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Social Housing Update – January 2009

Welcome to the latest issue of Social Housing Update from the Social Housing team at Penningtons. If you would like to continue receiving this email update in 2009, please email publications@penningtons.co.uk to subscribe.

Home Information Packs (HIPs)

On the 8 December 2008 the DCLG published further regulations to provide that where the first point of marketing is on or after 6 April 2009 the HIP **must include from that first point of marketing** a completed Property Information Questionnaire which questionnaire includes a summary of key leasehold information for leasehold properties and energy documents"

If you would like further information regarding HIPs, please email [Linda Storey](mailto:Linda.Storey@penningtons.co.uk).

Tolerated Trespassers

As probably everyone will know by now, the House of Lords dealt with this question on 10 December in the case of Knowsley Housing Trust versus White.

The result of this decision is that where there is a Suspended Possession Order the tenant remains a tenant together with their rights, such as right to buy, compensation, disrepair and so on, and do not lose the same until the landlord has actually obtained possession and the Possession Order has been executed. This decision will hopefully resolve the problem in those cases where these questions have arisen in the past.

Whether it finally ends the debate and litigation over the question of the "tolerated" trespasser, we shall have to see.

For more information, please email [Jonathan Rouse](mailto:Jonathan.Rouse@penningtons.co.uk).

Misdescription

It must be remembered that when a property is sold at auction a binding agreement is entered into and the usual pre-contract enquiry process is not followed. Some purchasers buy off the auction particulars and don't even visit the property.

For these reasons, it is vitally important that the auction particulars are correct. If there are any errors in the description of the property, this may amount to a misdescription which could lead to a claim for damages or, in some cases, the contract being rescinded. Although the particulars are frequently drafted by the auctioneer, it is always up to the owner to ensure they are correct. It would normally be the case that the auctioneers will attempt to exclude their liability for any errors.

If you want to avoid problems selling at auction:

- Make sure you check the particulars very carefully to ensure they're accurate.

- If possible, make sure your contractual arrangements with the auctioneer do not leave you without remedy if they make a mistake.

For more information, please email [Thomas Clark](mailto:thomas.clark@penningtons.co.uk).

Housing Associations could face an additional VAT cost

Housing Associations who use temporary staff could be faced with an additional VAT cost from April 2009. This is because the Staff Hire Concession is to be withdrawn with effect from 1 April 2009 and means that employment agencies will be required to charge VAT on all supplies of temporary staff. This will affect housing associations who use temporary staff to cover maternity leave or absenteeism, for example, and who are unable to recover VAT charged to them.

The Procurement for Housing and the Recruitment and Employment Confederation has met with HM Revenue and Customs to argue that there should be concessions made. However, HMRC have said that housing associations will have to prove to them that the change has a significant effect on their businesses and at present, there seems to be no signs of a concession from HMRC. In the meantime, housing associations should be looking at lessening the impact of the change on them by restructuring their operations and/or minimising the extent to which they use temporary staff.

For more information, please email [Sarah Cardew](mailto:sarah.cardew@penningtons.co.uk).

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Please Note: Specialist advice should be obtained before taking, or refraining from taking, actions based on comments in this update which is only intended as a brief note.