

## Section 21 Notices (Sometimes Known as No Fault Eviction)

September 2019

The Government, with cross party support, intends to abolish the Section 21. There is a consultation process, but the intention is clear: Section 21s will go! The consultation seeks views on implementing the Government's decision to remove Section 21 of the Housing Act 1988 and improving section 8 eviction grounds, the consultation closes on 12 October 2019.

Tenant lobby groups have long campaigned for longer tenancies and more security of tenure. Cross party MPs have been convinced that Section 21s are greatly mis-used. Nothing could be further from the truth. (Statistics from the English Housing Survey 2017/2018)

- Over 90% of tenancies are ended by a tenant
- The average tenancy lasts over 4 years
- 84% of private tenants are satisfied with their current accommodation
- 70% of landlords kept rent unchanged following tenancy renewal

The majority of landlords only seek repossession for legitimate reasons. In a government survey, it was found that the most common cause of repossession is rent arrears (58%) with misuse of property/anti-social behaviour second (45%).

The reality is that Section 21 notices are used by landlords because all other processes are not working. South West Landlords Association has joined with 17 other landlord/agent representative bodies to form the 'Fair Possession Coalition'. Members of the coalition and their Blueprint for Reforms to Regulations Governing Repossession can be viewed on the SWLA website's 'News'.

This document has been forwarded to both government and opposition Housing Ministers and the Ministry of Justice.

It is imperative that the Section 21 is not abolished without a new system in place that provides landlords with the same level of confidence about repossessing properties in legitimate circumstances.

The current Section 8 process, under which a landlord can repossess properties based on a number of grounds, is not fit for purpose and does not provide the level of certainty of a Section 21.

The current judicial process for dealing with possession cases is confusing for tenants and landlords and takes on average over 5 months from service of notice to possession.

The Coalition wants a comprehensive overhaul of the regulations and processes for possession. There should be clear grounds for repossessions that are unable to be exploited by criminal landlords or unreliable tenants. Also, a fully funded housing court, use of mediation and local venues. The process should be less intimidating for tenants and landlords and should enable both to obtain swift and accessible justice.

We request that all of our members read the Coalition's proposals (these can be read on the SWLA website's 'News'). Then, contact your MP to ensure that they are aware of landlord concerns regarding the removal of the Section 21 without a suitable replacement procedure.

There is a letter template on the SWLA website in the 'Members Area' filed under 'Stationery' which you can download, amend and send. Alternatively, contact the SWLA office and we can email you a copy.

### Important Dates

What can buy to let landlords expect in the remainder of 2019?

Professionalization of the PRS

Change of Government policy?

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New Housing Minister

### IN THE NEWS

Universal Credit Claimants and Rent Arrears

Agent Ordered to Pay Over £37,000 after Nine HMO Failings

Making Tax Digital: Quarterly Reporting for Landlords Delayed

## **Important Dates**

06 April 2017 – 06 April 2020 - Mortgage Interest Relief; New BTL Tax System Phased In

01 April 2018 – MEES (Minimum Energy Efficiency Standards) E or above for new tenancies

06 April 2018 – Rogue Landlord Database Introduced

25 May 2018 – GDPR Introduction

01 October 2018 – Extension of Mandatory HMO Licencing

20 March 2019 – Homes (Fitness for Human Habitation) Act 2018

01 April 2019 – Letting Agent Mandatory CMP (Client Money Protection) Membership

01 June 2019 – Tenant Fees Act (tenant fees ban and cap on deposits)

01 April 2020 - MEES E or above for all tenancies with a valid EPC

Date to be confirmed – Mandatory 5 Year Electrical Safety Checks

Date to be confirmed – Making Tax Digital will apply to most landlords earliest 2021

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## **What can buy to let landlords expect in the remainder of 2019?**

2019 has been a year of great change for buy to let landlords. Andrew Turner, chief executive at specialist buy to let broker Commercial Trust Limited, looks at some of the trends set to continue.

The first half of 2019 has brought wide-sweeping changes to the private rental market and it will inevitably take time for stakeholders to become accustomed to The Tenant Fees Act 2019; The Homes (Fitness for Human Habitation) Act 2018 and rules making it compulsory to protect tenant and landlord money within an approved Client Money Protection Scheme.

Aside from Section 21 changes, what else could happen over the coming months?

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## **Continued professionalization of the PRS**

Finally, we can expect a greater degree of professionalism within the buy to let sector, as legislation introduced earlier this year, beds in. Government legislation has sought to improve living standards for tenants and it is important for landlords to keep abreast of changes and remain compliant.

Specialist lender Paragon, reported a significant increase in the number of landlords with large portfolios, applying for buy to let lending in the first half of 2019.

The lender said that 88% of its total buy to let business came from landlords using limited companies operating large portfolios, an increase of 16% year on year.

UK Finance data suggests that despite tax and legislative changes, it is far from doom and gloom. May figures revealed the same number of buy to let loans for property purchases (5,500) as in May 2018. Buy to let re-mortgage activity increased 20% year on year, in May.

These statistics clearly illustrate that buy to let has resilience and landlords are not abandoning the sector. Many have looked at purchasing opportunities or have taken advantage of low re-mortgage rates.

Article from Andrew Turner, Chief Executive, Commercial Trust.

[www.commercialtrust.co.uk](http://www.commercialtrust.co.uk)

## Change of Government policy?

Boris Johnson has become the new Prime Minister. Could this signal a change in housing policy and Government approach towards the private rental sector?

A recent National Landlords Association survey reported that 85% of landlords would vote against any political party proposing to remove Section 21, with 89% opposed to any party proposing rent controls.

Just one in six private landlords said they would support the Conservatives in an election, in light of the tax changes made to the buy to let industry, in recent times. Could that prompt a change in policy to win back voters? Johnson has already described stamp duty as “absurdly high”.

The impact of Brexit will of course have a direct effect on the economy and could impact interest rates, the pound and ultimately house prices.

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## Gas Safety Advice for Landlords

Landlords are legally responsible for the safety of their tenants. Landlords must make sure maintenance and annual safety checks on gas appliances are carried out by a Gas Safe registered engineer. Badly fitted and poorly serviced gas appliances can cause gas leaks, fires, explosions and carbon monoxide (CO) poisoning. CO is a highly poisonous gas that can kill quickly with no warning, as you cannot see it, taste it or smell it.

If you're a landlord, you are legally obliged to make sure:

- Gas pipework, appliances and flues provided for tenants are maintained in a safe condition.
- All gas appliances and flues provided for tenants' use have an annual safety check. Your tenants can report you to the HSE if you don't provide one, so it's important to remember. You can set a free email and/or text reminder so you don't forget, visit [StayGasSafe.co.uk](http://StayGasSafe.co.uk).
- A Gas Safety Record is provided to the tenant within 28 days of completing the check or to any new tenant before they move in.
- You keep a copy of the Gas Safety Record until two further checks have taken place.
- Maintenance and annual safety checks are carried out by a qualified Gas Safe registered engineer.
- All gas equipment (including any appliance left by a previous tenant) is safe or otherwise removed before re-letting.

Before any gas work is carried out always check the engineer is qualified to carry out the work that needs doing e.g. natural gas, domestic boiler. You can find this information on the Gas Safe Register website or by checking the back of the engineer's Gas Safe ID card. Encourage your tenants to also check the card when they arrive at the property.

For more information and to find or check an engineer visit [GasSafeRegister.co.uk/Landlords](http://GasSafeRegister.co.uk/Landlords) or call 0800 408 5500.

*Article by Gas Safe Register*

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## Smoke and Carbon Monoxide Alarm Regulations \*REMINDER\*

The regulations require private rented sector landlords to have:

- at least one smoke alarm installed on every storey of their rental property which is used as living accommodation, and
- a carbon monoxide alarm in any room used as living accommodation where solid fuel is or can be used

The landlord must make sure the alarms are in working order at the start of each new tenancy. On the back of the SWLA Assured Shorthold Tenancy Documents there is a reminder to do so and space for tenant and landlord to sign and date the test of the alarm.

## **Guide to Tax Changes Impacting Landlords**

One in 10 people now own a second house, yet tax legislation surrounding landlords remains largely unclear. Taxes associated with buy-to-let property are collectively known as 'landlord tax'. To make matters more complicated, such legislation is varied and complex.

If you're a BTL landlord, one thing you need to get to grips with is interest tax relief. Traditionally, landlords were required to declare rental income but could claim mortgage interest as an expense – drastically reducing their profit from rental income and subsequently their Self Assessment tax bill. However, this changed for the worse (for landlords at least) in 2017 when it was decided that claiming mortgage interest as a deductible expense would be phased out. For the 2017/18 tax year you could only claim 75% of your mortgage interest, 50% in 2018/19 and 25% in 2019/20 with the intention to phase it out to 0% for 2020/21 onwards. This has been replaced with a new tax relief for finance costs, which restricts tax relief to 20%. This change has a major impact on landlords that are higher rate tax payers as it will essentially increase the tax bill of these landlords. Landlords who previously paid tax at the basic rate of 20% could now pay tax at the higher rate (40%). Fortunately, the likelihood of being bumped up a bracket has been reduced as the government did raise Personal Allowances to £12,500. Subsequently, the higher rate threshold has increased from £46,350 to £50,000. Therefore, in the interest of keeping HMRC happy and avoid being penalised by incorrectly claiming mortgage interest payments, you must fill in the SA105 section on the Self Assessment tax return.

The burden of Stamp Duty Land Tax also needs to be considered as a landlord. A tax paid when buying a property in England and Wales, it's been widely criticised (by both landlords and regular homeowners) as being unnecessary at an already expensive time. There have also been instances of buyers overpaying. In the 2018-19 tax year alone, nearly £400m was returned to those who had paid too much. Regardless, the legislation is still very much in effect, and for landlords, it is expected they pay more than residential buyers. Specifically, since April 2016 landlords have been expected to pay an additional 3% on Stamp Duty Land Tax. For example, if the property you're purchasing is £250,001 - £925,000, regular buyers will be expected to pay 5% in Stamp Duty – landlords on the other hand will pay 8%. This is in part due to the increasingly sympathetic approach to first-time buyers and expectation of investors or multiple homeowners to shoulder the tax burden. However, there are a number of circumstances where you may claim relief (or exemption) from Stamp Duty.

For further information and tax advice, speak to a financial advisor or chartered accountant.

***Article Abridged from GoSimpleTax***

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### **Right to Rent clarity**

The Government's controversial Right to Rent initiative in England has been deemed in breach of human rights law and discriminatory, by the High Court. At the time of writing, the Government is appealing the decision, whilst considering reforms that will allow it to roll the scheme out to the rest of the UK. The Residential Landlords Association has been granted representation on behalf of landlords at the High Court.



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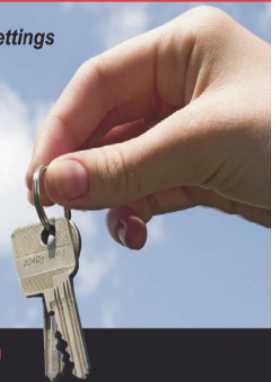
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# The Importance of Lodging Deposits and Providing Prescribed Information

A tenancy deposit (which is now capped at max 5 weeks for annual rent of under £50,000.00) must be lodged within 30 days of receipt AND the CORRECT prescribed information provided to the tenant within that timeframe. Many landlords lodge the deposit and provide the tenancy deposit certificate/template, but this is not enough. Landlords must consult their chosen tenancy deposit scheme and see what information must be provided to their tenant. This would normally include a certificate AND the terms and conditions of the chosen scheme.

If you fail to provide part of the prescribed information or go over the 30 day time frame, the consequences can be disastrous. You would not be able to serve a valid Section 21, Form 6A notice without fully returning the deposit first. You would also be exposed to your tenant suing you for a refund of the deposit plus up to three times the amount of the deposit in compensation.

It is the landlord's responsibility to provide the Prescribed Information to the tenant. The deposit scheme does not do this for you.

Remember- if a 3rd party has contributed to the deposit, you must also serve them with the deposit prescribed information including the terms and conditions.

Here is a guide from the TDS and DPS on how to get deposits right;

1. Make sure you give the tenant a detailed check-in inventory and schedule of condition at check in and check-out. Ensure that it's signed and dated and that the tenant has time to check it.
2. You must register the deposit on a new tenancy created on or after 6 April 2013 within 30 days of the agent or landlord receiving it – or within 30 days of the tenancy becoming an assured shorthold tenancy, if this occurs after you receive the deposit. If you don't meet the deposit protection requirements, then from 31 days after paying the deposit a tenant will be able to make a claim through the courts for the full deposit AND a penalty of between one and three times the deposit.
3. Print the Tenancy Deposit Protection Certificate and give it to the tenant(s). This can also be known as a prescribed information template. It includes the amount of the deposit, the address of the property, the name address and contact details of the administrator of the tenancy deposit scheme with which the deposit is held, the name address and contact details of the landlord and tenants and any 3rd parties who contributed to the deposit.
4. Give the tenant the prescribed information within 30 days of receiving the deposit – or within 30 days of the tenancy becoming an assured shorthold tenancy, if this occurs after you receive the deposit. Along with the prescribed information, you must give a copy of the chosen deposit scheme's Terms and Conditions.
5. Give the prescribed information to the tenant, getting them to sign it. If you don't give the tenant the prescribed information in time, they may start court action for compensation as outlined in 2 above.
6. If there are any changes during the tenancy, update all records and documents including the tenancy agreement. To notify the scheme on changes in ownership or management, phone the scheme's customer contact centre.
7. When the tenancy finishes. If there is no dispute, release the deposit within 10 working days. If the tenancy is renewed, update the scheme with that information.
8. If there is a dispute, try to negotiate a settlement before submitting it to the scheme.
9. If there is a dispute, send all the evidence you want the scheme to consider. Adjudication is based on information sent, landlords will not be asked for more. Include the check-in inventory and schedule of condition report and the check-out report. If you are claiming for rent arrears, ensure that you send a schedule of what's been paid and what hasn't – along with details of the dates the rent was due for. Without these documents, you may not be able to show that any property damage or rent arrears are the tenant's responsibility. Remember, they will need to see written reports as well as photos. For photos to be useful as evidence, they should be dated and of reasonable quality.
10. The adjudication process will take place and the tenant or landlord awarded accordingly.

Due to the complexity of taking deposits and the risk of getting it wrong, some landlords choose not to take deposits but have a guarantor in place instead.

## **Be Clear with Tenancy Deposits**

The Deposit Protection Service (DPS) has revealed that more than four in 10 of the English tenancy deposits held by it are above the legal tenancy deposit cap. Since the introduction on the Tenant Fees Act on 1 June 2019, landlords and agents have been barred from holding more than five weeks' worth of rent in deposit for new and renewed tenancies (on properties with an annual rent of under £50,000), or six weeks' rent in deposit (on properties with an annual rent of £50,000 or more).

However, there is some confusion in the industry about the point at which a landlord or agent must repay the portion of a current deposit that puts it above the five- or six-week limit. Data from the DPS indicates that some have already reduced the deposits they hold.

Note that holding a deposit over the five- or six-week limit is not illegal if the current tenancy agreement was signed before 1 June 2019.

Any money held over and above the lawful amount must be paid back to tenants whenever an existing tenancy is renewed on a fixed-term basis. However, tenants who choose to continue their residency through a periodic tenancy do not benefit from the new deposit cap.

*Article Abridged from PayProp*

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## **Changes to Section 21 Form 6A and Notes**

On 30th July 2019, an incorrect version of the Section 21, Form 6A was uploaded to the gov.uk website. Form 6A is a statutory notice, the wording is prescribed and cannot be changed without a statutory instrument. SWLA stationery was not updated with this incorrect form so anyone who served notice between 30 July 2019 and 12 August 2019 and got their form from the SWLA website or office, there is no concern.

If you served notice between 30 July 2019 and 12 August 2019 and got the 6a form direct from the gov.uk website, your notice may be invalid, in this case please contact the SWLA office and we will advise you accordingly- in this instance you will need to serve another (correct) 6A Form.

The Notes accompanying the Form 6a have been updated by the Ministry of Housing, Communities and Local Government correctly.

We remind SWLA members to use the most up to date form when serving notice or this could cause issues in gaining possession.

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## **Additional Licensing Scheme in Bristol**

Do you own or manage a property where 3 or more people (who are not from one household) share facilities in the 12 Central Wards of Bristol? Stay compliant and apply for a property licence online on the Bristol City Council website.

Additional Licensing is being introduced into the Central Wards of Bristol from 8th July 2019 – 7th July 2024 following approval by Bristol City Council Cabinet. The wards covered are: Central, Cotham, Clifton, Clifton Down, Hotwells & Harbourside, Redland, Ashley, Bishopston & Ashley Down, Easton, Lawrence Hill, Southville and Windmill Hill. Any properties whether houses or flats let to three or more people who aren't related and who share some facilities like kitchens or bathrooms will need to be licenced. If you let a property of this description you will need to apply for a licence to continue to let the property as an HMO (House of Multiple Occupation).

Applications for Additional Property Licences must be made online from now until midnight on 7 October. All HMOs with 3 or 4 persons in the 12 central wards of Bristol must have an additional licence within the 5-year licence period between 8 July 2019 and 7 July 2024.

## Renewal Reminder

SWLA Membership runs from 1st November to 31st October. £45.00 membership renewal payments are due by 1st November 2019. Here's how you can pay;

**\*\* Please quote your name and membership number as the reference\*\***

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Or by Cheque to:  
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By paying your £45.00 renewal fee, you agree to continue the terms and conditions of your original membership sign up. SWLA will send you a receipt by email upon receiving your renewal payment.

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## Changes to the 'How to Rent' Guide

The 'How to Rent' guide has been updated with minor changes;

3rd June 2019; corrected to reflect the rebranding of National Approved Letting Scheme (NALS) to Safeagent, and to update links to the GOV.UK client money protection scheme webpage.

29th July 2019 The 'Before you start' section was updated to clarify Shelter's advisory role. The sentence 'If you don't have a guarantor, you can ask Shelter for help' was amended to 'If you don't have a guarantor, you can ask Shelter for advice'.

The publishing went ahead without any obvious updates on the publication page.

Housing law demands that landlords supply the latest copy of the 'How to Rent' guide at the start of a tenancy. Providing the latest version of the guide is printed direct from the gov.uk website and is given to your tenant at the start of their tenancy, your obligation for providing it would have been met. (If a tenant has agreed to receive documents by email, the email link can be provided).

You also need to reissue the guide if a tenancy is renewed (ie. a new tenancy agreement signed).

Note, the latest publication still has May 2019's date within the booklet. This shouldn't cause any issues when landlords wish to gain possession. There is a clear explanation on the gov.uk 'How to Rent' guide publication page;

'This is the most up to date version of the Guide. It incorporates all changes detailed in the update history below (although dated May). Note: we have not corrected the date in order to avoid creating a new version.'

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## Upcoming SWLA Training Courses

### **Landlord Training Course; Monday 7th October 2019**

AM Session - Understanding the Housing Health and Safety Rating System (HHSRS) & Fitness for Human Habitation  
PM Session - Inventories

### **Landlord Accreditation Course, Monday 14th October 2019**

Course covers ASTs, Deposits, Section 21s, Sections 8s, HMOs, Gas & Electrical Safety, Inventories and more. The course will provide the knowledge to start, manage and finish a tenancy. Can lead to accreditation if required.

**\*\*this course is now fully booked, waiting list active for next course\*\***

Places secured upon receipt of payment, please contact the office to book. All courses £65.00 for members. £75.00 for non-members. Courses taking place at Plymouth Guildhall, 9.30am-4.30pm.

See the SWLA website for further courses.



## Property Fraud is On the Rise

A homeowner named Angela returned from a 3 week trip to find a metal post box fixed to her front door and her letterbox taped up. She assumed that someone was trying to steal her identity and the police were informed.

Two months after returning from her trip, Angela received a letter from the Land Registry. The letter was entitled 'Completion of Registration' and went on to state that the property now belonged to a total stranger. When Angela contacted the Land Registry, she was told a solicitor in Tooting had verified a woman when she went to him to transfer the property.

On 8th October 2018 an application to register the transfer was sent to the Land Registry, notice of the application was sent to Angela on 11th October 2018, giving her until 1st November 2018 to respond. Angela didn't receive it. As no response was received, the Land Registry approved the fraudster's application on 2nd November 2018. The fraudster had paid the £80 transfer fee by postal order, which does not require a bank account, securing their anonymity.

What followed was a battle to get Angela's home back. The Land Registry viewed the issue as a 'civil matter' rather than fraud. It said the 'current registered proprietor', aka the fraudster, would need to be asked if she objected to Angela's name being put back on the register. Angela was told that, had the fraudster lodged an objection, the 'parties' would have to negotiate as to who rightfully owned the house, which could have taken months. The fraudster offered no objection and the house was transferred back to Angela on 25th February 2019. It took around 4 months to get the house back. Luckily it was not let or sold by the fraudster within that time.

There are many types of property fraud. Another more common one is targeted towards rental properties that are on the market. A fraudster will see the 'to let' sign and use that property as an opportunity to conduct viewings and take rent/deposit payments from tenants. It only takes a change of the locks for a fraudster to be able to do this successfully. Be vigilant and check up on empty properties regularly.

*Article Abridged from [thisismoney.co.uk](http://thisismoney.co.uk)*



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## **Spotting the Signs of Criminal Exploitation**

The Home Office's County Lines campaign aims to help landlords and letting agents – and other frontline staff— to spot potential victims, and report concerns to either the police, anonymously to Crimestoppers, or safeguard in line with their organisation's safeguarding policy.

County Lines is the term used to describe urban gangs supplying drugs to suburban areas, as well as market and coastal towns, by using dedicated mobile phone lines or "deal lines". Gangs use children and vulnerable people to move drugs and money to these areas. Once caught up in County Lines, exploited individuals are at risk of extreme physical and/or sexual violence, gang retributions and trafficking.

County Line drug gangs rent property where they operate. Guidance for letting agents and landlords can help you spot the signs of potential victims and report concerns. Spot the signs:

- Do visitors come at unusual times of the day or night?
- Are there suspicious smells around the property?
- Is a tenant getting more visitors?
- Has a tenant stopped leaving their house?
- Are curtains or blinds almost always shut?
- Has anti-social behaviour increased?

A tenant might also:

- Offer to pay rent for a long period (e.g. 6 months) upfront in cash
- Appear affluent but want to rent an inexpensive property
- Be unable to provide landlord or employment references
- Prefer to pay rent in cash without good justification
- Prevent you from inspecting your property when given reasonable notice

If you have concerns that a vulnerable tenant is being exploited, you should report it to Crime Stoppers on 0800 555 111, or to the police. You can find more information and resources on the Home Office website including guidelines, posters, and social media images to use and share.

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## **Home Office Spends More Than £78,000 to Defend Right to Rent Scheme**

The Home Office has spent more than £78,000 on legal costs to appeal against a High Court ruling that one of its policies violates human rights laws. A judge ruled in March that the government's Right to Rent scheme, which requires private landlords to check the immigration status of potential tenants, was causing landlords to "discriminate against potential tenants on grounds of nationality and ethnicity".

Ministers chose to appeal the decision – and figures released in response to a freedom of information request show that up to 27 March 2019, the department had spent £78,449 on the case in legal costs.

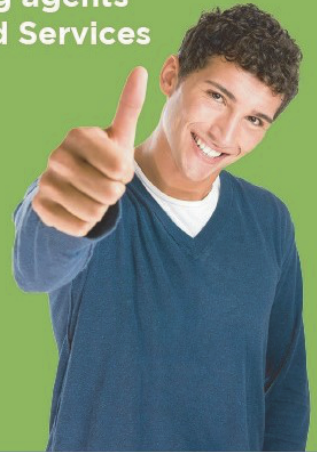
The Right to Rent scheme, which came into force in 2016, has previously come under fire from cross-party MPs, landlords and immigration lawyers who warned it could be putting people at risk of homelessness and exploitation.

*Article Abridged from The Independent*

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## **Right to Rent Uncertainty as Deadlines Brought Forward**

Media speculation around Brexit recently focused on Freedom of Movement and Immigration once again, as reports emerged that Home Secretary Rt Hon Priti Patel MP, plans to abandon the Government's existing commitment to Right to Rent procedures abruptly on 1st November.

David Cox, Chief Executive, ARLA PropertyMark said: "As recently as April, Government committed to continuing with current arrangements around Right to Rent for EU citizens. Planned transition is vital in order to allow practical Brexit arrangements for housing and it is essential that sufficient time is allowed for moving to any new system.

"To move the goalposts at this stage will cause unnecessary distress and uncertainty to all those affected. Tenants, landlords and agents must not be left in limbo, arrangements must be clear and transparent for all parties."

In April, then Immigration Minister Caroline Nokes MP, published a commitment that there would be no change to Right to Rent arrangements for EU citizens until 1st January 2021 and that this would remain the same, whether Britain leaves the EU with a deal or not.

"There will be no change to the way EU, EEA and Swiss citizens prove their right to rent until 1 January 2021. This remains the same if the UK leaves the EU with or without a deal. You do not need to check if new EEA and Swiss tenants arrived before or after the UK left the EU, or if they have status under the EU Settlement Scheme or European temporary leave to remain. You will not need to retrospectively check the status of EU, EEA or Swiss tenants or their family members who entered into a tenancy agreement before 1 January 2021."

In a letter to the Home office on 24 April, ARLA PropertyMark called for "certainty that landlords, agents and tenants in ongoing tenancies created in a variety of different legal formats prior to legislative change will not be in breach of new legislation.

"Furthermore, in compliance with the Right to Rent legislation, EU nationals who are treated exactly as UK nationals, are not recorded as a sub group by letting agents, meaning that there are no searchable records that will allow agents or landlords to identify EU nationals. Following the lessons of the Windrush Inquiry, it would be helpful to know that the Home Office is considering the consequences for compliance with the Right to Rent scheme for EU nationals who have not participated in the EU Settlement Scheme."

In the meantime, the Home Office has prioritised driving up applications to the EU Settlement Scheme which opened on 29 March 2019. According to the latest figures, 987,000 EU and Swiss nationals are in the process of applying to the scheme. The total number of EU nationals estimated to be living in the UK is 3.35 million.

***Article from ARLA PropertyMark***

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## **New Housing Minister**

Former journalist and TV presenter Esther McVey is Boris Johnson's new housing and planning minister. She takes over the role from Kit Malthouse. Although she has yet to announce any plans for her job, she has plenty of controversial landlord and tenant changes under consultation.

Malthouse, and his outgoing boss James Brokenshire, pushed through a flood of proposed law changes before they cleared their desks.

They include:

- Scrapping Section 21 no fault evictions, introducing a new housing court and replacing tenancy agreements with a new rolling contract.
- A major overhaul of housing standards is also due later in the year to update the housing health and safety rating system for houses in multiple occupation (HMOs).
- A new rogue landlord database naming and shaming the worst landlords in England is also under consideration.

McVey, 51, is MP for the Cheshire constituency of Tatton. Her last government post was as Secretary of State for Work and Pensions, which she took up in January 2018. She resigned in November 2018 in protest over the Brexit withdrawal agreement.

Newark MP Robert Jenrick, 37, is the new Secretary of State for Housing, Communities and Local Government. He was previously Exchequer Secretary to the Treasury. Jenrick's new role is to lead and manage strategy for the HCLG department.

***Article Abridged from Landlords Guild***

## IN THE NEWS

### Landlords Urged to Fight for Repossession Rights

Landlords are being urged to back a legal case to protect their rights to repossess properties. This follows a recent court case in which a landlord's attempt to regain their property was deemed invalid due to a dispute over a gas safety certificate. After that landlord was initially granted an order to repossess the property using Section 21 powers, the tenant successfully appealed on the grounds that they were not provided with a gas safety certificate prior to moving in.

Despite the landlord making this available once the tenancy had begun, the Court ruled that their Section 21 powers were invalid, referring to a previous similar case in which the certificate was made available less than two weeks after the tenant moved in. The judge in the appeal said that if the gas safety certificate was not served on the tenant before they took up occupation then a Section 21 notice could not be relied on to regain possession, and the situation could not be resolved by serving one after the moving in date.

Landlord associations are supporting the landlord, Trecarrell House Limited, at the Court of Appeal, on the basis that so long as the gas safety certificate is provided before the Section 21 notice is served, then it is valid. It argues that the case could breach a landlord's rights under the European Convention on Human Rights on the basis that it deprives them of their possession.

It is calling on landlords to back the case by making a financial contribution to support the case through a Crowd Justice website.

David Smith, Policy Director for the RLA, said:

"Protecting the rights of landlords to repossess properties in legitimate circumstances is key to providing the confidence the sector needs to offer longer tenancies.

"The landlord in this case was not seeking to shirk their responsibilities and provided the certificates that were needed.

"We will fight to ensure that if nothing else, logic prevails."

SWLA members are reminded to give tenants all documents and tenancy related paperwork before the Assured Shorthold Tenancy agreement is signed by the tenant.

*Article Abridged from RLA*

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### Agent Fined £80,000 After Leaving Customers' Personal Data Exposed

The Information Commissioner's Office (ICO) has fined an estate agent £80,000 for leaving 18,610 customers' personal data exposed for almost two years. The security breach happened when the London agency, Life at Parliament View Limited, transferred personal data from its server to a partner organisation and failed to switch off an 'Anonymous Authentication' function.

This failure meant access restrictions were not implemented and allowed anyone going online to have full access to all the data stored between March 2015 and February 2017. The exposed details included personal data such as bank statements, salary details, copies of passports, dates of birth and addresses of both tenants and landlords.

During its investigation, the ICO uncovered a catalogue of security errors and found that LPVL had failed to take appropriate technical and organisational measures against the unlawful processing of personal data. In addition, LPVL only alerted the ICO to the breach when it was contacted by a hacker.

The ICO concluded this was a serious contravention of the 1998 data protection laws which have since been replaced by the GDPR and the Data Protection Act.

Steve Eckersley, Director of Investigations at the ICO, said: "Customers have the right to expect that the personal information they provide to companies will remain safe and secure. That simply wasn't the case here.

"As we uncovered the facts, we found LPVL had failed to adequately train its staff who misconfigured and used an insecure file transfer system and then failed to monitor it.

"Companies must accept that they have a legal obligation to both protect and keep secure the personal data they are entrusted with. Where this does not happen, we will investigate and take action."

SWLA members can get advice from the SWLA office with regards to complying with GDPR and registering their business with the ICO.



## **Universal Credit Claimants and Rent Arrears**

More than half the people claiming Universal Credit are in rent arrears, according to the Residential Landlords Association (RLA). It reports that 54% of those private landlords who have let to tenants on Universal Credit in the past 12 months have seen them fall into rent arrears. Of these, 82% said that the arrears only began after a new claim for Universal Credit or after a tenant had been moved to it from housing benefit.

Some 68% of landlords said that there was a shortfall between the cost of rent and the amount paid in Universal Credit.

Private landlords renting to Universal Credit claimants can apply to have the housing element paid directly to themselves when a tenant has reached two months of rent arrears. This is known as an Alternative Payment Arrangement (APA). According to the research, it took landlords an average of almost 8.5 weeks for an APA to be arranged. Consequently, landlords can be left with almost four months of rent arrears before they begin to receive the rent they are owed.

Among landlords with tenants in receipt of housing benefit, 62% quite understandably said that they were concerned that their tenants might not be able to afford to pay their rent when they migrate to Universal Credit. The research also revealed that 36% of landlords surveyed said that they had buy-to-let mortgage conditions which prevent them from renting to benefit claimants.

It has been suggested that from the start of a claim for Universal Credit, tenants should be offered the ability to choose to have the housing element paid directly to their landlord.

According to the most recent statistics, 45% of households receiving Universal Credit with support for housing costs are in the private rented sector.

David Smith, policy director for the RLA, commented: "Today's research shows the stark challenges the government still has in ensuring Universal Credit works for tenants and landlords. The system only provides extra support once tenants are in rent arrears. Instead, more should be done to prevent tenants falling behind with their rent in the first place. Only then will landlords have the confidence that they need that tenants being on Universal Credit does not pose a financial risk that they are unable to shoulder. Without such changes, benefit claimants will struggle to find the homes to rent they need."

***Article Abridged from RLA***

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## **Agent Ordered to Pay Over £37,000 After Nine HMO Failings**

An agent has been hit with heavy costs for property offences. Omar Patel has been ordered to pay £37,279 in costs and fines by Camberwell Green Magistrates Court. He was prosecuted after an investigation by Southwark Council into nine properties in Rotherhithe, London. All were found to be lacking in essential fire safety equipment, while eight did not have HMO licences.

Southwark Council said it was the first time it has taken a single management agency to court over so many HMOs.



## Making Tax Digital; Quarterly Reporting for Landlords with a Turnover of Less Than £85k Delayed Until at Least 2021

Making Tax Digital (MTD) – Mandatory digital record keeping for VAT for businesses over the VAT threshold (with turnover over £85,000) came into force from 1 April 2019. This was an important first step in the modernisation of the tax system to which the government remains committed.

The government have confirmed a light touch approach to penalties in the first year of implementation. Where businesses are doing their best to comply, no filing or record keeping penalties will be issued. The focus will be on supporting businesses to transition and the government will therefore not be mandating MTD for any new taxes or businesses in 2020.

Therefore, landlords with an annual turnover of less than £85,000.00 will not have to operate MTD until 2021 at the earliest.

HM Revenue and Customs is currently running a pilot for businesses that want to volunteer for MTD for Income Tax. There is a limited choice of software at present, but HMRC expects that many more products will become available when a date is set for the mandatory Income Tax service. The Government have made a commitment that free MTD Income Tax software would be available for the smallest businesses with the most straightforward affairs.

SWLA have recently contacted all MPs in SWLA member's constituencies to highlight the importance of giving landlords time and quality software to be able to successfully implement MTD. We hope that the roll out, when it happens, will be smooth and successful. SWLA commit to keeping our members informed on any developments.

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For many years Landlord Insure UK have advised & supported SWLA members with regard to their Landlords insurance needs with comprehensive cover and exclusive discounts – we are specialist independent insurance brokers and can offer you a wide choice of policies which can be tailored to your individual needs. Our dedicated Team constantly review the market on your behalf and would be delighted to offer you a free, without obligation quote at your next renewal date.

### Freephone 0800 7316689 Ext 899

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# NOTICE BOARD

## 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

## E-Mail address

If you change your email address **PLEASE TELL US** otherwise you might miss important messages from us!

## KBG CHAMBERS - Barristers – Plymouth, Truro & Exeter

We will support members with legal advice and representation through public access. KBG cover all areas of Property Law.  
Call 01752221551 or email Colin Palmer, Senior Clerk, on [colin@kbgchambers.co.uk](mailto:colin@kbgchambers.co.uk)

Court advocates can be booked to attend SWLA members' possession cases at a discounted rate. Contact the SWLA office for further information.

## 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](mailto: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 8:30 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

Did you know that SWLA have a trade listing of local businesses? Head to the SWLA website 'Trade Directory' for all of your landlord needs from Gas Safety Checks to Building Services

# SWLA

South West Landlords Association

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

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