

Inside Letting

EDINBURGH'S LINK WITH LANDLORDS

ISSUE 23: SEPTEMBER 2010

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Available online at: <http://www.insideletting.org.uk>

Front Page

Inside Letting steps into the digital age

Welcome to the first online issue of Inside Letting, the City of Edinburgh Council's link with Edinburgh's landlords and agents.



Inside Letting is a key part of the Council's commitment to communicating with landlords, who play an important role in meeting the city's housing needs. The private rented sector provides accommodation for 20% of Edinburgh's residents. Everyone wants this accommodation to be of good quality and well managed; but the Council also recognises that there is a whole range of legislation and regulation that landlords have to be aware of.

Inside Letting will help to keep you informed about the legislation that affects you, and will also give you other useful information that is relevant to your business. We will also use this as our channel to let you know about Landlord Registration in the future, so we will no longer issue the quarterly e-bulletin email that you may have been used to receiving.

We hope that regular readers will approve of this shift to an eco-friendly digital format from the previous printed editions. It goes without saying that producing Inside Letting in a digital format will be more economical, but it also allows us to be timelier as we can deliver information to you more quickly without the long lead times of a print edition.

We can also be more interactive. Hyperlinks contained in articles can be accessed immediately. We will also ask your opinion through online polls, and we can find out what articles our readers are interested in so we can take this into account in future issues.

We do understand that, for some readers, nothing is quite like holding a magazine or book. Our magazine can be downloaded and read offline, and readers can forward the magazine easily to family, friends and colleagues.

We hope you enjoy this edition of Inside Letting, and remember; we *always* want to hear your feedback.

News

Electrical Safety – a guide to your responsibilities



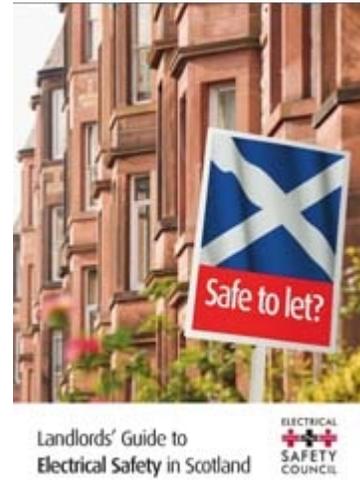
From left to right: Jim Tolson MSP Dunfermline and West Fife Bill Wright ESC Chairman Newell McGuinness ESC Trustee and Managing Director for SELECT Phil Buckle ESC Director General

As part of its campaign to improve electrical safety in rented accommodation independent charity, the Electrical Safety Council, has launched **The Landlords' Guide to Electrical Safety in Scotland**.

The aim of the guide is to help landlords understand their responsibilities for electrical safety in rental properties and to keep tenants safe in their homes.

It includes guidance on;

- all the relevant legislation
- electrical installations
- periodic inspections, testing and reporting
- portable appliances
- fire alarms and emergency lighting
- finding an electrician



The guide has been produced with the support of a wide range of partners, including the City of Edinburgh Council's Letwise team and was launched at an event at the Scottish Parliament.

To download a free copy of the guide go to the [Electrical Safety Council](http://www.electricalsafetycouncil.org) website. To get a printed copy contact the Electrical Safety Council Consumer Helpline on 0870 040 0561 or email: leaflets@esc.org.uk

Spotlight on Lettings

Market Report July 2010



Jonathan Gordon, Director of Clan Gordon Limited (Chartered Surveyors and Residential Property Managers), gives his assessment of the letting market in the first half of 2010.





Edinburgh has seen rental levels grow by between 3% and 4.6% over the last 12 months, depending on the size of property, with most of the growth in the last 6 months.

The city has also seen a significant change in the time taken to let a property, with average time taken to let down from 44 days to 33 days according to citylets.co.uk, the leading advertising portal for agents. These are both good indicators of the quality of the market.

Supply

One of the most significant factors on the supply side in the last few years has been owners renting out their property because they can't sell it – the so-called “reluctant landlords” effect. With more positive feelings in the sales market, the number of those properties coming on to the rental market has dropped significantly.

There have also been signs of some of the “reluctant landlords” taking their properties out of the rental market this year to try to sell. This has contributed to a fall in the number of new rental properties entering the market. It is not yet clear if this trend will reverse when the economic policies of the new UK government take effect.

Tighter mortgage controls and the effects of government policy, such as the changes in capital gains tax, have yet to play out in the buy-to-let market.

Demand

At the same time, the demand side continues to grow and there are steadily increasing numbers of tenants entering the market. One of the main reasons for this is the continuing difficulty in arranging a mortgage. Most mortgage providers now have higher deposit requirements and tighter controls on who can get a mortgage, making it difficult for anyone without a significant deposit to buy a home.

Experience on the ground also bears this out. Competition between prospective tenants is increasing. Applicants know that good flats will be taken quickly and they are keen to be the first to view. This does not necessarily mean that rents will continue to rise, as affordability remains an issue at the core of rental valuations. However, it does mean that, with more tenants viewing, landlords and agents will have a better chance of avoiding or minimising the gap between tenancies.

Law & Legislation

Case Notes - Why is the Letwise lease so long?

By Fiona Greer of TC Young Solicitors



The length and content of a lease for residential property can vary significantly from one landlord to another. The [Letwise lease](#), the sample lease that is made available for landlords through the Council's Letwise team, runs to 15 pages and some landlords may question the need for such a lengthy document. It is important for landlords to know the essential parts of a lease and the pitfalls of failing to include certain important clauses within a lease.

There are four requirements for the creation a lease in Scots law – the parties, the subjects, rent and duration. Where these four elements are agreed, a lease is created whether or not any written documentation is signed. In terms of the [Requirements of Writing \(Scotland\) Act 1995](#), a lease for more than one year's duration must be in writing. However, it is advisable that regardless of the duration, a written lease is produced in order to agree upon the contractual terms under which the lease will operate. Further, landlords should note that in terms of Section 30 of the [Housing \(Scotland\) Act 1988](#) a landlord also has a duty to provide a written lease to a tenant under an assured tenancy (which includes a short assured tenancy).

Although it is impossible to cover every eventuality in a lease, it is important that the most common issues involved in letting a property are covered within your agreement. Such an agreement will make it clear from the outset what are the respective responsibilities and obligations of the landlord and the tenant. It will also assist to make matters clearer when determining whether one of the parties is in breach of the conditions of the lease.

Many of the clauses in the Letwise lease are based on legal requirements. One of the most common problems with residential leases is the failure to include details of the possible grounds of repossession of the tenancy. There are a number of specific "grounds" for recovery of possession listed in the [Housing \(Scotland\) Act 1988](#). In order for a landlord to raise proceedings for possession of a property under an assured tenancy on any of these grounds, the terms of the tenancy must make provision for it to be brought to an end on the ground in question. It is therefore important that a lease lays out in full the grounds of repossession detailed in the 1988 Act. Cases which have been decided in court would also suggest that the grounds must be set out in the lease as they appear in the Act. The Letwise lease does this in clause 18. Failure to include the grounds may result in the landlord being unable to validly raise proceedings for repossession based on the grounds during the course of the contractual lease.

Undoubtedly one of the biggest disagreements between the parties to a lease is regarding payment of money. It is important that the rent clause is clear about how much rent is due,

how often it is due and when it falls due. It is also important that any service charges are also detailed clearly and fully. Further, the lease should make provision as to whether the tenant is responsible for the payment of Local Authority taxes and household bills.

The return of the tenant's deposit at the end of the lease is another common area of disagreement. There are strict legal rules about the purpose of a deposit and what it can be used to cover at the end of a tenancy. Clause 6 of the Letwise lease is based on those rules. The deposit clause should clearly state what the deposit can be used to meet at the end of the lease and how any remaining deposit will be returned to the tenant.

The lease should be clear as to both the tenant's and landlord's responsibilities in terms of upkeep and repair of the property. The Letwise lease (clause 11) sets out clearly the tenant's obligations in terms of reasonable care of the property (including the common parts). It also clearly indicates what they are restricted from doing in terms of alterations and their liabilities in terms of repairs required due to their own negligence. Further, the lease sets out (clause 15) the landlord's obligations in terms of repairs or maintenance of the property and in particular refers to the "repairing standard" which is set out in the [Housing \(Scotland\) Act 2006](#). Again, these clauses which clearly set out each party's obligations within the lease can assist in preventing disputes relating to liability during the course of the tenancy and at its termination.

The Letwise lease does not cover all eventualities so landlords can add their own clauses. Bear in mind that a lease is a form of consumer contract and is subject to the [Unfair Terms in Consumer Contracts Regulations 1999](#). In terms of these Regulations, any written term of a lease must be expressed in "plain intelligible language" and is subject to a fairness test. If there is any doubt as to the meaning of a term of a lease, the interpretation which is most favourable to the tenant will prevail. The Office of Fair Trading has issued [Guidance on Unfair Terms in Tenancy Agreements](#) and although this deals primarily with leases in England and Wales, much of the content is also relevant to Scottish leases.

In summary, "less is more" does not apply to residential leases! A good lease will cover all of the important issues surrounding the respective duties and obligations which lie with the landlord and tenant in terms of the law and should leave little doubt as to the rights and obligations of each party.



Data Protection



Landlords often ask whether [The Data Protection Act 1998](#) applies to the information they hold about their tenants. The Act applies to anyone that holds personal data, and therefore it inevitably does apply to private landlords.

This means that landlords should only keep personal data that they have a good reason for retaining and that they should only hold personal data that has been checked within the past two years.

Tenants, both current and former, have a right to see any information relating to them that a landlord holds.

The Information Commissioners Office has produced a [good practice factsheet](#) (PDF) which covers landlords most frequently asked questions.

www.dataprotection.gov.uk

Property boards – getting it right

When homeseekers see a board advertising a property for let, they seldom question whether it is a genuine advertisement. But sometimes letting agents display property boards as a way of free advertising, when they don't have a property available at all.



The practice of displaying boards outside properties which are not for let is known as Fly Boarding or Hoax Boarding. In 2007 a London based estate agent received a fine of £1500 plus £1600 costs for such practices and that was for just one misleading property board.

The use of property boards as free advertising is perfectly legal as long as the property the board is associated with is either for let or has been let by that agent within the last 14 days. If agents did decide to use their property boards as a form of free advertising either to attract new tenants or new landlords onto their books then this could be seen as misleading.

The wide scope of the [Consumer Protection from Unfair Trading Regulations 2008](#) (CPR's) would cover Fly Boarding as a misleading action by agents.

So, after a property is let, the board must come down within 14 days of the contract being signed. As laid out in the Town And Country Planning (Control Of Advertisements) (Scotland) Regulations 1984, only one board or joined boards can go up on the property, not one on the stair door and one on the actual flat as we often see throughout Edinburgh. And definitely, no board at the end of the street!

To avoid any risk of falling foul of the legislation, follow the advice from Trading Standards - only display boards on properties where you can show that you are the letting agent or landlord.

Registration Matters

Registration Renewals



Private landlords in Edinburgh are being reminded to renew their registration when their current registration expires.

Over 30,000 applications from landlords have been successfully processed by the Council since the launch of the Scottish Government's Landlord Registration scheme in 2006.

Landlords are required to renew their registration every three years, and over 12,000 of Edinburgh's applications are due to be renewed in 2010.

Latest national figures show that around 19% of landlords are failing to renew on time, meaning they are leaving themselves open to financial penalties of up to £5000.

While the Council will issue a reminder, some landlords have not kept their contact details up to date and so should not rely on receiving a notification. The Council's Landlord Registration team is urging landlords to check their details to make sure they are correct.

Landlords can register online to gain a 10% discount on their fees, or they can fill out a paper application form. A team of experts at the Council are also on hand to give out advice and to help landlords with the renewal process.

Councillor Paul Edie, Housing Leader for the City of Edinburgh Council, said: "It's important we get the message across to all landlords that they need to renew their registration or they are letting their property illegally. Any landlords who haven't registered yet should take this opportunity to do so now."

For more advice and information, go to www.edinburgh.gov.uk/landlordregistration or phone 0131 469 5293.

The public register of landlords is available to view on www.landlordregistrationscotland.gov.uk. Just put in the post code of the let property and select the address

Events & Training

Current Training Events

You can book a place by downloading the Booking form and sending it to letwise@edinburgh.gov.uk

For further information about these courses or future training events, contact our Training and Development Officer, Rachel Fleming on 0131 529 2177 or email rachel.fleming@edinburgh.gov.uk

Letwise Landlord Training Programme October 2010 – December 2010

Tenancy Agreements

Thursday 21 October 2010. 1.00pm – 4.00pm
Venue : European Room, City Chambers, High Street, EH1 1YJ
Cost : £30 + VAT

This course will identify the key elements for inclusion in tenancy agreements, and suggest good practice issues in establishing assured and short assured tenancies.

Is it for you?

This course is intended for private landlords and letting agents involved in creating tenancy agreements whether let to individuals / families or shared occupancy. It is intended to cover assured and short assured tenancies, and is not intended to address resident landlords or protected tenancies.

Booking form for [Tenancy Agreements 21/10/2010](#)

Recovery of Possession

Wednesday 27 October 2010 1.00pm – 3.30pm
Venue: Midlothian Suite, Lothian Chambers, George IV Bridge, EH1 1RN
Cost : £30 + VAT

This course will enable delegates to understand the legal requirements and pitfalls in successfully recovering possession of their property under the assured and short assured tenancy regime.

Is it for you?

This course is intended for both new and experienced landlords and letting agents. It is not designed for resident landlords.

Features

Window Blind Warning

As a result of a fatal accident, City of Edinburgh Council's [Trading Standards](#) team is issuing a warning to parents, carers and landlords on the dangers window blinds can pose to young children.



Many window blinds fitted in the home are operated by cords or chains. These can pose a strangulation hazard to young children. In a bid to reduce the likelihood of this happening again, the safety standard of blind cords was improved in 2009.

The new standards ensure a safer design and manufacture while also highlighting warnings and the safety devices that can be used to reduce possible dangers. However there is a risk that older products within households could still present a danger to children and [Trading Standards](#) urge parents to follow a number of simple safety guidelines to make them safer.

These are:

- Cords ending in a loop are a particular risk. Cut the cord to get rid of the loop. Think about using tassels instead
- Make sure cords are out of the reach of children
- Where cords cannot be cut, a tie-down or tension device can be used to pull the cord tight and secure it to a wall or floor
- Never put beds, cots or playpens within reach of a cord
- Keep sofas, chairs, tables and shelves away from windows to prevent children climbing up and reaching curtain or blind cords.

Trading Standards officers will work with businesses in Edinburgh to make sure they are aware of new standards concerning the manufacture of window blinds. They will also encourage those who supply, fit or sell window blinds to make consumers aware of the potential dangers.

Councillor Robert Aldridge, Environment Leader, said:

“Parents and carers need only make a few simple checks on any pull cords at home to ensure that they are not putting their children’s safety at risk. The deaths that have occurred are

tragic for the families involved and we need to do everything we can to prevent any more similar incidents happening. This campaign by Trading Standards highlights a few simple measures that can be taken to make blinds safer.”

A leaflet with further information can be obtained from The British Blind and Shutter Association - www.bbsa.org.uk or from www.edinburgh.gov.uk/tradingstandards and click on the link to latest news.

Protect your Tenants from Housebreaking



Landlords are being encouraged by Lothian and Borders Police to protect their tenants from housebreaking by making sure their properties are safe and secure. The effect of becoming a victim of housebreaking can be devastating – not only will your tenants lose valuable belongings, it can make them feel insecure and vulnerable in their home.

By taking a few simple steps you can reduce the opportunity of your tenants becoming a victim of this crime.

Top tips:

- Install at least one lock – preferably two - which complies with the British Standard 8621. This is key to the level of security offered to your property. Due to fire regulations, the most suitable locks are emergency escape deadlock or sash locks.
- Display a sign asking your tenants to lock doors and windows when they are not in.
- If an intercom system is fitted, make sure that it is in good working order, as this is the first barrier a criminal has to overcome. If an intercom system is not fitted, consider installing one.
- Fit restrictors to the windows to limit the access from the outside.
- If possible, lock or secure any doors that give access to the rear of the property as this restricts the movement of criminals.
- Fit draft excluders to reduce the opportunity for thieves to look through the letterbox.

PC Carlyn Simpson, Crime Prevention Officer for Lothian and Borders Police, says “Good door and window security is key in the security of any building. If it is effective, it can deter most opportunistic thieves, but it has to be fitted properly.”

Speak to [Lothian and Borders Police](http://www.lothian-borders.police.uk) Crime Prevention Officers on 0131 311 3131 or visit www.crimestoppers-uk.org or www.direct.gov.uk

View this eMagazine online at:
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