.info/news](http://www.beware-asbestos.info/news)***

## **Cornwall Council Prosecutes Landlord for Dangerous Flat**

In a prosecution brought by Cornwall Council, Jin Ming Cao of the Dynasty Restaurant, Perran Cross Road, Perranuthnoe was ordered to pay fines and costs of over £24,000 at a hearing at Truro Magistrates Court on Tuesday 6th January 2015 after pleading guilty to offences under the Housing Act 2004. The prosecution followed work by Cornwall Council's Private Sector Housing Team, Devon and Cornwall Police and the UK Border Agency which identified significant health and safety hazards within a seven bedroom flat above the restaurant, which was occupied by up to 10 workers, all of Chinese origin. Conditions within the flat were of concern to the investigating Environmental Health Officer who considered the flat to be a major health and safety risk to the occupants. Mr Cao pleaded guilty to 6 offences under the Housing Act 2004. Three offences relate to non-compliance with improvement notices to improve a dangerous staircase and installation of a fire detection system, and three offences relate to the management of Houses in Multiple Occupation Regulations relating to an obstructed fire escape route, absence of a gas safety certificate and an unmaintained/faulty fire alarm.

Cornwall Council's Private Sector Housing team is part of a multi-agency task force, called the Migrant Workers Action Group (MIGWAG), who co-ordinate services to safeguard the health safety and welfare of migrant workers in Cornwall.

Cornwall Council's Private Sector Housing Team said: "We have been working with colleagues from the UK Border Agency, Devon and Cornwall Police and Cornwall Fire and Rescue Service to investigate the quality of multi-occupied accommodation above commercial premises such as restaurants, takeaways and pubs. The majority of our inspections have revealed substandard living conditions and poor fire safety provision which has routinely required enforcement interventions. All landlords must ensure that those dwellings meet minimum safety standards and any landlord who is unsure of their obligations is encouraged to contact the Private Sector Housing Team."

# GREEN DEAL HOME IMPROVEMENT FUND

Did you know that you may be able to claim back money from the government if you make energy-saving home improvements? You can get up to 67% of the cost of installing solid wall insulation, up to £4,000. You can also claim up to £1,000 towards the cost of installing any 2 of the following : a condensing gas boiler on mains gas, double or triple glazing as a replacement for single glazing, secondary glazing, energy efficient replacement external doors, cavity wall insulation, floor insulation, flat-roof insulation, insulation for a room in the roof, a replacement warm air unit, fan assisted storage heaters and a waste water heat recovery system. You can get up to £500 more if you apply within 12 months of purchasing a home. If you install energy saving improvements through the GDHIF you can also claim £100 towards the cost of your Green Deal Assessment. This GDHIF offer may change or be withdrawn without notice at any time. The amount of funding available is limited and you may not be able to get any money back towards the cost of your Green Deal advice report.

## Eligibility

To qualify all of the following must apply:

You are improving a domestic property in England or Wales that you own or live in

You have either a Green Deal advice report or an Energy Performance certificate (EPC) that is less than two years old

The improvements you are applying for are covered by the scheme and recommended in your EPC report or Green Deal advice report

You use a Green Deal provider or installer registered with the GDHIF

You must also meet the scheme's terms and conditions. You cannot apply if you are already getting money back for the same improvements through other schemes e.g the Energy Company Obligation, Green Deal Communities, Green Deal Cashback or the first release of GDHIF.

*continued next page*

## Rented Accommodation

You can apply for the GDHIF if you are a landlord, unless you have received more than £160,000 of de minimis funding in the last three financial years. Tenants can also apply if they live in social or private rented housing. The person paying for the majority of the improvements gets the money back. You can't apply for the GDHIF on behalf of your clients if you are a managing agent.

## How to Claim

Firstly get a Green Deal Assessment or an EPC for your property. Then obtain a quote from a Green Deal installation company that's registered with the Home Improvement Fund. Apply for a Home Improvement Fund Voucher before the work commences. Complete the work. Ask your Green Deal provider to complete the rest of the voucher. Finally, follow the instructions on the voucher to make your claim. Make sure that you do this before the expiration date on the voucher. The GDHIF administrator will then email you to advise when your claim will be paid.



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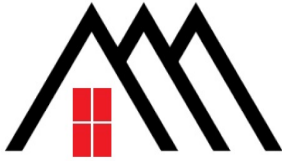
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THINK CAREFULLY BEFORE SECURING OTHER DEBTS AGAINST YOUR HOME. YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP PAYMENTS ON YOUR MORTGAGE.

# Insurance through Batemans

Batemans Insurance have renewed the cover they provide recently. They have announced a new contract with extensive improvements and far wider cover.

A summary sheet detailing the changes has been set out below. The contract will be made available from February 2015.

<u>Extension</u>	<u>Existing Landlords Direct</u>	<u>New Landlords Direct</u>
Replacement Locks	£2,000	£5,000
Emergency Services	£10,000	£25,000
Additional Sprinkler Costs	£10,000	Unlimited
Extinguishment&Alarm Setting	£10,000	£50,000
Loss of Gas & Metered Water	£10,000	£25,000
Trees, shrubs,plants & lawns	£10,000	£25,000
Trace & Access	£25,000	£50,000
Removal of nests	Not Covered	£5,000
Temporary Removal	Not Covered	£50,000
Alterations & Additions	Not Covered	10% of the sum insured or £500,000
Newly Acquired Premises	Not Covered	£250,000
Non Invalidation	Not Covered	Included
Prevention of Access	Not Covered	10% of Rent Sum Insured or £250,000
Loss of Attraction	Not Covered	10% of Rent Sum Insured or £250,000
Failure of Public Supply	Not Covered	£250,000
Disease,vermin,pests,murder,suicide	Not Covered	£250,000
Managing Agent Premises	Not Covered	10% of Rent Sum Insured or £250,000
Loss of rent (unspecified)	25% of the Buildings Sum Insured	30% of the Buildings Sum Insured
Alternative Accommodation	25% of the Buildings Sum Insured	30% of the Buildings Sum Insured
Cultivation of drugs (illegal Acts by Tenant	Not Covered	Included
Eviction of Squatters	Not Covered	Included
Loss Minimisation	Not Covered	Included
Fly Tipping	Not Covered	Included

Before renewing your Insurance check the cover you receive. Cheap premiums often mean reduced cover.

GET A QUOTATION FROM ONE OF OUR RECOMMENDED INSURANCE COMPANIES.

## Tax Breaks Proposed For Accredited Landlords

Extra tax breaks should be offered to landlords who sign up for a national accreditation scheme to raise standards in the private rented sector, the Chartered Institute of Housing and the Resolution Foundation argue in a new report. The report says that targeted incentives for landlords would encourage them to improve the maintenance and management of their properties. Financial incentives could either take the form of new additional funds for those who sign up to accreditation or diverting more of the existing tax allowances for those who do. The report says the Government could consider giving accredited landlords a more generous tax allowance for "allowable expenses" (where landlords deduct the cost of repairs from their profits for Income Tax purposes), compared to unaccredited landlords. It suggest that landlords should be allowed to treat any improvement needed to bring a property up to standard as an "allowable expense" instead of deducting it from their capital gains tax liability when they sell the property so they would get a more immediate benefit from the investment. It could also allow accredited landlords to benefit from capital gains tax rollover relief. This would mean that if a rented property is sold and the proceeds are immediately re-invested in another, the landlord would not pay capital gains tax on any profit they had made.

SWLA endorse all of the above.

Sign up for Landlord Training by contacting the Office.

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### ENERGY PERFORMANCE CERTIFICATES (EPC)

First Call provides EPCs for fellow members of SWLA at a reduced fee.

If you require help or advice regarding an Energy Performance Certificate for a property you intend letting, please ring

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## Deposits – Fit for Purpose?

When the Government introduced legislation to require landlords to place the deposit money that belongs to the tenant into a Government authorised scheme, the idea was to prevent the need for tenants to go to court to get their money back. Unfortunately the law surrounding deposits has created a disproportionate burden on landlords. Until the new Deregulation Act 2014 comes into effect in spring landlords in England and Wales must still do all of the following:

Register the deposit within 30 days of receiving it

Provide copies of the deposit certificate and prescribed information to tenants

Provide copies of the deposit certificate and prescribed information to any relevant person. A relevant person is anyone who has paid any of the deposit. So, for example, if a tenant's grandmother has helped pay for a deposit, the landlord must provide all the prescribed information to the grandmother.

Keep evidence to prove that this has been done.

If the above requirements are not followed there are a number of consequences that landlords should be aware of.

Problem 1 : If challenged the Section 21 Notice to end tenancy will be considered invalid –In law it is the landlord who is liable to pay damages, not a letting agent. So landlords should get copies of the prescribed information and certificate from the letting agent with proof that it was sent to the tenant and all the “relevant persons”. Landlords should keep their own copy of exactly what was given to the tenants and relevant persons. If possible the landlord can get the tenants to sign a copy of the documents as proof of receipt. Landlords should draft a letter to the tenants listing exactly what documents they have given them, get a certificate of posting and file away carefully to use as evidence.

Problem 2 : The prescribed information keeps changing.

Landlords should check with the scheme every time they register or re-register a deposit to find out what the scheme says constitutes “prescribed information” If a landlord is not sure what documents constitute the prescribed information they should give all the “relevant persons” all the documents they think even might be prescribed information.

Problem 3 : If a landlord uses a Section 8 Notice to claim possession on the basis of rent arrears, to get possession at the first hearing the landlord may have to concede 3 times the deposit value from the arrears. That means that if a landlord took £1,000 deposit, but a tenant owes them 2 months' rent and is £2,000 in arrears the landlord may end up having to pay the tenant £1,000.

Problem 4 : Landlords should be careful how they “return” a deposit (to be able to serve a Section 21 Notice) Bear in mind that the current legislation on tenancy deposits states that a Section 21 Notice will be valid when the deposit has been returned to the tenant in full (or returned to the tenant with agreed deductions). If a landlord gives a cheque to a tenant and serves him/her with a Section 21 Notice and the tenant then fails to cash the cheque and later says he/she never received it, arguably no money has ever been returned so the Section 21 Notice is not valid. Also, if the landlord gives the tenant cash without the tenant signing something in receipt, the tenant might deny he/she received the money. Therefore if the landlord has the tenant's bank details and transfers the deposit money into the tenants bank account then the landlord has proof of the money

being received via bank statements.

**Problem 5** : The Law is unclear as to whether the deposit is considered “returned” if the arrears are reduced by the equivalent amount.

If a landlord offsets the deposit against the rent arrears has he/she returned the deposit in full? If a landlord did not register a deposit of say £1000, then sets it off against arrears of £8,000 declaring that the arrears are now £7,000, is the whole amount returned to the tenant? The tenant’s lawyers can say that the landlord cannot unilaterally decide (i.e. without agreement being reached) to set off the deposit money against rent arrears, as that is not a “return” of the “full amount” nor has it been agreed. Also, if the tenant disputes the arrears, the court may consider that it needs to determine the exact arrears at trial before being able to decide on whether the landlord can get possession. The landlord’s lawyers can say that the money is “returned” in the broader sense and that the full amount of the deposit money has been set off against the arrears, so the Section 21 Notice is valid, but accept that the tenant can still bring a claim for up to three times the deposit. The landlord’s lawyers could say that setting off debts is usual practice in common law, usual in other types of possession cases (mortgages) and there is no precedent for someone suddenly not being able to set off debts one against the other without physically handing over the money, then taking it back again. Whichever argument you think is more persuasive does not matter. If you want to avoid the possibility of an adjournment with more hearings and litigation, your tenant eviction company or solicitors need to make a strategic decision about how you are going to get possession and avoid anything that might invite adjournments.



## **Landlords Direct from the Bateman Group Exclusive rates for South West Landlord Members**

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## Choosing an Agent

Before beginning the process of choosing an agent remember firstly you will be putting a valuable asset, your letting property, in the hands of a letting agent and secondly you will be creating a kind of employer/employee relationship, where you are employing an agent to undertake certain agreed service on your behalf.

The service required may range from tenant find only service to full management. It goes without saying that the agent should act on your instructions and in your best business interests. A good, reliable agent will do this and will be worth every penny of their fees. Be cautious about signing up with an agent who offers you the lowest fees. In this market, you generally get what you pay for.

If you are considering recruiting an agent to manage your properties, there are a few pertinent questions which you can ask the agent before you sign a contract with them:

Does the agent have a postal address? - exercise caution if only a web-site address, mobile phone number or PO Box address is available.

How many years has the business been established? – Minimum of two years is recommended.

Has the agent's staff attended a lettings training course in the last two years – by doing this staff will maintain their Continuous Professional Development and be fully up to date with recent legislation changes in the PRS.

Is the letting agent a member of a professional body such as ARLA, NALS, RICS or the Law Society?

Is the letting agent displaying the "Safe Agent" Logo? – if they are this means that they operate an independent bank account for holding clients' money.

Ask the agent for a copy of the business contract which will form the basis of your dealings with the agent – take time to read it thoroughly and understand the fees the agent will deduct. If in any doubt, ask the agent to clarify before signing.

Which deposit protection service does the agent routinely use? – Request to see evidence of this.

Ask the agent which one of the authorised redress schemes are they a member of – the registration is now a legal requirement for the agent from 1st October 2014 and will provide compensation for landlords and tenants.

This will allow both you, as landlord and your tenant to seek redress if needed against an agent.

Landlords should not be afraid to negotiate terms with an agent and ask the agent for a copy of their Assured Shorthold tenancy agreement.

Landlords can also ask for copies of all the paperwork relating to a prospective tenancy including copies of the tenant's application, references and credit-check report. Make sure you instruct the agent as to how long the initial fixed term of the tenancy should be and agree, if the agent is collecting the rent, how quickly it will be forwarded to you.

Finally always remember that the agent is working for you and must always act in your best business interests and good name.

By attending the SWLA Training Course, you will be aware of your responsibilities and those of your Agent. Not necessarily the same.

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## **Keep Communicating to Avoid Rent Arrears**

Rent arrears are an unfortunate reality for many landlords in the private rented sector and it makes good business sense to factor the potential cost of rent arrears into your portfolio investment planning as early as you can. A good rule of thumb is to plan – wherever possible – that you may only receive rent for 10 months out of twelve months. Therefore selecting the right tenant is crucially important for any landlord to ensure that the prospective tenant will be able to pay the rent, and on time. Many landlords opt to use a tenant referencing service but landlords can also do a number of checks themselves in addition to using a tenant referencing company. Landlords could obtain references from at least one landlord previous to the prospective tenant's existing landlord and to check with the Land Registry that the current landlord cited actually owns the property. Landlords can also request to look at bank statements for the last six months. This will enable you to look at the tenant's outgoings and gauge affordability. If the tenant is constantly overdrawn this should raise alarm bells with a landlord. However careful a landlord has been in selecting a tenant, once a tenancy is underway you should keep careful tabs on when rent is due. There are several landlord rent guarantee insurance products on the market – Excaliber Insurance (01752 340183) have recently launched one which would be worth checking out. Even the most organised landlords will one day face arrears, so it is important you do everything you can to choose the right tenants but also to handle the tenant relationship as professionally and strategically as possible where arrears do occur.

Check your tenants using Besure Screening [www.besurescreening.co.uk](http://www.besurescreening.co.uk)

# NOTICE

## SWLA stationery

SWLA stationery may change without notice so before using a document, make sure that you use the latest one on the SWLA website, by checking the issue date or check with the SWLA office at the email address or telephone number shown below. Don't forget our ability to advertise accommodation to let, property for sale in our office window

## Greg Yates Solicitor

Greg Yates is with Howard & Over on 01752 556606 and will continue to support our members.

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## Rory Smith, Enigma Solicitors

SWLA are now working with a new solicitor in the Area. Rory Smith at Enigma Solicitors 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.

You can contact Rory for free initial advice on any matter on 01752 600567 or by email at [rls@enigmamalaw.com](mailto:rls@enigmamalaw.com) Enigma is located 5 minutes away from SWLA's office at Farrer Court, 77 North Hill PL4 8HB next to Stratton Creber Commercial. The office is open 8:50 a.m. until 5:00 p.m. weekdays but the firm regularly also works additional hours whenever needed.

Richard Gore Solicitor  
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**By The South West Landlords Association Ltd 30 Dale Road, Plymouth PL4 6PD**

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