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LANDLORDS NEED PROTECTION AS WELL AS TENANTS

There are many reasons why a property is let; the owner may be working away from home, it may have been bought as a retirement residence or it may be an investment purchase.

Whatever the reason, it is absolutely essential that a potential landlord takes professional advice before seeking tenants and uses the services of a reputable and regulated letting agent once a decision has been made to let a property. There are serious financial, legal and security implications when letting a property and every landlord needs to be fully aware of these.

As a member of ARLA (Association of Residential Letting Agents) Ashton Burkinshaw, the specialist letting and property management company based in the southeast, has seen many instances over the years where landlords have not adequately protected themselves against tenants failing to pay their rent, and have incurred huge expense and effort in trying to take the tenants to court to recoup the monies owed and regain possession of the property.

Most letting agents offer a range of services at different fees. Some of these services might seem more expensive through one agent than through another. It is essential to check what is included in the fee and what will be charged as an extra at a later date. The expensive service at first sight may turn out to be one of the more reasonable ones over the period of the tenancy. As a general rule the services offered are Let Only, Let and Rent Demand and Full Management. Ashton Burkinshaw offers all three of these services to its landlords.

The Ashton Burkinshaw **Let Only** service involves the agent sourcing the tenant, taking up references, preparing the Tenancy Agreement, perhaps preparing the Inventory, collecting the first month's rent and deposit and accounting to the landlord for these monies. Thereafter its involvement would cease.

Ashton Burkinshaw's next service is **Protected Rent Demand**. This service involves all the duties of the Let Only contract, but in addition, Ashton Burkinshaw continues to collect the rent throughout the tenancy and chase unpaid rents.

The most comprehensive service is **Full Management**. Ashton Burkinshaw basically takes the place of the landlord and deals with every aspect of the let, from seeking a tenant, to maintenance of the property, to rent matters, to inventory preparation and checking; indeed, everything connected with the property during that period. This service is naturally the most expensive but it is cost effective.

Ashton Burkinshaw's Protection Plan (ABPP) scheme is one of the best on the market. It is there to protect the landlord and is available with Ashton Burkinshaw's Full Management and Protected Rent Demand service. The plan ensures that any breach of the Tenancy Agreement by the tenant is dealt with swiftly and any unpaid rent is settled promptly (within 14 working days) with no excess to pay. The scheme will pay the landlord rental income for up to 12 months or until vacant possession is gained. It will even pay for one month after vacant possession, if the tenants suddenly vacate in breach, subject to Ashton Burkinshaw re-letting the property. It will also pay for the legal expenses to obtain possession and judgement for debt.

Ashton Burkinshaw has been involved in two court cases recently which have served to highlight the importance of having this type of rent protection. The stories here will probably be all too familiar to experienced landlords!

The first case involved a landlord who was protected by ABPP. Ashton Burkinshaw had duly referenced the tenant and everything was in order for the tenancy. Unfortunately, over a period of 9 months the tenant became a "bad payer" with cheques bouncing, two months' outstanding rent arrears and in general a tendency to avoid paying the rent. The tenant was taken to court for breach of tenancy where the landlord sought a judgement for debt and an application for repossession. However, just before the court hearing the tenant cleared all the rent arrears so the judge decided, rightly or wrongly, that the tenant could remain

in the property on the condition that future rent payments were no more than three weeks late – which obviously contravened the tenancy agreement. Now, if the landlord still requires possession he will need to serve the correct notice (with a minimum notice period of two months). If the tenant fails to leave the landlord will have to reapply to the court for possession.

But, because this landlord had protected himself with ABPP, the scheme ensured that all his legal expenses were covered and that any rent not paid within 14 days of the rental falling due, in the past and in the future, had been and would be paid. The important point here is that the judge had effectively given the rogue tenant permission to pay his rent in arrears for up to 3 weeks, making the ABPP all the more critical.

The second case involved a landlord who opted **not** to take out ABPP. The landlord was letting his property to finance his severely disabled wife's care in a nursing home. Once again the tenant failed to pay his rent and the landlord served two months' Notice to Quit. This was ignored so the landlord had no choice but to apply to the court for possession which took 7 months to happen. A judgement was then made for the tenant to vacate in 14 days and to pay the arrears – and this again was ignored. Finally a bailiff order was applied for by which point the arrears had amounted to £7,960. Since the landlord has had to fund his own legal costs, the whole experience has cost the landlord the best part of £10,000, all of which he would have recouped if he had been contributing to the ABPP scheme. Over the term of the tenancy, this landlord's subscriptions would have been £654 plus VAT – a worthwhile expense in view of the course of events.

It is clear from these real life experiences that ABPP offers tremendous peace of mind for the landlord, particularly when there is a mortgage to pay on the property or when there are other financial commitments. The ABPP scheme is charged as a percentage of the rent; in most cases for well less than £1 per day.

If any landlord is unclear about any of the services available from Ashton Burkinshaw, please contact any of our 13 branches throughout Kent and Sussex.