ATLAS & LLAS PRESS

PRIVATE RENTED SECTOR

52nd Edition June 2023

LLAS & Partners, Training, Networking Summer BBQ Friday 7 July 2023 From: 12pm to 6pm

Inside this issue

ATLAS

London Landlord Accreditation Scheme

Welcome to the latest edition of the PReSs

I started the last edition of Press '*Will they, won't they? What will it contain*?' I was talking about the Renters Reform Bill. On May 17th the Housing Ministry finally gave birth to the Bill. Apparently, it takes nearly 2 years for an elephant to give birth – the Housing Ministry took over 4 years!!

But they got there in the end, and what I will say here is that, in general, it is not something to be too worried about!

But this wasn't the only big announcement. LLAS is hosting its annual Summer Training, Networking and BBQ, on Friday, July 7th at the Taj Hotel

And what a stellar line-up for you. There will be legal updates from David d'Orton Gibson (TFP), a senior Civil Servant from the DLUHC will be there to discuss the Renters Reform Bill; Ben Beadle, CEO of the NRLA will discuss how he works with Civil Servants and politicians to help put the landlords view over; and we will get an update on mortgages from Jeni Brown, of Mortgages for Business, & Des Taylor from Landlord Licensing & Defense, and Ben Rose from LT4L to update us on what's going on with tax.

If that's not enough, 2023 will see the return of the ever-popular quiz. And there will be some wonderful prizes on offer for the winners – a free mortgage survey; a voucher for a free CPD course; complimentary membership of iHowz, Amazon voucher worth £100, donated by NRLA and the runners-up will get chocolates. Be warned, with such great prizes the quiz will be a tough one this year!

We will end the day with the barbecue in the courtyard. For those of you who haven't been before, it's a great chance to network in a tranquil area that you cannot believe is only 5 minutes' walk from Buckingham Palace, and 15 minutes from Trafalgar Square.

Once again, I will have the honour of hosting the event, and I look forward to seeing you all there. If you have not yet booked, don't delay as places are limited.

You have probably been reading in the press about how landlords are selling and leaving the industry. If you believe everything you read, you are going to be thinking that you will become a very rare breed – a private landlord! Indeed, at iHowz we have seen some of the longer-term members selling and retiring, but only some.

All these changes in legislation; taxes; increased costs will make the non-professional landlords think again, but that is good. It will be a shame to see some of the older, professional landlords sell up & retire, but I have no doubt the rest of you are proper professional landlords who do everything correctly. That is why you have trained through LLAS and are members of a Landlords' Association – preferably iHowz – to keep up to date.

To those of you I say, don't worry, make sure you do your job correctly. The diminishing number of landlords and their properties is good for you. You have a better choice of tenant – just make sure you chose carefully and wisely. Take advantage of the referencing schemes available, and only offer when you have carried out all your due diligence. Do this, and keep an eye on your rental property, and it will still be possible to run a profitable business.

The people I feel sorry for are those tenants who struggle to get good references, and/or guarantors. They are the ones who will not be offered accommodation, link this to the lack of social and council house building for many years, and they will end up in expensive bed and breakfast. Expensive for taxpayers, and extremely upsetting for many tenants.

So, well done to all of you for becoming accredited, just make sure you stay up to date – look at the range of CPD courses available through LLAS. If you can't see what you want, just ask.

Hope you enjoy this edition.

Peter Littlewood (LLAS & ATLAS Chair)

Peter Littlewood, iHowz Director
For more info on iHowz Landlord Association, visit http://ihowz.co.uk/

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Renters Reform Bill – is it good; bad or indifferent?

There has been a lot in the press on this big rental reform, and how it's causing some landlords to leave the industry.

Is this true?

For some yes, but for the professional landlords, who know what they are doing, it's not a major problem. I'll bang my normal drum at this stage, get accredited and stay up to date with CPD and appropriate news from your landlord association. That will give you a business & marketing edge over those who don't stay up to date.

You may remember that the Bill was preceded by last year's White Paper '**A Fairer Private Rented Sector'** which outlined all the rental matters the Government was thinking of including in its Bill. Apart from one major omission, it's all pretty much in the Bill.

The major omission? The plans to introduce a 'Lifetime Deposit'. The principal reason it was dropped was that no one understood how it would work, including the Government! It is a good idea to try to find a mechanism to avoid tenants having to fund two deposits for a brief period during tenancy change, but no one can think of a way to achieve this.

If you want a good opportunity to discuss the Bill and what it means for you, take the new LLAS CPD ½ day course on the 'Renters Reform Bill'.

So, is the Bill good; bad, or indifferent?

In general, it's not bad. Let's look at the matters that shouldn't cause problems for professional landlords:

All statements must be written, including the tenancy agreement.
LLAS has always advocated all agreements be in writing, else it is difficult to prove landlord requirements. Consequently, this requirement makes sense.

Registration
It is proposed that all landlords will have to belong to an Ombudsman/Redress scheme and a property portal. The Property Portal would include all the vital information agents, tenants, and landlords need to know. This information would range from legal requirements to rights and the landlord's history of compliance.

It would include a landlord database containing details of people who are, or who intend to become residential landlords; details of properties which are, or are intended to be, let as residential properties; and details of landlords who have received banning orders, including details of financial penalties or convictions relating to banning orders.

Under the Bill's provisions, a letting agent or landlord would be unable to let or market a property to rent if there is no active landlord or property entry for that property registered on the database.
And if a landlord fails to join the database, they will be fined up to £5,000 by their local council. Repeated offences could lead up to fines of £30,000.

The Ombudsman would engage in trying to resolve problems between landlords and tenants, with the intention of minimising problems going direct to court. As part of this, it would be necessary for all landlords to register for this scheme, in the same way agents must register for one of the two Redress Schemes.

The Government is trying to find a way of a central registration, to avoid landlords having to register twice – personally, I can't see this being a major problem.

Any law-abiding landlord should have no problem registering, even though there is a strong rumour that the tax man will use this register to know who a landlord is, and how many properties they have.

Rent increases.
It is intended that all increases will only be possible by using the Section 13 notice. This is a very sensible route for both landlords and tenants alike.

New grounds for Section 8/review of the court system
A principal use of Section 21 was when a landlord wanted to refurbish a property, sell it, or move in.

There will be new grounds in Section 8 to allow for these. All better for landlords.

The government stated that there would be better grounds for controlling Anti-Social Behaviour (ASB). This has traditionally been difficult to control and is one of the biggest reasons to use Section 21. However, the suggested wording for grounds about ASB isn't much better than the old ones. And they have proved difficult to use in court.

Note that the check on the deposit will now happen on most of the grounds for Section 8.

Much has been made about the need to reform the court system. This is really important, but there are no details.

Decent Homes Standard
All rental property must follow the Decent Homes Standard. This standard has been in place for many years for social landlords.

Whilst in principle, this seems a sensible option – that landlords and tenants need to know what minimum standard all rental property is, the Decent Homes Standard is far too vague – having terms such as:

- a reasonably modern kitchen (20 years old or less);
- a kitchen with adequate space and layout;
- a reasonably modern bathroom (30 years old or less);
- an appropriately located bathroom and WC;
- adequate insulation against external noise (where external noise is a problem);
- adequate size and layout of common areas for blocks of flats.

All these adjectives are far too vague.

The Government has carried out a consultation on the Decent Homes Standard, but there is no indication of when it will report, so it is difficult to see how it can be implemented via this Bill until more is known.

Pets
The tenants will have the right to request to keep a pet, and the landlord must accept unless they have a valid reason to reject. This is actually not much different from now. The AST is a contract and under contract law and the advice from the Government is '*A Landlord must not unreasonably withhold or delay a written request from a Tenant without considering the request on its own merits.'*

Note that a valid reason is if the lease precludes pets.

Currently, it is not possible to take more than 5 weeks deposit if accepting a pet, but you can insist on appropriate pet insurance – make sure you check what the insurance covers, and ensure it is renewed annually.

And the bad bits.
- Loss of the Section21 notice.
- Periodic tenancies only (no Fixed Term, therefore no Assured Shorthold Tenancies (AST), only Assured Tenancies)
- 2 months' notice by tenants at any time.

The proposal is to amend Section 8 to allow for selling the property; refurbishments or landlord moving in. This will therefore remove the need to use Section 21 for those grounds.

But, as already been mentioned, it will still be difficult to use Section 8 for Anti-Social Behaviour (ASBO) and this is where the loss of Section 21 will most be felt.

The plan to abolish Fixed Term tenancies and also allow tenants to give two months' notice at any time will cause problems, especially for student landlords. It has been rumored that all student landlords will be given a new ground in Section 8 to give 2 weeks' notice to students. However, this doesn't solve the problem of students leaving accommodation early. The danger is if the landlord cannot find another student, they might have to let to a non-student which could upset the dynamics of the other tenants.

Summary
Hopefully, you can see, as a professional landlord, you will have little to worry about. Just make sure you remain aware of the law and rule changes; do your due diligence before you offer; manage the let correctly.

Energy Requirements for Rental Property
You are hopefully aware that, under the regulations set out in the Minimum Energy Efficiency Standard (MEES) any property (both residential and commercial) cannot be let if they have an EPC rating below E.

There have been many rumours that this will change to a minimum of C in 2025. Please note these are only rumours. The Government is still to decide and pass the appropriate legislation. Until they do, the existing legislation remains.

In addition to (probably) changing MEES, there will probably be a new method to assess and work out EPCs. This will substantially affect the work needed to be done to meet MEES requirements.

It is highly likely (but not definite) the new EPC will look for a saving in carbon emissions, rather than cost savings as at present. This will substantially affect the type of heating installed. Currently, the EPC favours gas heating, it is probable the new EPC will favour electric heating over gas.

Be careful about carrying out energy saving works, they might be wrong.

Peter Littlewood, iHowz Director
For more info on iHowz Landlord Association, visit http://ihowz.co.uk/

Green Homes Grant

Camden

Would you like to ensure that your property follows **Minimum Energy Efficiency Standards (MEES),** improve the warmth and comfort of your property, and help your tenants save on their energy bills? The Green Homes Grant is here to assist.

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Click here for more information or check your eligibility and register your interest here. You can also call our project partners, **Warmworks** free on **0808 196 8255**

LLAS & Partners Annual Summer Networking, Training & BBQ Event

Event Speakers

David d'Orton-Gibson -CEO & Founder of Training for Professionals (TFP)

David has worked for many years in the letting industry and has first-hand experience of most roles involved in lettings. For over 30 years he has worked full time running training and consultancy for landlords and agents throughout England and Wales. He teaches public courses as well as running In House courses for local authorities, letting agents, landlord associations, housing associations, colleges and other bodies. Widely respected for his technical knowledge and teaching style, David combines an authoritative understanding of the legal framework with practical suggestions on working with people and presents in an engaging style.
For more info visit: Home - TFP Online

Grace Duffy (Head Of Policy at the Department of Levelling up Housing & Communities - DLUHC).

Grace Duffy has worked in the PRS team at DLUHC for 4 years, covering standards, enforcement, financial protections, and non-traditional tenures. She now leads on the dispute resolution aspects of the Renters Reform Bill, specifically the creation of the new Ombudsman for PRS landlords and work to improve court processes for possession and increase the use of mediation. She also oversees the governance of the property agent redress schemes.
For more info visit: https://www.gov.uk/

Ben Beadle -Chief Executive of National Residential Landlords Association (NRLA).

Ben Beadle is the Chief Executive of the NRLA, the membership body that represents over 100,000 landlords across England and Wales. A landlord for 20 years, Ben has had a lengthy career in housing holding senior roles at Places for People and TDS and is a familiar face in the sector and in the media. The Association was founded in 2020 and helps landlords – big or small – navigate the many challenges of the private rented sector, providing first class support, advice, learning resources and services as well as a powerful research and campaigning.
For more info visit: https://www.nrla.org.uk/

Jeni Browne- Sales Director - Mortgages for Business.

With more than 20 years' mortgage industry experience, Jeni has an unrivalled knowledge of the buy to let and residential mortgage industry. She is a frequent speaker at property investment events with a real knack for explaining complex, jargon-filled funding concepts clearly and concisely. A landlord herself, Jeni really understands the challenges the Private Rental Sector faces and regularly advocates for landlords in her contributions to the national and industry press. **For more info, visit www.mortgagesforbusiness.co.uk**

Des Taylor, Casework Director, and co-founder of Landlord Licensing & Defense.

Who you gonna call? when things go wrong there's one name people know to call, Des Taylor**.** Whilst building up a large HMO portfolio, Des recognised that to not be caught out you need to thoroughly understand legislation - a particularly hot topic with rent repayment orders at a record high.

After co-founding Landlord Licensing & Defense with HHSRS, compliance and property development specialist Phil Turtle, Des now spends his time helping landlords and agents who have fallen foul of legislation, regulation and councils. Work which isn't in short supply with many landlords unaware of the hundreds of laws, and so many property courses often stopping short of regulatory requirements.
For more info visit: **https://landlordsdefence.co.uk/book/**

Peter Littlewood- Founder & Director of iHowz & LLAS/ATLAS Trainer.

Peter has been involved in the rental market since the early 80's – so has a wealth of knowledge. Peter is anxious to rid the industry of its negative views, especially that it is full of 'rogue landlords'. In his view there are three types of landlords: - those who know what they are doing; those who don't, but try hard – they to be trained through LLAS; and those who won't do as they are supposed to do, even if they know. They are not 'rogues' but criminals and should be prosecuted. The industry does not want them.
For more info visit: www.ihowz.uk

Ben Rose - Group Head of Marketing – Less Tax 4 Landlords & Co-owner of hands-on growth consultancy firm The Key 2 Growth

Ben has been helping professional advisers maximize the positive impact of their expertise since 2010. For the last 5 years in particular Ben's top focus has been on supporting landlords through the development of Less Tax 4 Landlords from a start-up venture between three companies to the award-winning and market-leading firm it is today. Working very closely with top experts in their fields, Ben is well placed to provide insights from multiple authorities across different specialisms to provide the best advice and long-term solutions to clients.
For more info, visit https://lesstaxforlandlords.co.uk

Specialist landlord & tenant lawyer -Tessa Shepperson Answers landlords' FAQ: Protected or Regulated Tenancies

Protected or Regulated Tenancies
Sometimes when looking at property prices for tenanted or 'investment' properties, you may see one which seems to be unusually cheap. This will probably be because the sitting tenant is protected under the Rent Act 1977. These tenants are known as 'protected' or 'regulated' tenancies.

What does this mean?
Before 15 January 1989, the governing legislation for tenancies (with a few exceptions such as company lets) was the Rent Act 1977. It is the Housing Act 1988, which set up the assured and assured shorthold tenancies we have today. The Rent Act created a very different regime - although we may be going back to some of its elements with the forthcoming Renters Reform Bill. Existing tenants whose tenancy started before 15 January 1989 have retained all their rights under the Rent Act 1977 and so are treated differently from assured and assured shorthold tenants in England or contract holders in Wales.

Let's take a quick look at the rules that apply.

Rent Act tenancies.
There are three main areas of protection provided by the act:

- Rent
- Security of tenure (i.e., protection against eviction), and
- Succession (i.e., who can inherit the tenancy after the death of the tenant/s).

Rent
All protected tenants can apply to have a 'fair rent' registered. Once this is done, the only rent that can be charged is the fair rent set by the Rent Officer.
Landlords can apply to have this reviewed:

- Every two years, and also
- If major repair or improvement works have been carried out.

'Fair rents' were supposed to be based on market rents, but as time went by, there were fewer and fewer genuine market rents for comparison, and rents become very low.

So, after the introduction of ASTs, when 'proper' market rents became available for comparison, fair rents started to go up dramatically. This caused much hardship to protected tenants, who were mostly elderly people on fixed incomes. This is why the Rent Act (Maximum Fair Rent) Order 1999 was passed. This limits the amount that rent can be increased to approximately 10%. However, this limit does not apply where major repair or improvement works have been done. This is why protected tenants often object to these. As it will usually trigger a higher rent increase which they may be unable to afford.

If there is no fair rent registered, section 51 provides that any increase in rent must be through a written agreement which tells the tenant (at the head of the document 'in characters not less conspicuous than those used in any other part of the agreement') that their security of tenure will not be affected if they refuse to sign and that they can apply for a fair rent. I suspect that these rules are rarely followed, and many protected tenants are probably paying illegal and unenforceable rent increases.

Although the rent increase proposals in the Renters Reform Act are different, all rent increases will be subject to review by the First Tier Tribunal. It is possible that, over time this will have the effect of depressing rent levels as the 'fair rent' rules did.

Security of tenure

It is notoriously difficult to evict protected tenants. For example, the rent arrears ground is not mandatory, and so Judges can continually give tenants 'second chances. If you have purchased a property with a sitting protected tenant and want to redevelop it, probably your best bet is to provide 'suitable alternative accommodation'. This is a discretionary ground, but as the tenant is not going to be made homeless, there is a higher chance that the judge will find in your favour. So long as the proposed alternative property complies with the rules. But the rules are complex so if you are considering this option, you should get legal advice first.

Succession

The rules on succession were changed by the Housing Act 1988, and now it is only spouses (which include cohabitees and single-sex partners) of the original tenant who can succeed to a protected tenancy. Anyone else who has succession rights will succeed to an assured tenancy. Still, it does mean that a 90-year-old man today, who was the original tenant, could marry an 18-year-old girl meaning that she would be entitled to a protected tenancy of that property during her lifetime. So protected tenancies are likely to be around for a while, albeit in decreasing numbers.

Why purchasers need to check carefully

Landlords often give 'assured shorthold tenancy' forms to protected tenants for them to sign, thinking that this will convert their tenancy. However, this is not possible. A protected tenant will only lose their protection by

- Moving out, or
- Being evicted by the courts.

Signing an AST agreement form will just serve to disguise the type of tenancy that they have. So, if you are investigating the status of a tenant in a property you are looking to buy, you should find out how long they have been living there rather than rely on 'assured shorthold tenancy' forms that they may have signed in recent years.

And finally

The Rent Act ceased to be the main housing statute 34 years ago, and so is not well known. Only older lawyers and landlords will remember the problems it caused. But the strong rights given to tenants is the reason why there were so few rented properties around in the 1980's and 1990's and why those that did exist were in such poor condition

- Landlords were reluctant to allow people into occupation if this meant that they would be unable to recover vacant possession, and
- The rent received by landlords was not normally enough to cover repair work.

So, I hope the government thinks very carefully before introducing similar laws today.

Tessa Shepperson.

Tessa is a specialist landlord and tenant lawyer and runs the Landlord Law online information service at www.landlordlaw.co.uk. You can sign up to her free weekly bulletin (and get a free ebook) at www.landlordlaw.co.uk/bulletin.

The Doctrine of Estoppel

Estoppel is a common law principle. In this brief article, we explore whether estoppel can be successfully used to delay or prevent an eviction from an assured shorthold tenancy.

What is estoppel?

Estoppel is a legal rule that is sometimes applied to prevent a landlord from denying an agreement has been made with an agent where the landlord indicated to a third party that the agent was acting on the landlord's behalf.

This occurs when an agent acts in an emergency as an agent of necessity. It might prevent someone from relying upon certain rights, or upon a set of facts which is different from an earlier set of facts. It is not statutory, but is an established common law principle.

In lettings, propriety estoppel may arise when a person has acted in reliance on a belief that they will acquire rights over another's property. This could arise, for example, where a tenant has carried out improvements to the landlord's property. So, if the property owner just stood by and let the tenant act to their cost, they can be stopped from later seeking to reverse this action.

A landlord might say to a tenant "this is a very long-term let" and on that basis the tenant spends a significant amount of his own money on improving the property, perhaps adding a conservatory. The landlord is aware of this, but afterwards serves notice to end the tenancy as he wants to sell. Can the tenant prevent the eviction on the basis of estoppel?

In the case of an AST, the landlord is assured of possession under statute and will obtain an order for possession, but this will certainly give rise to a damages claim by the tenant. However, the situation could become more problematic for a landlord if there are conflicting notices.

Coronavirus questions

The Coronavirus Act 2020 extended the minimum period for a notice seeking possession under section 21 to six months. From June 2021, this was reduced to four months and from September it reverted back to the minimum period of two months.

It is conceivable that a landlord may have served six months' notice just prior to 1 of June, expiring sometime in November or December 2021. By serving a fresh notice after June, requiring only four months, the landlord may have been able to reduce the notice period and start possession proceedings sooner.

A similar situation may apply when the notice period reverted to the standard two months in September. However, a landlord that proceeds to court for possession on a second (shorter) notice would entitle the tenant to use a defence based on estoppel, because the new notice seeks to override the original notice upon which the tenant had relied in good faith.

In practice

To use estoppel as a defence in court, it must be established that a promise was made (the original section 21 notice) and that the tenant had acted on that promise to their detriment (accepted the notice). This will be easily proven and it leaves the landlord vulnerable for the proceedings to be rejected.

If a tenant believes that this defence may apply to them, they should seek legal advice. If the tenant defends proceedings and loses the case, the landlord's legal costs would probably be awarded against the tenant.

While estoppel could provide a defence against eviction, it is limited in the case of an assured shorthold tenancy primarily to conflicting notices and less likely in other circumstances.

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Everything you ever needed to know about Rent Repayment Orders

Rent Repayment Orders (RRO) were introduced by the Government in The Housing Act 2004 as a PUNISHMENT to Landlords for certain offences.

Contrary to popular belief, the RROs are not for the benefit of tenants, nor are they 'compensation'. This was confirmed by the Upper Tribunal (Lords Chamber) which makes case law.

The RRO claim nonetheless must be made by the tenant or, in the case of a tenant on housing benefits or housing allowance a council / local authority can also make a RRO claim to recover all the rent they have paid out.

The money claimed by tenants is seen by the Tribunal to be a 'windfall'.

From 2016, it was no longer required that the Landlord had been convicted, simply that they could be proved to have committed the offence to the legal standard of 'beyond reasonable doubt'.

What can a tenant claim with a Rent Repayment Order?
A tenant, or each individual tenant in a shared house or HMO (House in Multiple Occupation) can claim back up to 12 months' rent. The same is true for a council making a RRO.

The tenant can select any 12-month period within the three years leading up to the claim. Usually, tenants would choose the 12-month period in which they paid the most rent.

What are the offences against which a Rent Repayment Order can be made?

These are set out in the Housing & Planning Act 2016 section s40(3) and are:

Offence	Relevant legislation
Using or threatening violence for securing entry into premises	s6 Criminal Law Act 1977
Illegal eviction or harassment	s1 Protection from Eviction Act 1977
Failure to comply with Improvement Notice	s30 Housing Act 2004
Failure to comply with Prohibition Order	s32 Housing Act 2004
Breach of Banning Order	s21 Housing and Planning Act 2016
Having control of, or managing, an unlicensed property	s95 Housing Act 2004
Having control of, or managing, an unlicensed HMO	s72 Housing Act 2004

Landlords are often caught out when any building or flat is sold or bought and which is required by the legislation to have a selective, additional or a mandatory HMO license, because even if the property was properly licensed at the time of the sale, the license cannot be transferred.

This means that if the property changes owner and the new owner doesn't immediately apply for a new license, hey presto, they are automatically guilty of 'failure to license' under S72 or S95 of the Housing Act 2004 and in addition to being liable to be fined or prosecuted by the councils, any occupants become, automatically, entitled to claim a RRO.

A case of 'using or threatening violence for securing entry' is remarkably easy to make, and, if the Landlord does not have the necessary evidence of giving appropriate notice, then it is a case of 'guilty until proven innocent' and the tenant will romp home to a juicy RRO 'windfall' award.

Illegal eviction is a trap that even some of the biggest property gurus fall into regularly. For example, if a tenant runs away not paying rent, most Landlords will enter the property and re-let it. That's a Criminal Act.

Unless the tenant 'legally surrenders' the property then regardless of the fact they are not paying their rent, believe it or not they are still the legal tenant. And even if they have massive arrears, they are entitled to a RRO for illegal eviction if the Landlord takes back the property.

There is only one other way that a tenancy can be ended and that is by an order of the court. So that is it: Surrender by tenant or Court Order. Anything else is an illegal eviction. Even if a tenant dies, the tenancy continues, and the deceased's estate could claim a RRO.

Any Landlord that locks out tenants, changes locks – or the myriad of other 'get rid' tricks – are guilty of illegal eviction and can expect a massive RRO. Probably the full 12 months' rent.

How does a Landlord find out they have a Rent Repayment Order claim against them?
Usually, the first thing a Landlord knows is receiving a Notice of RRO claim from the FTT.

Alternatively, they will receive a letter from the 'no win – no fee' company (but not always Solicitors) claiming the full 12 months' rent then offering a discount for immediate settlement.

Landlords should be aware that this 'discount amount' is usually considerably more than the Tribunal would award. The 'no win – no fee' people are on a percentage, so they are looking to maximise their own fees and profiles.

How is the Rent Repayment Order decided?

The vast majority of RROs never actually get as far as a hearing at the FTT, instead they are fought-out in negotiations between, on the one side:

- A Landlord representative (such as **Landlord Licensing & Defence**)
  and on the other side.
- The tenant(s) or their representative(s).

It is estimated that 80% of RROs are settled 'out of court' in this way.

However, if the other two sides cannot agree, the matter must be considered by the Tribunal in a hearing - with a considerable amount of time and expense going into the production of legal bundles and often very expensive barristers to present the case at Tribunal.

Legal costs

Usually, the Tribunal will only make a costs award against the Landlord of the tenant's legal costs is when they judge that the Landlord has acted unreasonably or has frustrated the legal process.

The Tribunal can award the Landlords costs against the tenant for the same reason though this is extremely rare.

A word of warning to Landlords, however, when 'no win – no fee' companies or tenant's Solicitors are involved, they are highly motivated to create a case against the Landlord claiming unreasonableness and / or frustration of the legal process in order to increase their fees at the Landlord's expense.

We have seen on occasion 'Rule 13' legal costs claimed (and awarded) of nearly £22,000 on top of a £6,000 RRO award.

Why Landlords should avoid First Tier Tribunal hearings at all costs

Once the FTT has made its decision it will publish its findings. These are a matter of public record and are now indexed very quickly by Google.

The upshot of this is that the minute anyone types in the Landlord's name then at / or near the top of the results will be the RRO determination stating that you have been found guilty of Criminal Acts under the Housing Act, Housing & Planning Act, Protection from Eviction Act or Criminal Law Act. Not exactly what you want any tenant, Council, mortgage or insurance company to see!

In other words, you are ruined as a landlord and will find it very difficult to get a property license, rental or HMO mortgage or insurance.

Therefore, it is essential, the very second you realise that a RRO claim is being made against you that you contact Landlord Licensing & Defence – to keep the matter out of the public domain. You really need someone that knows what they are doing to achieve this.

Professional help for Landlords
Landlords Defence has assisted many hundreds of Landlords in defending RRO applications. 99% of cases handled by Landlords Defence are settled by negotiation 'out of court' and gagging orders put in place to keep the matter secret and prevent any subsequent legal actions.

If you have received any sort of notice or advice of a RRO application, do not waste valuable hours and days.
Contact for help immediately: [Landlord Licensing & Defence]

LANDLORD
LICENSING
& DEFENCE

LANDLORD LICENSING & DEFENCE

CONTEST a Rent Repayment Order (RRO) from the council or a tenant.

Received an application for a Rent Repayment Order (RRO) or a notice from the First Tier Tribunal (Property Chamber) that a claim has been made against you?

Do NOT ignore.
Do NOT talk to the tenant or council.

You have limited time and you need immediate advice. Most tenants use ruthless no-win-no-fee solicitors.

TALK TO US 0208 088 3494

PROTECT yourself from enforcement with a Property COMPLIANCE Audit.

- HHSRS 29 Hazards – Confidential audit to bring your property into compliance (that the council cannot use against you)
- Professional Fire Risk Assessment – the best defence against Gross Negligence Manslaughter
- Council & Amenity Standards
- Full confidential audits covering all of the above

TALK TO US 0208 088 3494

CHALLENGE A CIVIL FINANCIAL PENALTY

Councils can issue massive Civil Financial Penalties for breaches of housing law.

- Failure to licence a property or having the wrong licence.
- Breaches of your property licence or HMO conditions.
- Failure to comply with an Improvement Notice, Prohibition Order or Management Order.

The council gets to keep all the money so their motivation to fine you is immense.

Stay silent with the council and get immediate professional defence.

TALK TO US 0208 088 3494

FIGHT a Tenancy Deposit Claim

Received a letter or notice of deposit protection claim from your tenant or a solicitor?

Most claims come from aggressive no-win-no-fee solicitors.

It probably demands a lot of money and threatens court action.

Whatever you do, do not respond.

Seek immediate professional help to avoid court and minimise extortionate demands for compensation.

TALK TO US NOW 0208 088 3494

Compliant HMO design advice

90% of architects and builders do NOT understand HHSRS and Amenity standards requirements.

Advice on compliance after 2nd Fix can cost a fortune in reworks.

Get a professional review of your drawings or at 1st Fix and save yourself a fortune.

TALK TO US 0208 088 3494

Unwitting, Accidental or Unlicensed HMO?

Any property with 3 persons where one is not related to the others IS an HMO even if you are unaware.

If it should be licensed but isn't you have already committed a criminal offence and the fines can be £30k+

Do NOT talk to the council. Get professional defence to mediate for you and apply for the missing licence in the safest way possible.

TALK TO US 0208 088 3494

DEFEND against Enforcement from Council!

Landlords are entitled by law to have professional defence.

- Improvement Notice
- Failure to Licence HMO or Selective
- Prohibition Order. Not Fit and Proper Declaration
- HMO Management Regulations Penalty
- PACE interview under caution

TALK TO US 0208 088 3494

CONTEST a Fitness for Human Habitation claim

The latest get-rich scheme of ruthless no-win-no-fee litigation solicitors.

They will rack up vast legal costs and attempt to make you pay them through the courts. Plus, they'll take a hefty percent of the damages they win for the tenant.

They do not care about getting repairs done or tenant safety

Do NOT answer them, you're likely to self-incriminate.

TALK TO US NOW 0208 088 3494

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Company Director, Property Investor, Professional Landlord, International Civil Engineer & Business Mentor
Azad Ayub is a civil engineer with an MSc & Diploma of Imperial College (DIC) from the Imperial College, London. He has worked on and led numerous design and construction projects both within the United Kingdom and overseas.

He now focuses more on his property ownership, management and development business, which was established over 40 years ago and has been operating successfully since, catering to the niche student and young professional accommodation market and employing around 20 people, with assets in the UK, USA, Spain and Pakistan. Azad continues to maintain strong associations with well-known local and international professional organisations and regularly supports charities and engages in charitable projects both locally and abroad. Over the years, both Azad and his business have won numerous awards for their continued commitment to green issues, staff training and talent development.
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For more info visit https://landlordsdefence.co.uk/book
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For more info please visit: www.centralhousinggroup.com

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You can promote your services with LLAS & ATLAS and achieve excellent results.

Email us at **llas@camden.gov.uk**

Agent ordered to pay almost £50,000 for serious fire safety breaches

A letting and property management company running a House in Multiple Occupation (HMO) in Camden have been prosecuted for fire safety failures.

Monsoon Properties Limited were ordered to pay fines and costs totalling over £49,000 for the failures at the flat in Tavistock Place, WC1H 9RX at a sentencing held at Highbury Corner Magistrates Court on Thursday, 8 June 2023.

Monsoon Properties Limited pleaded guilty to charges on breaches of regulations 4, 7 and 8 of the Management of Houses in Multiple Occupation (England) Regulations 2006 at a previous hearing on Thursday, 11 May 2023. Issues noted included inadequate fire detection system, obstructions on the means of escape, defective fire doors, defective oven and hob and smashed wall tiles.

The Court fined Monsoon Properties Limited £10,000 for each breach of regulations – a total fine of £30,000 – and to pay Camden Council's costs of £7,020, plus a surcharge of £12,000. This means Monsoon Properties Limited must pay a total of £49,020.

Cllr Meric Apak, cabinet member for Better Homes at Camden Council, said: "This isn't the first time Monsoon Properties Limited have been prosecuted and they should know – as should all landlords and management companies in Camden – that we will not hesitate to take landlords who we suspect are breaking the law to court. We will also seek to ban bad landlords – our record of securing seven banning orders against rogue landlords is more than any other Council in England.

"Camden is committed to ensuring the highest standard of fire safety across our housing. This of course means a deep dive into safety in our own council housing and our significant investment includes ensuring our homes have appropriate fire doors, emergency lighting, fire alarms and fire stopping. It also means ensuring we hold private landlords and management companies to the same high standards – to ensure all our residents have safe homes to live in."

Source: Click Here

Letting Legally

Permitted Payments

It is illegal to charge certain fees to tenants, unless they are classed as 'permitted payments'.

These are the ONLY payments you are permitted to charge:

- ✓ Rent
- ✓ Holding deposit (capped at 1 weeks rent)
- ✓ Tenancy deposit (capped to 5 weeks rent)
- ✓ Utility bills and council tax
- ✓ Default fees – including key loss and rent arrears (reasonable charges)
- ✓ Changes to a tenancy at the tenant's request - £50 / reasonable costs
- ✓ Fees for leaving a tenancy early, known as termination charges (to cover actual loss suffered by the landlord)

To work out the weekly rent, multiply the monthly rent by 12 then divide this sum by 52.

It is safer to receive payments in a traceable manner, but if you are paid in cash, always provide a receipt.

Prohibited Payments

You can 'no' longer charge the following:

- X Administration fees
- X Contract negotiation fees
- X Application fees
- X Inventory charges
- X Set up fees
- X Referencing fees
- X Check-in and check-out fees unless by mutual agreement, e.g. for an out of office hours checkout
- X Credit check fees
- X Renewal fees
- X Guarantor fees
- X End of tenancy fees
- X Permitted occupier fees
- X Default professional cleaning fee
- X Right to Rent fees

This list is not exhaustive and if the payment is not permitted within the Tenant Fees Act 2019 then it will be deemed prohibited. You should no longer make reference to these fees in your tenancy agreement or property adverts - they cannot be charged.

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- Managing Rent Arrears
- Universal Credit in PRS
- Death of a Landlord
- Death of a Tenant
- Keeping it Safe
- Letting and Managing Agent Course
- Introducing Repairing Obligations
- Legionella-What is it?
- HHSRS (Housing Health and Safety Rating System)
- Inventories
- TDP and Deposit Disputes
- Tenancy Agreements- Setting them up
- Tenancy Deposit Protection
- Immigration Act 2014

Book online at
www.londonlandlords.org.uk

Damp & Mould

What causes damp and mould?

Damp is the most common cause of mould indoors. It can grow in wet or moist areas caused by leaks or when a home does not get enough ventilation. Moist areas can include:

- walls or wallpaper
- ceilings
- bathroom tiles
- carpets
- wood

How does mould affect health?

- Breathing in or touching mould can cause allergic reactions in some people such as:
- sneezing
- runny noses
- red eyes and skin rashes
- breathing problems like asthma and chest infections and can make existing breathing problems worse.
- persistent exposure to airborne mould can also cause sensitization in non-sensitive persons.

Who is most affected?

Exposure to damp and mould can cause health problems in some people. This can include:

- babies and children
- those with skin problems those with skin problems like rashes or eczema
- those with breathing problems like asthma or allergies
- those with weakened immune systems that might be having chemotherapy

What does damp and mould look like?

Types of damp – condensation, rising and penetrating

Condensation

Condensation is the most common type of damp in rented properties. It appears when there is an imbalance between heating, insulation, ventilation and humidity.

When moisture in the air contacts cold surfaces such as windows or cold walls, the water condenses onto the cold surface and black mould can grow around windows, behind furniture and in corners of rooms.

If the mould is not wiped regularly, mould will start to grow in small spots and could spread.

Landlord's responsibility
Landlords have a responsibility to take action in relation to damp and mould growth in some circumstances. For example, if the tenant's heating is not working it is the landlord's responsibility to fix it.

Tenants' responsibility

Tenants have a responsibility to manage moisture to reduce condensation by ventilating and heating their home.

Everyday activities such as showering, cooking and drying clothes can cause condensation**.**

How to reduce condensation:

- Cover pans when cooking
- Use extractor fans in kitchens and bathrooms
- Close doors when you are cooking or showering
- Leave a gap between furniture and walls
- Dry clothes in well ventilated area
- Open windows at least once a day for short periods at a time to let warm moisture out, but do not leave them open all day as this can make your home colder which could make condensation worse
- Try to heat your home

Penetrating damp

Penetrating damp is caused by moisture entering external walls for example through a crack, burst pipe or rainwater. Penetrating damp can also get into homes from plumbing problems in the building.

The landlord is usually responsible for carrying out works to fix penetrating damp.

Rising damp

Rising damp is when moisture rises through a wall or floor. Usually because of a defect of the structure. Rising damp will require further investigation by specialist contractors.

Your landlord is responsible for carrying out works to fix rising damp.

When should landlords take action?

Landlord should fix the damp and mould problem if it is:

- caused by a repair that is needed
- affecting your health
- Report the damp and mould problem to your landlord. Your landlord is usually required to investigate and carry out necessary works to fix the damp and mould within a reasonable timeframe.

Who do I contact if my landlord does not take action?

If your landlord does not take action after you have reported the damp and mould, contact the Private Sector Housing Service where the rented property is located

Can Tenants act against landlords?

Yes, tenants can take civil action against their landlord if they believe their home is not fit for human habitation through Homes (Fitness for Human Habitation) Act 2018. Find out more in the Government's guide here.

Source: **Click Here**

City of Westminster

Energy Efficiency in Private Rented Property in Westminster - MEES Plus Grant Pilot Scheme (2023)

Westminster City Council is writing to all landlords whose property may be eligible for financial support through the **MEES Plus Grant Pilot Scheme (2023)** to improve the energy efficiency of their properties.

In 2019 Westminster City Council declared a Climate Emergency and committed to achieving a Net Zero City by 2040. To meet this target in housing, the Pilot Scheme will offer eligible landlords financial support of up to **£10,000** to improve the energy efficiency of their property, measured by the Energy Performance Certificate (EPC). Landlords are expected to match fund grant money (e.g. a grant of £5,000 would require a matched contribution from the landlord).

Current regulations require that private rented property must meet an EPC of E or above. We believe that you are the landlord of: (*insert address*), which is operated as a rented dwelling and is in compliance with the MEES Regulations with EPC rating of xx and may be eligible for grant funding.

Westminster encourages landlords to take advantage of this opportunity to reduce carbon emissions and improve energy efficiency in their properties as early as possible. The UK Government[1] is consulting on a proposal to increase the minimum energy efficiency standard (MEES) from an EPC rating of 'E' to a rating of 'C' for new tenancies from 2025 and to all private rented homes from 2028. Action now will support landlords to meet potential future requirements.

For further information on eligibility and how to apply, please refer to:
www.westminster.gov.uk/housing/private-sector-housing/landlords/landlord-energy-grant-scheme

For any questions please contact: res@westminster.gov.uk

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BTL landlords left in limbo as bailiffs stop work

There has been more misery for buy-to-let landlords struggling to regain control of their properties, after the HM Courts and Tribunals Service temporarily suspended the work of bailiffs on safety grounds.

An incident is under investigation, and it is believed that the situation will not change until all bailiffs have bespoke, personal protective equipment, and this a major problem for private landlords with problematic tenants, requiring the County Court to sanction appointment of a bailiff.

While no landlord wants to see a bailiff injured in the course of their work, the move is a bitter blow for many landlords who have already been struggling for months to regain control of their properties via clogged legal means.

LegalforLandlords, which specialises in helping landlords with legal and tenancy matters, has been recording the scale of the problem, which appears to be particularly acute in London.

Courts affected include Central London, Croydon, Brentford and Wandsworth, although Sim Sekhon, LegalforLandlords MD, believes there may well be others.

“These are the cases we know about because our clients are directly affected. We can’t overstate the misery this is causing,” he explained.

According to Sekhon, there are currently 80 cases awaiting bailiff appointments – the majority in London – with four cases where existing bailiff appointments have been cancelled.

The only real alternative for landlords seeking possession of a property at the moment is to apply to the High Court, according to Sekhon. But doing so is a lot more costly and there are no guarantees that the judge will appoint a High Court Enforcement Officer.

“It’s a terrible situation,” he added. It’s causing real problems and we have no idea how long it may persist. Once again, landlords’ needs are being ignored.”

Source: Click here

Fraudster agent banned as company director after stealing tenants' deposits

A letting agent who defrauded customers by more than £80,000 has been disqualified as a company director.

Francis Smart, 46, owner of Smart Residential Letting Agents in Newmarket, was sentenced to 32 months per offence, to run concurrently, after pleading guilty to two counts of fraud in respect of retaining rent and deposits.

It had emerged Smart had broken the law by stealing tenancy deposits instead of placing these into a Deposit Protection Scheme.

The Judge who sentenced him at Ipswich Crown Court commented that Smart's actions were 'particularly sad' adding that he had 'betrayed those who trusted you and caused a lot of distress'.

Officers from Suffolk Trading Standards worked alongside colleagues from the National Trading Standards Tri Regional Investigations Team to secure the conviction after more than 30 witnesses alleged that they had faced substantial losses after using Smart's services.

Both Trading Standards teams also applied to have Smart disqualified as a company director, with a judge agreeing to this for a period of eight years at Ipswich Crown Court on Friday.

Graham Crisp, head of Suffolk Trading Standards, said: "Francis Smart being banned from being a director of any company registered in the UK for eight years is an excellent outcome for Suffolk Trading Standards and our colleagues from the National Trading Standards Tri Regional Investigations Team, who I would like to personally thank for their help with the matter.

"The ruling also means that Smart is not allowed to be involved in the forming, marketing or running of a company for the same time period, which should bring some comfort to his clients who lost thousands of pounds due to his lies and deceit, and that he will not be able to repeat these actions once out of prison."

Cllr Andrew Reid, cabinet member for public health and public protection, added: "I am continuously grateful to officers from Suffolk Trading Standards for their tireless work to rid our county of rogue traders, enabling residents to remain protected and creating a level playing field for legitimate businesses.

"Securing justice against Francis Smart is the latest in a long line of successful court cases for the team, and I have no doubt that their actions have stopped landlords, including those who bought an investment property to fund their retirement, from facing any further losses from a despicable fraudster who didn't think twice about blatantly disregarding the law."

Source: **Click Here**

Growing concern as 'landlord panic to exit the rental market' sparks evictions crisis

Landlord Action, the eviction and housing law specialists, says the UK court system is on the brink of a severe bailiff crisis, as an increasing number of County Court bailiff evictions are being put on hold or cancelled, leaving landlords facing an even longer wait and higher costs to evict tenants.

Whilst the Ministry of Justice claims delays and cancellations are amid safety concerns due to a lack of Personal Protection Equipment for bailiffs, Landlord Action says cracks in the court system started years ago.

"This is just the beginning and without intervention the problem is going to get worse and worse" said Paul Shamplina, founder of Landlord Action. "The historic lack of investment in the courts is now being compounded by changes in regulations and rising interest rates, sparking landlord panic to exit the rental market."

In Q1 2023, landlord repossessions in the county courts rose by 69% in comparison to the same quarter in 2022. "This is before Section 21 is abolished and more eviction cases end up in the courts" adds Paul.

Landlord Action is calling on Judges at County Courts to start granting leave to transfer more eviction cases with serious arrears to the High Court to share the burden of rising workload, as an increasing number of County Court bailiff evictions are being suspended. Some landlords have already waited more than six months to reach the point of eviction and are being financially crippled by the delays.

In a current case, which Landlord Action is acting on, the client waited 16 weeks from the date the possession order was granted (24th January 2023) to the date the bailiff appointment was confirmed (16th May 2023) with the eviction date set for 2nd August. However, the landlord has this week received a phone call from the bailiff saying, due to the PPE issue, it could take a while to be rescheduled. The landlord has already waited more than six months to reach this point, with his tenant currently owing £20,942, increasing at £81.91 daily.

Paul Sowerbutts, head of legal at Landlord Action, commented: "We've offered our client the opportunity to re-apply to have his case transferred up to the High Court, but naturally there is a reluctance as this is yet another cost for the landlord. Whilst the High Court could help alleviate the delays, it won't solve the crisis we are facing. Whilst bailiffs aren't striking like other public sector workers, they are following work-to-rule action, and the Government must invest in the court system, including a review of bailiff salaries, if they are to improve recruitment and give landlords any confidence in the future of buy-to-let."

Landlords wishing to evict tenants must first serve a notice to their tenant and, unless it is a Section 21 notice, which is due to be abolished as part of the Renters Reform Bill, then wait for the relevant County Court to approve the eviction, issue a warrant, and book an eviction date.

Daren Simcox, CEO of High Court Writ Recovery, a private bailiff firm specialising in High Court writs and evictions across the UK, says the number of County Court bailiffs employed by courts to attend evictions has been waning as government policy has affected team sizes, meaning some bailiffs now cover multiple courts resulting in unmanageable workloads. "The bailiffs simply don't have the time to wait, so if there is a problem on the eviction day, they are moving on after 10-15 minutes leaving cases unresolved.

"The current wait time for possession in some cases is 37 weeks from claim to possession – that's nine months and simply isn't acceptable. Judges should be granting permission to transfer up to the High Court as a matter of course, given the current circumstances. Of course, whilst this route is usually much quicker, it is also more expensive for landlords, but less than one month rent, so the quicker possession can be obtained the landlords can take steps to re-let. Even High Court Enforcement Officers are in short supply after 40% left the industry during Covid and have not returned."

Source: [Click here]

A NETWORKING EVENT

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London Landlord Accreditation Scheme

Accreditation & Training for Landlords & Agents Across the UK

ATLAS

LLAS/ATLAS Training, Networking
Friday 7 July 2023, from 12pm to 6pm

This Training & Networking event will give you and your staff an overview of the key issues in PRS housing and their impact on PRS provision across the UK in 2023, including Legislative & New policy changes and much more.

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Presentations will be on everything that is topical in the private rented sector (PRS) including:

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- Landlord Tax & Capital Gains Tax, what impact has Section 24 had on the market, and how much will the Corporation Tax Increase cost landlords?
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