

Points to Consider if Investing in a Residential Property in Multiple Occupation (“HMO”)

If you are considering purchasing a property which is a HMO, it is important to remember that HMO's are subject to licensing. There has been mandatory licensing in place since 2006, which applied to properties of 3 storeys or more with 5 or more people taking up 2 or more separate households.

From the 1 October 2018, changes were introduced to the licensing regulations which extended the rules for properties in England. Mandatory licensing was extended to HMO's occupied by 5 or more people who together do not form a single household regardless of the number of storeys.

For HMO's, a further change has been introduced setting a requirement of a minimum room size for occupants with the minimum sleeping room size being:

- 6.51 metre square for 1 person over 10 years of age.
- 10.22 metre square for 2 persons over 10 years of age.
- 4.64 metre square for 1 child under the age of 10 years

It will also be a mandatory condition that any room of less than 4.64 metre square may not be used as sleeping accommodation and a landlord will need to notify the local housing authority of any room in the HMO with a floor area of less than 4.64 metre square. If within a room there is an area with a ceiling height of less than 1.5 metres, it cannot be counted towards the minimum room size.

Local housing authorities are also required to impose conditions stating the maximum number of people over 10 years of age and/or people under 10 years of age who may occupy specific rooms within the HMO for sleeping accommodation.

All licences, which are issued for a HMO after the 1 October 2018, need to include a condition requiring the compliance with the council storage and waste disposal scheme, if one exists within that borough.

Sanctions for breaching the minimum room sizes, if convicted of such a breach, could result in an unlimited fine. If the local authority does not prosecute they can impose a financial penalty of up to £30,000.

When investing in a HMO, care should be taken to ensure that all licensing requirements have been complied with. If unsure whether a property qualifies as being a HMO, then legal advice should be sought.

In addition to HMO licensing requirements, consideration should be given to the Tenancy Agreements that are currently being used or are to be used for the occupants. If using a standard Assured Shorthold Tenancy, it is important to consider the following:

- If there is a deposit in accordance with the tenancy terms, check whether it was correctly registered and that the prescribed information was provided to the tenant within the permitted time.
- Check the immigration status of each tenant in accordance with the Right to Rent Rules as set out in the Immigration Act 2014 (as amended).
- Ensure that the tenants have been given a statement confirming whether the property is a licensed HMO.
- Provide a copy of the latest "How to Rent: the checklist for renting in England" to the tenants.
- A gas safety certificate must be obtained at the start of the tenancy and a copy provided to the tenants.
- A record of any electrical inspection must also be provided to the tenants.
- The landlord must fit smoke alarms on every storey that is used wholly or partly as living accommodation.
- A carbon monoxide alarm must be fitted in any room containing a solid fuel burning combustion appliance.
- All smoke alarms and carbon monoxide alarms must be in working order at the start of the tenancy.
- The landlord should provide an Energy Performance Certificate to the tenants free of charge.
- Check that the property is compliant with the changes to the Energy Efficiency regulations.

These are the main points to take into consideration before acquiring a HMO, or investing in a vehicle that has acquired or is intending to acquire a HMO.

If you would like any more information on the above or any related matter, please contact a member of the Dispute Prevention and Resolution or Real Estate Teams.

If you would like advice on HMO's or other associated property matters, please contact a member of Rooks Rider Solicitor's Dispute Prevention & Resolution or Real Estate teams.



Matthew Ball
Partner
Head of Dispute Resolution
mball@rooks rider.co.uk
+44(0)20 7689 7142



Nicole Stewart
Senior Associate
Dispute Resolution
nstewart@rooks rider.co.uk
+44 (0)20 7689 7252



Aaron Heslop
Associate
Dispute Resolution and
Employment
aheslop@rooks rider.co.uk
+44 (0)20 7689 7209



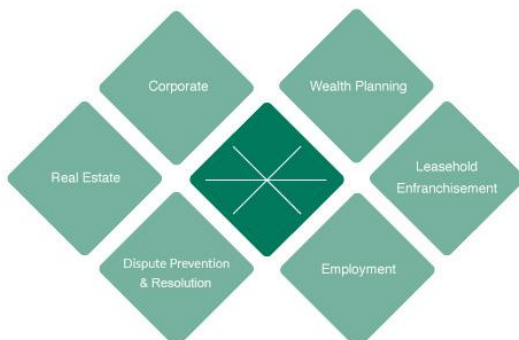
Anthony Shalet
Partner
Head of Real Estate
+44 (0)20 7689 7143
ashalet@rooks rider.co.uk



Natalie Walford
Associate
Real Estate
+44(0)20 7689 7182
nwalford@rooks rider.co.uk



David Coleman
Executive
Residential Real Estate
+44 (0)20 7689 7144
dcoleman@rooks rider.co.uk



Rooks Rider Solicitors LLP
CentralPoint
45 Beech Street ■ London ■ EC2Y 8AD

Disclaimer:

Please note that the information on the law contained in this bulletin is provided free of charge for information purposes only. Every reasonable effort is made to make sure the information is accurate and up to date, but no responsibility for its accuracy and correctness, or for any consequences of relying on it, is assumed by the author or the firm. The information does not, and is not intended to, amount to legal advice to any person.