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Fire! the risks and consequences

It is often only in the wake of disaster that there is adequate focus given to some aspects of property ownership, and the recent cases of fire in Camberwell and Southampton are no exception.

Most tenancies run smoothly with the majority of tenants paying their rent and discharging their own responsibilities under the tenancy; some are more troublesome, but in the main, major events are rare. When they do occur, the results can be devastating.

During our ten years as managers, we have had our, thankfully small, share of major incidents to deal with, including burglaries, criminal activity, suspicious deaths, major floods and fire. The effects of fire are invariably shocking, and on occasion, tragically fatal. The causes, in our experience,

are sometimes linked to activity beyond our management control; smoking in bed, alcohol and mental health problems have all featured in some way, as well as arson.

At present there is no retrospective statutory obligation that compels landlords to install smoke detection in units although the inherent duty of care makes it a given that a responsible landlord will provide this. In terms of fire safety in tenanted property, it is important to consider and provide advice in relation to:

- what tenants are to do in the event of a fire or an emergency situation, and any personal circumstances that may present difficulties
- how any fire will be contained
- how tenants will be made aware that an incident has occurred.

arim manages in excess of 4,400 individual leasehold units. So often, much of the above, if not all, may be dependent on the competence and performance of the Freeholder and their agent.

Without the remit to instruct and periodically review the fire risk assessments, or to control the maintenance of the common parts and services ourselves, the lack of good order and safety could adversely expose any landlord in the event of a fire that resulted in loss, injury or death.

Our recommendation generally would be that:

- as a minimum, battery smoke detectors should be fitted along passageways and escape routes. (Please note that if the property was built after 1992 it must have mains wired interlinked smoke alarms fitted).
- fire blankets and in some instances, fire extinguishers be provided in appropriate places. (Fire extinguishers need to be serviced annually).

- fixed electrical installations are checked on a 5 or 10 year basis; the report will determine the frequency
- PAT testing of appliances is undertaken annually and before new lets
- a Carbon Monoxide detector is fitted (can be combined with smoke detector) and tested annually along with the gas safety test.

Dos and Don'ts

Do:

- instruct periodic risk related inspections and document/action any relevant findings
- ensure tenants are aware of an escape plan in the event of an incident
- seek advice from local council or fire prevention officers
- periodically check your Buildings Insurance Cover and any relevant conditions.

Don't:

- assume the property is safe. You may need to show that you have taken adequate steps to ensure the safety of your tenants in the event of an incident
- assume your tenants will test or change batteries in smoke alarms – these should be checked on check-in, check-out and during any management inspection
- assume your buildings insurance policy will automatically cover everything.



Shelter Update

You will recall from our last edition of property insight that arim launched a charity appeal to raise funds for Shelter, as part of our 10th anniversary celebrations in 2009.

The intention was to run the appeal up to the achievement of the fundraising target of £10,000, with the Company matching the fundraising efforts of the arim office with the highest total raised at the point the target is reached.

We actually smashed our £10,000 target in October of last year, with a well deserved win by our Brighton office. The Company then added £4233.34 to the fundraising total, which matched Brighton's total at that point.

Given that there was still money to come in and a number of planned events yet to happen, we decided to continue the fundraising efforts until the end of 2009.

We have now 'closed' arim's fundraising account and we are delighted to confirm that we have raised a total of £16,436.15, with some further opportunity for Shelter to claim gift aid from our sponsored events to supplement this total. This is a fantastic achievement, in a relatively short period of time, and particularly given the size of the Company.

We would like to thank all clients and suppliers that have supported our fundraising efforts, either by taking part, donating prizes or sponsoring events. We sincerely hope that the money raised will support Shelter's vital work helping homeless households find and keep a safe, permanent home.

Regulation

Good Agents have nothing to fear but the...?

Yet again confirmation by CLG Minister for Housing that full regulation of letting and managing agents is intended – announced, 3 February 2010. Most of the professional bodies and those from whom reports have been commissioned have long accepted the need and the Property Standards Board set up in 2008 specifically focuses on assuring the best interests of consumers in their involvement in the sector. At the moment the plethora of attempts to introduce selective Licensing, a Landlord Register (encouraging feedback from tenants) and other accreditation schemes can only confuse.

arim certainly favours a common regulatory approach aimed at improving standards in the industry through best practice measures that seek to enforce the necessary safeguards.

Add to these confusing messages the latest HMO planning changes and no surprise that many Landlords wonder where it will all end. No incentive at all and none of it will improve the quality of available accommodation.

Interestingly, The Bribery Act which recently received Royal Consent may be yet another control on unscrupulous agents and owners. We need to watch how it may impact those that may, for example, be receiving commissions from insurers or contractors. Disclosure and declaration will undoubtedly impact more agents and individuals than those already regulated in this context by RICS & ARMA.



AST Threshold Changes

All new tenancies granted at rents up to £100k per annum will, with effect from 1 October 2010, default to assured shorthold tenancy (AST) status. This means that all of the rights and responsibilities associated with the Housing Act 1988 will be extended to higher rent properties.

Importantly, this will also apply to existing tenancies (assuming there is no other relevant exemption).



Further changes in HMO legislation – how will it impact?

The Housing Act 2004 introduced a new definition of a House in Multiple Occupation (HMO) from 6 April 2006 in England & 30 June 2006 in Wales which resulted in Mandatory licensing for properties as below:

- An entire house or flat which is let to 3 or more tenants who form 2 or more households and who share a kitchen, bathroom or toilet.
- A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to 3 or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not wholly self contained (ie the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by 3 or more tenants who form two or more households.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies.
- In order to be an HMO the property must be used as the tenants' only or main residence and it should be used solely or mainly to house tenants. Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties which are used as domestic refuges.

In May 2009 a consultation was commenced in response to calls to stop 'studentification'. However Julie Rugg had previously cited there were



only 59 out of 8,000 council wards (0.7% of all wards) with more than 10% student population.

The consultation attracted around 900 responses, from local authorities, residents associations, universities, individuals, MPs, councillors, and campaign groups. The large majority of those who responded supported a change to the so-called Use Classes Order, which defines how a property can be legally used, and the introduction of a definition of what constitutes an HMO.

The Town and Country Planning (Use Classes) Order 1987 previously defined use class C3 as a dwelling house (whether or not as a sole or main residence) (a) by a single person or people living together as a family or (b) by not more than six residents living together as a single household (including a household where care is provided for residents).

The Order has been amended to provide for a specific definition of an HMO which will be the same as that used in the Housing Act 2004.

Planning permission is now required, where a material change of use has occurred, for properties changing use from C3 (dwelling house) to the new use class of HMO. The number of households (sharers) is to be reduced to three, previously six. At the same time the movement between the new

HMO Use Class back to the C3 class (dwelling house) will not require planning permission. These planning changes do not require new legislation and commenced from 6 April 2010.

Therefore where three unrelated people share a 3 or 4 bed house this will require Planning Permission for change of use to an HMO.

The consequences to Landlords are:

- A fee of £335 is applicable for Planning Permission.
- It could take up to 8 weeks for Planning to be approved which will impact on the 'time to let' applicable properties.
- The target market for properties with 3 bedrooms or more may become more restricted, due to the length of time this process may take.
- If a property moves back to single household no Planning Permission will be required, but on a subsequent let to 3 or more sharers a further application for Change of Use will be required.

There are various bodies including BPF & NLA lobbying against this. arim is also making representations on behalf of our clients. We are in discussions with our clients to agree appropriate strategies for dealing with this. Any further updates will be circulated.

Anti-discrimination

Gender and disability discrimination has been a feature of employment and property ownership for some time now and October 2010 sees the new Equality Act become law. It is the most significant consolidation and development of the law for many years. It is designed to simplify existing anti-discrimination measures and among other things will affect all employers and property investors by ensuring the fair treatment of impacted individuals.



Smart Meters

In October 2008, the Government Department for Energy & Climate Change (DECC) announced its intention for gas and electricity smart meters to be installed in every home by 2020.

The benefits are significant with utility customers having the ability to actively manage their energy consumption and drive down their bills with the Energy Companies being able to manage demand, protect the distribution network and optimise energy generation, including intermittent sources of renewable energy.

Smart meters specifically should mean:

- the end of estimated bills and home visits to read meters often housed in locked cupboards
- real time, accurate information provided on energy use in the home and with different appliances
- access to information via the internet, mobile phones and hand held devices
- potential for rewarding those consumers who use energy efficiently and at off-peak times
- consumers generating their own energy, selling surpluses to the energy companies

British Gas announced on 9 March 2010 that they aim to have two million homes covered by 2012.

National Housing Trust (Scotland) Affordable Homes initiative



An initiative with the potential to create at least 1000 new affordable homes for rent, a similar number of jobs, and stimulate Scotland's house building industry, was announced on 29 March 2010.

The Scottish Government and the Scottish Futures Trust (SFT) have devised the National Housing Trust (NHT) initiative as a direct response to the economic downturn and the squeeze on public finances.

It will see local authorities join forces with housing developers to build and let houses in areas where there is high demand from people unable to afford to buy or rent a home at market prices.

Ten local authorities have already confirmed interest in the plan which will see the purchase of newly-built homes, with loans underwritten by the Scottish Government, and the houses then let to tenants for between five and 10 years.

At the end of the 5-10 year rental period, the properties will be sold and receipts used to redeem the financial obligations underlying NHT. Local authorities will have first call on any receipts. Once this local authority debt is repaid, any remaining sums will be used to redeem the private sector borrowing and provide the developer with a return. That return will be capped with any surplus retained by the public sector for use in delivering further affordable housing.

The NHT, which will kick-start activity on mothballed housing sites, is expected to lever in around £130 million of extra housing investment.

The SFT has begun formal market testing of the scheme with a call to interested parties to note their interest and give feedback on the viability of the proposals. A Prior Information Notice (PIN) has been published in the Official Journal of the European Union to call for registers of interest in the scheme from developers.

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