

## **“Tenancy Deposits: Landlords must take care!**

We would hope that most, if not all, Landlords are now aware that where in respect of an Assured Shorthold Tenancy a monetary deposit is taken this must be registered and protected by an approved scheme. The regulations over deposit protection also impose requirements upon Landlords to provide information to the tenants.

As a result of the credit crunch various Letting Agents have ceased trading and landlords who thought that a deposit was protected by a scheme run by the Agent may now find that this is not the case. It is vital that as soon as a Landlord becomes aware that a deposit may not be protected that they seek to ensure that the deposit is within a scheme. A failure by a Landlord with regards to the initial protection and maintaining the protection may mean that the landlord cannot seek to rely on the non-fault ground for possession under Section 21 of the Housing Act. Also the tenant may be able to apply to the court for an Order that the landlord should return the deposit and pay a penalty equivalent to 3 times the original deposit!

Case law is starting to develop over the repayment of deposits and penalty payments but caution should be every landlords watchword as litigation of this type, even if it can be avoided, is time consuming and expensive.

If you require further advice on this or any other aspect of Landlord and Tenant Law please contact our specialist department headed by David Whitney for an initial without obligation discussion on direct dial 0208 735 9783 or email [dw@hpwsolicitors.co.uk](mailto:dw@hpwsolicitors.co.uk).

11<sup>th</sup> November 2009”

© Hubbard Pegman & Whitney LLP