

West Riding Investor Briefings – Rental Realities

We've written this pamphlet for the benefit of investors thinking about getting into the private rented sector (PRS) or buy-to-let as it is commonly called. As the title suggests, this is the reality of being a rental landlord, very far from the illusive panacea as which buy-to-let is often portrayed. It is important to note however that this is NOT applicable to furnished holiday lets which enjoy special and more favourable tax treatment.

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Buy-to-let – the Fantasy

You buy a house or better still houses, or apartments, using your own capital, from an inheritance or your pension fund perhaps, or better still using borrowed money so you can leverage your investment. Maybe you can even con the lender into believing the mortgage you want is residential, not buy-to-let. Many have done it before you, after all. Your rents increase over the years as does the value of your properties. If you've borrowed money the rents always exceed your interest outgoings so you're always making a profit. When it comes to tax, there's no chance of the taxman finding out what you're doing so you don't need to declare the income. Likewise, when you come to sell the properties for a handsome profit you can keep quiet about it and not pay tax on the profits, pretending that you've lived in them yourself all along to qualify for the main residence exemption from Capital Gains Tax. In the meantime, your tenants will be nice people who always pay in full and on time, causing you no trouble and leaving you plenty of free time to live the high life as your rents roll in while you do not a lot. That is the fantasy.

Buy-to-let – the Reality

The reality is very different. Being a buy-to-let landlord is at least a part-time job and the more properties a landlord has to manage then the more full-time it becomes. Landlords need to attract tenants, manage rent collections, arrange and pay for repairs, account for service charges, get the boiler serviced and the chimney swept, insure the property – the list is endless. This pamphlet gives the more balanced view you need to have if you are really serious about becoming a rental landlord. It also offers some historical perspective, because it's easier to understand why things are the way they are now, once you know what went before. We also recommend that you check out some of the many landlord blogs available on the Internet. This one in particular we seriously recommend – <http://www.propertyinvestmentproject.co.uk/>. Apart from being helpful, frank and informative, it is also incredibly funny! See the extract on page 14.

Brexit

One school of thought says that Brexit will result in less migrant workers and refugees coming to the UK needing housing. This may be true, but we see the impact on housing demand from Brexit as being very marginal, certainly in the north. Similarly, 'Remain' supporters generally argue that Brexit will result in higher interest rates, another negative for landlords who've bought their properties with borrowed money. Again, though, we do not see Brexit as the problem. Higher interest rates will come sooner or later whether the UK is in or out of the EU, as current rates are unnaturally low. With the Bank of England having a target inflation rate of 2% (CPI) we view a base rate of 5% as being a desirable median in a stable and normalised developed economy. We do still expect it to be some time yet however before base rate returns to such levels. There are plenty of reasons to think twice about becoming a landlord, but we don't see Brexit as one of them.

Politics and the Property-Owning Democracy

The phrase ‘property owning democracy’ is popularly associated with Margaret Thatcher, but its first recorded usage in the context of the UK residential property market can be traced to a 1920s Conservative MP, Noel Skelton. In its basic form the idea was laudable enough – that as many people as possible should own the homes in which they lived, whereby they would have a ‘stake’ in the country, a notion that can be traced back to the debates that went on for centuries as to who should be allowed a say in how the UK was run. In recent years however, we seem to have moved to a state of affairs whereby one half of the country aspires to own the homes in which the other half live, deriving rental income from those who can’t afford to buy.

The PRS now comprises 5.2m households, double the size of 16 years ago. One does not need to be a political genius to understand why this now poses problems and opportunities for both the left and right in UK politics. The left sees renters as exploited by a new landlord class. Given that proportionately few landlords vote Labour, they see nothing to lose by clipping landlords’ wings. Meanwhile the political right knows it can never win elections by the votes of landlords alone. It also knows it cannot afford to alienate renters in its south-eastern heartland where rents also tend to be highest. Over-arching all this, across the political spectrum is a general and credible belief that splitting UK society along landlord and tenant lines will, in the long run if not sooner, be detrimental to social cohesion. This is why the idea of allowing pension plans to hold residential property, mooted about a dozen years back, was dropped. The government of the day suddenly realised that a minority of wealthy southerners would probably end up owning most of the homes lived in by the poorer Welsh.

Life has become much harder for those aspiring to buy their own homes. In 1971, half the families in England and Wales were owner occupiers. By 1991, the figure was 70%. Now though, in London, just 33% are homeowners down from a peak of 40%. In Greater Manchester, home ownership has plunged by 14% since the early 2000s. Yorkshire and the West Midlands are also seeing a fast decline. According to the Equality Trust, 86% of renters have less than the £8900 needed to take out the maximum mortgage on a new home.

More measures to make buy-to-let less attractive are very likely. These could well include statutory rent controls. In April 2019 the Government announced its intention to abolish Section 21 notices. What is a S21 notice? Let’s say you want a property back from a nice tenant who’s always paid his or her rent on time and has not violated the terms of their tenancy. The reason is not important – maybe you want to move back into the property yourself or to have a grown-up son or daughter move in. At present you can serve a S21 ‘no fault’ eviction notice to get the house back at the end of the fixed term tenancy period, which could be after as little as six months. Such a move is certainly popular with tenants and from a politician’s perspective, with more tenants eligible to vote than landlords, the electoral mathematics make such a move compelling.

Do the math: Buy-to-let landlords snapped up a million homes between 2005 and 2015, 700,000 of those being new homes built since 2005. Nearly two in five private renters voted Labour in 2015 compared with one in five owner occupiers. Many amateur landlords have only one rental property. Sad to say, many are *very* amateur. Unprofessional and outright illegal practices abound – check out ‘Billy’s story’ on page 11. Just 4% of landlords own four properties with 8% owning five or more. That numerically-small upper strata of 8%, however, collectively owns nearly 40% of all rented homes in the UK.

All this adds up to the one inescapable conclusion: Whatever they might like to think, and whatever noises some politicians might make, residential landlords are a tiny electoral minority with no reliable friends in politics, either on the left or the right.

Taxation Changes for Landlords

The government recently woke up to the reality that, whereas tax relief on mortgage interest was phased out for owner-occupiers many years ago, investors in rental property have continued to benefit from it to an extent infinitely more extensive than homebuyers ever did. Mortgage interest relief at source, or MIRAS, was introduced from 1983 to encourage home ownership. Prior to 1983 relief had to be claimed via the borrower's year-end tax return and was limited to interest on the first £25,000 of the borrowing. From 1983 relief was allowed on the first £30,000 and relief was given at source - whereby the term MIRAS came about, as lenders thereafter charged interest net of tax relief. Unmarried couples with joint mortgages could pool their allowances to £60,000, a provision known as Multiple Mortgage Tax Relief, until the March 1988 Budget, when Chancellor Nigel Lawson ended the option to pool allowances from August that year. (Lawson later publicly expressed regret at not having implemented the change with effect from the time of the budget, as it is generally accepted that the rush to beat the deadline fuelled a sharp increase in house prices.) MIRAS was progressively scaled back in the late 1980s and 1990s. Multiple tax relief went in 1988 and higher rate relief in 1991. Relief was cut to below the basic rate in 1994 and again in 1995 and 1998. MIRAS was finally abolished in April 2000. For landlords however, mortgage interest remained an allowable expense with income tax paid on the net rental income after its deduction, allowing higher rate and additional rate taxpayers to claim relief at 40% and 45% respectively. Recently this relief has been reduced until only 20% relief is available. The effect of this is considerable. Take for example a landlord earning £50,000 a year, plus receiving £12,000 in rental income, and paying out £2,000 in maintenance costs plus £6,000 mortgage interest. As the following chart shows, the calculation of their property profits/taxable income and income tax has changed significantly.

Example Buy-To-Let Property Profits/Taxable Income Calculation

Tax year	Rental income	Costs	Deductible Mortgage Int.	Taxable Income	Tax on Income	Basic rate tax relief reducer	Overall tax paid	Net Profit after tax
2016/17	£12,000	£2,000	£6,000	£4,000	£1,600	-	£1,600	£2,400
2017/18	£12,000	£2,000	(£6k*75%)	£5,500	£2,200	(£6k*25%)*20%	£1,900	£2,100
2018/19	£12,000	£2,000	(£6k*50%)	£7,000	£2,800	(£6k*50%)*20%	£2,200	£1,800
2019/20	£12,000	£2,000	(£6k*25%)	£8,500	£3,400	(£6k*75%)*20%	£2,500	£1,500
2020/21	£12,000	£2,000	Nil	£10,000	£4,000	£6k*20%	£2,800	£1,200

In this instance, not only has a landlord's annual income tax liability increased by £1,200 between 2016/17 and 2020/21 (the difference between higher and basic rate tax relief) but, because of the change in the calculation, their taxable income has soared by 250% to £10,000.

Additionally, since April 2020 when a Capital Gains Tax liability arises from the sale of a second home, the owner must now file a return and pay any Capital Gains Tax due within 30 days of the sale. This is a massive change from the previous deadline – 31 January in the following tax year. At the same time the Government reduced the final period exemption to nine months. The final period exemption was designed to allow people to have a period of non-occupancy at the end of their ownership of the property, for example if the sale is delayed, so that they were not charged Capital Gains Tax for that period. The original length of this exemption was 36 months, and reduced to 18 months in 2014. More recently still there has been speculation that 'lettings relief' - a valuable relief on the capital gains tax (CGT) payable on the sale of properties which were once a person's main residence then subsequently let - is in the firing line, and may only be available in the future to owners who live in the property with their tenant.

The Child Benefit Tax Trap

As their taxable income increases from the buy-to-let tax changes, landlords may also find themselves falling into the child benefit tax trap. Using the above example again, if the landlord was married with three children, claiming child benefit of £2,594 a year, the 'high income child benefit tax charge' applies, as their total taxable income would be £60,000. This would mean them losing all the child benefit (1% for each £100 in excess of £50,000), making a total tax increase of £2,757 a year from 2020/21 compared with 2016/17. Additionally, the personal allowance and tapered pensions annual allowance tax traps may apply at higher income levels.

Tax-planning can avoid these traps, or at least minimise their effect, for example, by transferring the property and rental income to a spouse/civil partner, or making a personal pension contribution. These options will not appeal to everyone however and will for some, especially those with more complex family structures (second/subsequent marriages etc.) and particular ideas and wishes around children's inheritances, may well bring additional problems.

The Inheritance Tax (IHT) Trap

Landlords should not overlook the IHT liability they will be building up, which is unlikely to be covered by the new residence nil-rate band (unless the property was previously a main residence). Property prices have continued to rise, with the average UK house price in May 2020 being £235,673, over 50% higher than their low point in April 2009 and substantially higher in central London and other UK capital cities, stoking IHT liabilities for landlords. To avoid IHT landlords may gift second properties to adult children but care must be taken not to give rise to a gift with reservation of benefit or to trigger pre-owned assets tax. It must also be realised that such a gift is a potentially exempt transfer (PET) for IHT purposes. Should the donor die within seven years, the failed PET will use up the donor's nil-rate band first, with any excess gift value taxed on the donee. The loss of the nil-rate band to the donor's estate (increasing the IHT payable by up to £130,000) is often overlooked.

The Loss of Wear and Tear Allowance

This allowance was calculated as 10% of the net rent received, net rent being the rental income received, less expenses such as council tax and utility bills that would normally be borne by the tenant. The allowance generally worked out beneficially to landlords as it could be claimed even when furnishings were not actually renewed. It was however abolished from 6th April 2016, and a new system introduced effective in the 2016/17 tax year onwards, whereby instead of claiming a flat rate allowance, landlords claim the cost of replacing the furnishings, but not the initial cost. Landlords therefore need to operate rigorous inventory controls and systems to ensure claims stand up to HMRC scrutiny. The HMRC guidance states that the replacement has to be like-for-like or the nearest modern equivalent, with them also allowing costs incurred in disposing of the furnishings, but also accounting for any proceeds received for the replacement of the furnishing. HMRC's definition of a fully furnished rental property is: *"one which is capable of normal occupation without the tenant having to provide their own beds, chairs, tables, sofas and other furnishings, cooker etc"*.

Stamp Duty Surcharges

An additional surcharge is now imposed on any purchaser of residential property, with higher rates affecting those who own two or more residential properties at the end of the transaction, unless they are replacing their main residence. A comparison of the previous and new rates is summarised below:

Purchase Price	Previous SDLT rate	New SDLT rate
£0 - £125k	0%	3%
£125k - £250k	2%	5%
£250k - £925k	5%	8%
£925k - £1.5m	10%	13%
£1.5m +	12%	15%

Portfolio Landlords

Since 30 September 2017 lenders have been forced to implement changes to the way in which buy to let mortgage applications are underwritten for portfolio landlords. According to the Prudential Regulation Authority, portfolio landlords are defined as *“borrowers with four or more distinct mortgaged buy-to-let properties, either together or separately, in aggregate.”* The PRA now requires that all lenders carry out specialist affordability checks on any borrower who falls into this category. The aim is to prevent a re-run of the scenario which almost saw the Bradford & Bingley destroyed by its over-extended buy-to-let lending in the run up to the 2008 credit crunch, with knock-on detrimental effects for the entire banking system. To that same end, lenders are now required to ensure landlords are not over-exposed to which end they stress-test portfolios, taking the entire buy to let property portfolio into account when making a lending decision. Lenders will look at landlords’ -

- Income both from their rental properties and elsewhere
- Prior property investment experience
- Mortgage borrowings across all properties
- Assets and liabilities, including tax liability
- Business plans, taking into account the merits of any new lending in the context of their existing buy to let portfolio
- Historical and future expected portfolio cash flow.

Lenders are also likely to conduct random valuation checks and to require details of all income, expenditure and wear-and-tear costs on all properties when remortgaging.

Using a Limited Company

The moves to restrict Income Tax relief on interest payments resulted, predictably, in a rush by rental landlords to incorporate their businesses. Corporation Tax is currently payable at 19%, the planned reduction to 17% in April 2020 having been cancelled to the country having to cope with the COVID-19 pandemic. Currently interest is still classed as a business expense for limited company landlords and is therefore deductible from gross profits when calculating a property company's Corporation Tax liability.

This method works by the borrower setting up a property Special Purpose Vehicle (SPV). An SPV is a company set up purely for the purpose of owning property and no other purpose whatsoever. An SPV can be set up online for around £15. The borrower then deposits funds into the limited company and arranges lending to it, thus allowing the company to purchase property. Landlords then pay themselves dividends from the company. Borrowing via SPV limited companies surpassed personal borrowing for the first time in the second quarter of 2017, accounting for 51% of the total value of buy-to-let lending. More than 20,000 SPV limited companies were registered with Companies House in 2017.

Possible Problems for Limited Company Landlords

1. Research suggests that only landlords with multiple properties benefit from using a limited company structure, with four properties being the tipping point.
2. Landlords with four or more properties are classed as 'Portfolio Landlords' and are subject to additional borrowing criteria by lenders who will often charge higher interest rates to limited company landlords and may also require personal guarantees from their directors. In June 2017, FT Adviser reported a quote by independent broker Private Finance showing a limited company borrower could expect to pay 3.41% for a 2-year fixed 75% loan-to-value mortgage deal compared with 1.92% for personal borrowers.
3. Accountants charge more for limited company accounts than for those of the self-employed, be they partnerships or sole traders.
4. Tax is payable on any dividends received over £2,000 at the following rates:
7.5% on dividend income within the basic rate band
32.5% on dividend income within the higher rate band
38.1% on dividend income within the additional rate band
5. The 3% stamp duty surcharges introduced for purchases of additional dwellings also apply to all acquisitions of residential properties by companies including the first such acquisition.
6. Corporation Tax rates and rules might change. There's nothing to say that Corporation Tax might not be increased for all companies or, for that matter, just for companies owning rental residential property. As already noted, landlords have no reliable friends in any part of the political spectrum.
7. When a property is sold the proceeds go into the company, which can cause tax efficiency challenges in assessing it. Contrast this with a personal residential purchase by an investor where gains are taxed at either 18% or 28% under the Capital Gains Tax rules where the annual CGT exemption can also be used to offset the gain.

Borrowing Restrictions

Lenders will normally stress-test personal borrowings for buy-to-let by requiring that rental income must cover 145% of mortgage payments stressed at a 5.5% interest rate or the actual rate plus 1.55%, if the client owns fewer than four properties, increasing to 155% if they own four properties or more. Borrowings by limited companies by contrast are stress-tested at just 125%. The stated aim is to protect the borrower in the event that Bank of England base rate increases, but it's fair to assume also that the PRA and Bank of England want to avoid another scenario where a bank is taken under by its buy-to-let borrowers, as almost happened to the Bradford & Bingley, endangering confidence in the entire banking system.

Tenants

So far, we've dealt with the political and tax threats posed to the residential landlord sector. On the legal side there are over 400 regulations and 100 Laws by which landlords have to abide. For reasons of space, proportion, and readability, we are not going to attempt to deal with the legal aspects, though we shall touch on some salient points in the case studies. If the political and tax aspects seem to pose daunting worries and difficulties, they are trivial compared with those on whom landlords most rely, i.e. their tenants.

Some Relevant Statistics

- Figures from the English Housing Survey show that tenants living in the private rented sector have lived in their homes for on average four years.
- 60% of landlords have had to evict a tenant due to rent arrears.
- Rent arrears averaged £1534.95 per eviction (12 months to November 2017).
- Average rents now stand at £889 per month across the country. The typical rent increased by 1.9% annually.
- In November 2017, 55% of landlords felt they couldn't risk increasing rents for fear of losing their current paying tenants and having to go through the expense and risk of finding replacements.
- Section 8 evictions whereby landlords legitimately regain possession of their property for reasons such as rent arrears, anti-social behaviour and illegal activities (e.g. using the property as a cannabis farm or brothel) take on average 41 weeks, during which often irrecoverable rent arrears build up, and the luckless landlord meanwhile has his or her legal costs to pay.
- House prices are forecast to grow on average by 14% in the years from 2017 to 2022 – about half the rate in the preceding five years.
- In June 2019 the Kent Reliance building society published its Buy to Let Britain report. Of 1043 property investors surveyed, only 41% said they had a positive outlook down from 67% in 2014.
- 24% of landlords found it harder to get finance following the introduction of the PRA's new standards. 6% saw their applications completely rejected and a whopping 34% are concerned that they will struggle to re-mortgage after their current deals end
- Buy-to-let investors are expected to fall in number from 75,000 to 55,000 over the next five years. *Why do you think this is?*

Case Studies

Below are some real-life case studies of buy-to-let as experienced by friends, family, clients and others known to us.

My own experience, by Neil F Liversidge, Managing Director.

I needed to move house in July 2008. Owing to the housing market crash and the credit crunch it made no sense to sell, so I let my old house. The first tenant was a lady with whom I'd been at school in the 1970s, and her new partner. Her grown-up son and daughter were also to live with them. We rented the house for £600pm, below average for its size and location. It's a 4-bedroom end-of-terrace property in Allerton Bywater. The tenancy started on 1 August 2008. Things were fine until December, when the rent went unpaid. A polite letter requesting payment was met with outrage. It was unreasonable of me to expect her to pay the rent in December when she wanted the money to spend on Christmas. Not that she was broke. She and her partner both had well-paid jobs. They just figured it was the landlord's job to pay for their Christmas. A month later she split with her partner but asked if she could stay on a reduced rent, the previously agreed amount now being unaffordable – supposedly. I felt sorry for her so reluctantly reduced it to £500pm. The December rent was finally paid in April. Better late than never. Then in July she announced she was moving to Manchester, but could her kids carry on living there? Her son and daughter were in their early 20s. Neither worked nor showed any inclination to start, but promised they could afford the rent with their housing benefit. Unfortunately, housing benefit is paid not to the landlord direct in the first instance, but to the tenant. The theory is that this will teach benefit tenants how to handle money and make them more responsible. In my experience it does nothing of the sort. The rent went unpaid from the moment their mother moved out. Judging by the empty Carlsberg Special Brew cans propping open the lid of the wheelie bin, the housing benefit went on the mother of all parties. That suspicion was confirmed by my previously friendly former neighbours, who complained about the noise. Six weeks in I was able to get the housing benefit paid to me direct but in the process, I'd effectively become their social worker. Their laziness extended to their disinclination even to perform the task of benefit claim form-filling. The benefit, once paid direct, did at least arrive on time every time, but on more than one occasion I had to visit them and get more forms signed as they were too idle to renew their claims which, for various reasons, kept being stopped. Somewhere along the way a third lodger appeared, who no doubt was paying them for his room. It must have been a nice little business on the side for them. On the anniversary of their mother's departure they left without prior notice, phoning me on the day of their departure to say the key had been put through the letterbox. Clearing the rubbish which they left behind cost me the hire of a skip and the cleaning bill was substantial.

Next came the tenants from hell. An old friend whom I'd known at least 20 years came to the house while I was filling the skip. His brother was desperate for a new place and would I rent it to him, his wife and kids? He was a nice guy so I figured his brother couldn't be that different. Big mistake. Again, they were benefit tenants. Again, I became their social worker. They kept a vicious dog which they used to try to intimidate me when I visited to collect the rent. Fortunately, I'm a dog-lover and dogs seem to know it because they don't bite me and soon quiet down when I talk to them. This upset him and he took it out on the dog. I take serious exception to cruelty to animals and had to resist the urge to flatten him. He was a scumbag in every respect. His wife was no better. Her kids were in the same primary school as ours and she took to verbally abusing my wife in the playground, saying the house was cold and it was our fault. We'd previously lived there for 20 years and the heating worked fine, but it did require the occupier to buy gas, not Carlsberg. Once again, the bin lid was propped open with empty beer cans. They didn't do recycling. They didn't do cleaning either, or most other things

that civilised people do, such as dog walking. When they eventually left, we discovered they'd used one room for a dog latrine. They left owing three months' rent and had done over £5000 worth of damage. One bedroom had been used as a cannabis farm and holes had been cut in the solid wood hand-built bedroom suite with a jigsaw to make a ventilation system. It was clear-cut malicious damage and cannabis growing is also an offence of course, but as usual, the police were no help. Years ago, the police would have prosecuted it as the crime of malicious damage, but not these days, "*It's a civil matter*" they say.

We now have a nice tenant and no problems but it has been an off-putting experience. I refused to discriminate against benefit tenants and hated seeing 'No DSS' in the rental ads, figuring everyone deserves a chance. Now, no way would I ever rent to a benefits tenant again. It's just not worth the hassle. If I'd wanted to be a social worker, I wouldn't have spent a lot of my life passing CII exams. Likewise, when it comes to pets, I'm one of those people who thinks that a home's not a home without a dog or cat. Properly looked-after pets enrich their owners' lives, particularly those of children. No kid growing up loving a dog or a cat ever became a serial killer. I am reluctant to deny the pleasure of keeping pets to my tenants, but having cleaned up the aftermath I shall need a lot of convincing in the future, for the pets' welfare as much as anything else. *If* I stay in the rental property business, that is. If the current tenant leaves then the house will likely go on the market. Life's too short to deal with horrible people.

That is my own true-life story of being a landlord. The following case studies are also all real-life stories. We've changed the names but everything else is factual.

Tim's Experience. He Trusted an Agent and 'Friend'

You have to get your tenants somewhere. You can advertise and vet prospective tenants yourself or have an agent do it. In percentage terms small value properties tend to incur the highest fees. We've seen agents quoting 15% of the rent for a 2-bed terraced house worth maybe £100,000 earning £500pm in rent and 7.5% for a £300,000 detached earning £2000pm. If you want your agent to organise any repairs then he or she will often charge a mark-up on top of any tradesmen's fees. Regulation and qualification requirements are minimal. The sector is partly self-regulated by the Association of Rental Management Agents, ARMA, the similarly-named Association of Rental Letting Agents, ARLA, Propertymark and others, but many agents still operate outside any material regulation. It would be nice to think that all agents are honest and act in their clients' best interests, but that is *far* from being the case.

Tim inherited £250,000 on the death of his mother. Half went on a house for himself. His still (apparently) friendly ex-girlfriend, who had her own portfolio of a dozen or more lets, persuaded him to spend the rest on a buy-to-let for which she, supposedly would source 'quality' tenants and manage the lets for a commission of 12% of all rents collected. Spread over four floors, the house would be rented as an HMO – house of multiple occupation – with four separate tenancies. He asked me what I thought and I expressed my reservations. I'd met his ex and she struck me as a very 'sharp' lady. I guessed the best tenants would end up in her properties and he'd get the less desirables, and so it turned out. In the three years he had the property he collected less than half the rent he was owed and incurred considerable extra costs due to the local council's newly introduced HMO licensing regime. He eventually sold it at a significant loss after repairing the damage done by another cannabis farmer.

Julie was Fleeced by a Professional Non-Payer Helped by Citizens' Advice

Julie, a client, had a tenant who paid one month's rent out of twelve. The CAB wrote on his behalf claiming he was clinically depressed and she should not contact him or it would be construed as harassment. It cost her £5500 in lost rent and another £3000 in legal fees to get him out. Court hearings had to be rearranged because he never showed up and the CAB went in to bat on his behalf. Though claiming to be 'unemployed' he was running a computer repair business and working as a bouncer. He was also running a nearly-new Audi A8. When she finally regained possession of her property, she spent months answering enquiries from all and sundry including bailiffs, seeking payment of unpaid bills. His wife had even managed to rack up a £2000 debt at a local nursery. Considering that he was supposedly clinically depressed, he was definitely the only one laughing throughout the entire episode.

Billy's DIY Eviction Cost Him £60,000 and a Criminal Record

Billy is a local 'character' in his late 50s who, whilst being only 4'10" tall, spends most of his time in the gym and is known around town as 'The Pocket Battleship'. Think of a Garden Gnome with the pugilistic talents of Henry Cooper. Billy rented a house to some EU migrants who promptly moved in all their friends and ceased paying the rent. Unwisely, he decided to evict them himself rather than hiring lawyers and it got a bit physical. By the time the legal proceedings were over he was down over £60,000, bankrupt and had a criminal conviction.

Joan Risks Dealing Personally with a Non-Payer

Joan had a tenant who stopped paying and was verbally abusive to her on the doorstep when she tried to collect. Joan then confronted her while she was working her job on a supermarket checkout. Luckily for Joan it went no further and the tenant left the property, but if she'd made a complaint to the police, Joan's life could have been devastated. Joan works in financial services. A conviction for harassment could have threatened her professional status with her regulator, causing her to lose her own full-time paid employment.

Lessons

- The Citizens Advice Bureaux specialise in helping non-payers who take the proverbial. Don't expect them to help you.
- The police will not help you, whatever damage is done to your property, but they will nick you double-quick if you overstep the legal boundaries. The police are only interested in an easy 'pinch', and the generally law-abiding non-criminal middle-classes who are not used to dealing with them are an easy and rewarding target. It's a much easier job than catching burglars.
- If you are a sympathetic kind of person who would rather do somebody a good turn than a bad one, it's probably best not to be a landlord. If you decide to become one anyway though, hire a reputable agent (but vet them extensively!) and let them handle the whole thing. Obviously, you'll pay for the privilege but you'll avoid the hassle. Even then however, if a bad tenant wrecks the place, the repairs will still cost you.

Article - The Sunday Times, 14 May 2017 – *My 19-Month Hell with a Nightmare Tenant*

If you think the above experiences are bad, please read the enclosed copy press article.

Deposits

Since 2007 landlords have been required to have their tenants' deposits held or insured by either the Tenancy Deposit Scheme, My Deposits or the Deposit Protection Service. Each scheme has a system of independent adjudication for use in the event of an end of contract dispute. On average one in 50 tenancies requires adjudication – around 50,000 a year.

The Times on 28 January 2016 reported that landlords are holding £500m in deposits illegally. One landlord in six does not use official deposit protection schemes. Local authorities now have the power to fine rogue landlords up to £30,000 for a range of housing offences, in the form of extended rent repayment orders which were previously used against landlords renting out unlicensed properties. As an incentive to enforcement the new rules let councils keep all of the fines recovered.

Safe as Houses? Buy-to-let Investment in Perspective

It is often said that houses are the best investment. Whilst historically residential property has been a good investment the hard facts show a different reality. Even before the market crashed in 2008 the Halifax produced the following statistics:

- £100,000 invested in residential property in 1983 would have been worth £555,000 in 2006.
- The same invested in commercial property would have been worth £997,000.
- The same invested in a FTSE All-Share tracker fund with all dividends reinvested would have been worth £1.4m.

Tenant Fees

The Tenant Fees Act, first mooted in 2016, came into force this year, it bans most letting fees and caps tenancy deposits. It applies to new or renewed tenancy agreements in England signed on or after June 2019. The only payments that landlords or letting agents can charge to tenants in relation to new contracts are:

- rent
- a refundable tenancy deposit capped at no more than 5 weeks' rent where the total annual rent is less than £50,000, or 6 weeks' rent where the total annual rent is £50,000 or above
- a refundable holding deposit (to reserve a property) capped at no more than 1 week's rent
- payments associated with early termination of the tenancy, when requested by the tenant
- payments capped at £50 (or reasonably incurred costs, if higher) for the variation, assignment or novation of a tenancy
- payments in respect of utilities, communication services, TV licence and Council Tax
- a default fee for late payment of rent and replacement of a lost key/security device giving access to the housing, where required under a tenancy agreement

Any other fees separate to those outlined above, such as for referencing, credit checks, inventories and right to rent checks are the landlord's responsibility. Any landlord in breach of the Act risks a £5000 fine and a ban on issuing a S21 notice on tenants living in the affected property. ARLA have predicted that this will cause a reduction in revenue for the average landlord of 20%

Tax Evasion and Mortgage Fraud

In the ‘fantasy’ introduction we joked about tax evasion and about how some landlords fraudulently obtain owner-occupier mortgages to buy rental properties. Actually, it is anything but a joke. Tax-dodging by simple non-disclosure or outright fraud may seem like a simple and/or attractive option but even if we take morality out of the equation, it is nothing of the sort. Apart from HMRC inspectors themselves checking tax returns and under political pressure to get revenue in, if you are a tax evader you should ideally never have upset anyone or made anyone jealous of you in your entire life. Why? Because HMRC now actively encourages the general public to report tax evasion. See <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/reporting-tax-evasion>. Also, check out the copy letter included in this pamphlet from HMRC re’ their campaign to catch tax-evading landlords

In August 2017 the Financial Times carried a report on a Hampshire landlord, Richard Fuller, jailed for 27 months for evading £157,725 in Capital Gains Tax on the sale of some of his property portfolio in the Aldershot area. And the jail time is not, of course, the end of Mr Fuller’s problems. HMRC will seek payment in full of the evaded tax plus penalties and interest and if necessary, will seek to gain possession of his other properties to sell to raise the necessary funds. Who manages his portfolio and looks after his interests and deals with HMRC while he’s in jail, and at what cost?

As for lying to obtain a residential mortgage for a buy-to-let, that’s called fraud and is an imprisonable offence.

A conviction for fraud and/or tax evasion will disqualify you from many jobs and professions. It could also land you in prison.

Accountants

If you are already a landlord and don’t use an accountant, get one. If you are considering incorporation, take advice from an accountant who will quantify precisely the costs and benefits. We recommend Smith Turner Chartered Accountants Limited, Unit 7, Courtyard 31, Ripley Drive, Normanton, WF6 1JU, Tel: 01977 525552, email: info@smith-turner.co.uk. The vast majority of Independent Financial Advisers are not accountants. We do know advisers who *think* they are capable of doing an accountant’s job, and we’ve seen them mess up, to both their own detriment and their clients’. We aren’t accountants and we don’t pretend to be. We stick to what we’re good at. Any adviser who undertakes buy-to-let work without advising their client to take professional tax advice from an accountant is at best foolish.

Selling Up

Property is an illiquid investment. Unlike shares which can be sold instantly online, physical property takes much longer to sell and sod’s law says that if you are desperate to get hold of your money quick, it will be the worst possible time to get it. When you come to sell your properties, assuming you have made a profit, you will very likely be liable to Capital Gains Tax. Have an accountant calculate your liability before you finalise any sale arrangements. You’ll pay CGT at either 18% if you’re a basic rate taxpayer or 28% if you’re a higher rate taxpayer. The reduced rates for entrepreneurs *don’t* apply to buy-to-let landlords. Now are you starting to get the message that the Government really does want to discourage the PRS?

HMRC Help

HMRC's comprehensive online guide (see below) to letting out property has more detail on different types of property income, which expenses are allowable and what to do when you stop letting a property:

http://www.hmrc.gov.uk/courses/syob3/new_letting/HTML/new_letting_menu.html?&utm_source=HMRC-DCS-Aug-6&utm_campaign=DCS-Campaign&utm_medium=email.

You'll find more help in a specially recorded four part series of webinars on HMRC's YouTube channel: <https://www.youtube.com/playlist?list=PL8EcnheDt1zhf6PsHDfhx7sNW4x-iueLg>.

- [Part 1 – Property income receipts](#)
- [Part 2 – Property income expenses](#)
- [Part 3 – Finance costs for residential properties](#)
- [Part 4 – Property income profits and losses](#)

The **HMRC Online Customer Forum** is a good place to go if you've got a question about income from property. See what others are asking, ask your own questions and get answers from HMRC's experts. <https://community.hmrc.gov.uk/>.

In Conclusion

This is not the whole story, obviously. There are millions of good tenants and hundreds – probably thousands – of bad landlords. So far as our clients are concerned, we tend to deal with nice people and we don't want to see them ripped off, harassed and put through the kind of heartache we and others have endured. The bottom line though, and it is a sad fact, is that the phrase ***“Those who rent, resent”*** applies even to a lot of the nicer and more responsible tenants. Most reasonable-minded people will understand why it is that home ownership has become so socially divisive. Those who aren't home owners, but who aspire to be, see their dreams being made less realisable by the fact that so many previously affordable properties have been bought up by private landlords. They also see high rent outgoings as 'dead money' inhibiting their ability to save a deposit and thus get on the housing ladder.

I do not look down on renters. I grew up in a council house. My parents, who were born in the early 1920s, moved to it in 1955 after living for the first ten years of their married life in a privately-rented hovel. Like most early council tenants, they felt undying gratitude for the tenancy of a decent home and saw it as their mission in life to keep the place in good nick for the council who'd been so kind as to provide it. That kind of mentality, however, is highly uncommon in tenants today. If you expect it from any tenants to whom you rent, be prepared to be disappointed.

The attached press cuttings are well worth reading.

Neil

Neil F Liversidge, Managing Director
West Riding Personal Financial Solutions Ltd

‘The Landlord Blog’

We recommend all landlords sign up to this. It’s helpful, insightful, and hilarious: <https://www.propertyinvestmentproject.co.uk/>. In the excerpt below he highlights the mistakes his ‘haphazard friend’ Kevin has made letting his flat. Note: The language is his, not ours!

Checklist - what you should do before renting out your home...

1) Check your lease

In Kevin’s case, he is the leaseholder of his flat. Some leases don’t permit sub-letting, which means letting is not permitted. *Did he check his lease?* **HA!** Good one.

2) Notify mortgage lender

Since Kevin didn’t bother notifying his mortgage lender of the change in circumstances, the assumption is that he’s still on a residential mortgage, as opposed to a buy-to-let mortgage. Breach of terms, check!

3) Update building insurance policy so it’s appropriate for landlords

If he hasn’t contacted his lender, you can bet your nutsacks on the fact he didn’t update his insurance policy. Almost all mortgage lenders require the appropriate insurance policy to be in place, otherwise... Breach of terms, check!

4) Check if you need a license

Some local authorities require landlords to comply with the selective licensing scheme, which requires landlords to acquire a license before they’re able to let their property. Of course, Kevin didn’t even bother checking. In fact, he didn’t even realise “landlord licensing” was a thing. Fortunately, his local authority doesn’t require landlords to obtain one (I retrospectively checked). However, that’s not the point.

5) Ensure minimum Energy Efficiency rating is achieved

Since October 2015, landlords in England are required to show prospective tenants a valid Energy Performance Certificate (EPC). Moreover, since April 2018, landlords have been required to achieve a minimum rating of E. Kevin has no idea what I’m talking about right now.

6) Check if your property is gas safe

Every rental property should ideally *always* be ‘gas safe’, but it certainly should be before new tenants move in, hence the legal requirement of a landlord gas safe check. When Kevin, the numpty, was quizzed about the gas safety check, his response was, “*I checked, the boiler works fine*” Oh, right. Well, *that’s just brilliant!*

7) Declaring rental income

Obviously – and I use the word “obviously” extremely hesitantly – rental income is subject to taxation, and can also influence any Government funded benefits, so it should always be declared. I probably need to be careful with how I phrase this point, because I’m not sure how these things work. Maybe you do...

Hypothetically, if I know someone that is potentially partaking in fraudulent activity, do I automatically become an accomplice if I don’t report it to the correct authorities? Or do I just become perceptible to being labelled a “treasonous cockroach”? If it’s only the latter, that’s cool. I can live with that.

Okay, so let’s just say that Kevin is in receivership of disability allowance on legitimate grounds, but let’s also say Kevin is **hypothetically** convinced that he doesn’t need to declare his newly found income source because he’s currently not making any net-profit from it.

Well, that would just be plain stupid, and probably fraudulent. Fucking moron, **hypothetically speaking**.

8) Comply with Smoke and Carbon Monoxide alarm Regulation

Credit where credit due. Kevin didn’t actually trip over this hurdle. *Nice one, Kev!* However, I suspect this win was due to sheer fluke, as opposed to intent, because most people have fire alarms in their homes. In any case, I’m going to cover the Smoke and Carbon Monoxide Alarm Regulation for the sake of making this a more complete checklist.

While I’m absolutely sure Kevin didn’t have any inclination of what his fire safety responsibilities are, he is legally required to have at least one smoke alarm installed on every storey of his rental property which is used as living accommodation, and have a carbon monoxide alarm in any room used as living accommodation where solid fuel appliances are contained.

What a spectacular display of the utmost disregard for being a sensible landlord (minus the fluke ‘smoke alarm’ win), right?

If it wasn’t for our friendship (which I’m now compelled to say was formed by circumstance, not by choice), I’d probably piss myself laughing until I sober up and remember that he’s the reason landlords are assholes. So instead, I’ll just piss myself laughing until I sober up and remember that he’s the reason landlords are assholes.

Please note, the above failures don’t account for all the landlord legal obligations, they just cover what all landlords – at least in England – should check **before** renting out their residential home.

The above is from ‘The Landlord Blog’ <https://www.propertyinvestmentproject.co.uk/>. The opinions expressed and the terms used are those of the blogger and not West Riding Personal Financial Solutions Ltd. (Though we have to admit, we did find it funny!)

Home Opinion

There's not much love out there for landlords. Shun, greedy and rogue are the words most commonly used to describe us. Yet the adjectives that best sum up my time as a landlord are nightmarish, expensive and bewildering.

When my partner and I decided to let the house we'd just bought and renovated before moving in ourselves (we wanted another year in our rented flat by a lovely London park, where our two children, now 8 and 4, were happy), we thought it would be simple.

We met our tenant – let's call her Helga – through a mutual friend. She was a single mother moving to the capital to start a new life with her two teenage children. She seemed solvent – offering to pay three months' rent up front – so we signed a six-month initial tenancy. If things didn't work out, we assumed she'd just give up on the London dream and move on. How bad could it be?

That upfront payment was the last money we saw from her. It became clear there was no way she could afford the rent, and equally clear that she had no intention of leaving our home. It would take 19 months, about £35,000 (including legal fees), court appearances, a change of locks (her), the bailiffs (us) and a month of lost sleep – not counting the tears – to get her out.

THE EVICTION PROCESS

There are two legal ways to evict someone: the Section 21 or "accelerated possession", for which you don't need a reason and just have to give two months' notice; and the Section 8, which is more complex, involves a court hearing and is usually based on a tenant being in arrears. The Section 21 is what we wanted. It's a landlord's lifeline if things go wrong – just as long as your paperwork is in order.

It turned out ours was not. Our local borough, Waltham Forest, had introduced a licensing scheme within the six months since our tenancy had begun. This meant that any unlicensed landlord or agent could not serve a Section 21 notice. It seemed ironic that we needed to become licensed landlords in order to stop being landlords. The website implied it was only applicable to tenancies that began after the law had come into force, so we assumed we'd be fine.

In November, a letter came from the county court saying our possession claim had been thrown out by the judge, as the property was not licensed. We were back to square one, but seriously out of pocket.

Meanwhile, we had received a letter from the council advising us that Helga had approached them saying she was facing eviction and asking for help.

But what about us? We contacted Landlord Action, a company that specialises in

MY 19 MONTH HELL

evictions. Despite all we'd heard about the pitfalls of Section 8 notices, the firm thought we had a strong case. It is mandatory for a court to give the landlord possession if a tenant owes more than two months' rent. By now, Helga was six months in arrears.

The only possible issue they could foresee was if she made a counterclaim saying the property was in disrepair. I confidently dismissed this, as we'd renovated the house just before she moved in. "We won't get you the money back, but we'll get her out," they told us. They charged £1,080 to issue the notice, prepare the court documents and brief a legal representative.

A date in January was set for the court hearing. Surely this time we would get Helga out and our keys back? Again, luck was not on our side. More worryingly, neither was the judge. Any solicitor working in housing will tell you that courts tend to favour tenants over landlords. When the tenant in question is a single mother whose children will also be out of a home if the eviction goes ahead, as a landlord, you're really in trouble.

Helga had managed to get legal aid to defend her right to live in our house. Her solicitor presented the judge with a litany of complaints against us, disrepair, harassment and trespass among them. There was no way these claims could be evaluated in the 10 minutes allotted for the hearing. There would have to be another one.

She cited a spider infestation and a brick missing in the cellar. A trespass claim was based on nothing more than saying she'd heard a noise while at home one day, and assumed it must have been either me or my partner entering the property. She claimed we owed her money for when the boiler had broken down for a few days in winter – she'd never informed us.

To top it all, she argued that we should have known about all these issues, even though she had changed the locks and hadn't allowed us access to the property for six months. She even said she didn't owe us any money at all, because we hadn't given her an address at which notices could be served – despite our address being

WITH A NIGHTMARE TENANT

If you are a landlord, or thinking about letting your home, you simply have to read this salutary (and anonymous) tale

clearly stated on the tenancy agreement, as required by law.

In order for our tenant to defend her right to continue living at our house rent-free, she needed to make claims that were serious enough to justify not paying. What's worse was that, until we got to a second hearing, there was no need for her to back up these claims – nor any chance for us to disprove them. And with the courts coping with a huge workload and backlogs, we had no idea when this second hearing would be.

VICIOUS CIRCLE

We were stuck in a complex legal process: it was no longer just about evicting our tenant, we had to defend ourselves against her counterclaims. Landlord Action allocated us a lawyer. Now we had to find the money to pay legal fees, as well as the rent and mortgage.

Not all landlords have deep pockets: we had been managing up until then by

taking on extra work, but couldn't go on indefinitely. Any savings we'd had were gone. If it went on much longer, we worried that we, too, would be facing eviction, or that our house would be repossessed.

Despite our seemingly strong case, our lawyer was worryingly pessimistic and suggested the best thing would be to offer Helga money to leave. I was shocked. We were in the right and wanted justice. "She's already won," she told us. "She's been living rent-free in your house for nine months."

Reluctantly, we were persuaded to settle out of court and offer Helga £2,000 to move out and drop her counterclaim. We'd also let her off the arrears. Effectively, she'd have got away with £20,000 scot-free. It felt astonishingly generous. The deal was rejected.

A date was set for the case management conference (CMC), a pre-hearing where the scope of the subsequent hearing would be decided, at the end of April: three months away. Assuming it would be at least another three months before the hearing proper, that would mean another £12,000 in missed rent. Plus legal costs. So we did our sums and made a new offer of £8,000 for her to leave. That was also rejected.

GIVING REARLY SURE

What did she want from us? My imagination went into overdrive. Was she mentally unstable? Would she trash the place?

At one point, I turned to Google to find out whether you can get a criminal record for not paying rent. It seems not, but the search led to plenty of information about how landlords can fall foul of the law: we can be jailed for illegally evicting a tenant or fined thousands of pounds for harassing them. Realising how lightly a claim of harassment can be made (the basis of Helga's claim was that on one occasion my partner visited her to ask when/where she intended to pay the rent, and sent a few texts asking the same), this was terrifying. And when it got to court, it would be his word against hers.

Even if we won our case and the court ruled she owed us money, we would have to pay to enforce this order and chase up the debt. And it wouldn't result in a criminal record, just a county-court judgment against her. As Landlord Action pointed out, if someone doesn't have the money, you can't make them pay. Besides, the claim was already rocketing beyond the scope of the small-claims court and the legal fees (ours) involved in chasing a larger debt would be all the higher.

You can be arrested, fined and sent to jail for shoplifting goods worth less than £200. Yet this woman had stolen a hundred times that from us (and counting).

I realise we're lucky to own a home, especially in London. But it wasn't just about the money. We felt as though she was stealing our lives, too. My partner was working most weekends to make ends meet and our family life was suffering. I was sick with worry: it was the first thing I thought about when I woke up every morning and the last thing before I went to sleep.

Every day I went to work, knowing all the money I earned was just paying for someone else to live in our house. As taxpayers, we were funding Helga's legal aid, too, yet we were having to borrow to pay our own legal fees.

NAME YOUR PRICE

A few days before the CMC, our lawyer called. Helga had named her price. She wanted £15,000. She also wanted a reference. Our lawyer said we

should consider paying: I insisted that even if we had the money (which we didn't), we wouldn't.

At the CMC, the legal aid team, all three of them, were smart and impressive, more so than the young advocate we'd paid for the pre-hearing (£108). We commented to one of them that her client was living rent-free in our home. "She's not living rent-free," she retorted. "She's building up arrears." In a few weeks, her debt would stand at £24,000.

Again, there was no chance to give evidence to disprove their claims. The hearing was set for early October. Another six months away – except it wasn't now referred to as a hearing at all. It was a trial. It took a while for me to realise that I genuinely did not know who was on trial, us or her.

There was more bad news. The council could no longer accept the temporary licence exemption they'd granted us. As unlicensed landlords, we risked a fine of up to £20,000. The trouble was, to get the licence, we needed to renew the gas safety certificate, which had now expired. We had been demanding access through our solicitor since January, but to no avail. It was now impossible for us to act within the law. We paid the licence fee (£600) and threw ourselves on the council's mercy.

We also spent a large part of the spring and summer preparing evidence and witness statements. Page after painstakingly itemised page. When Helga failed to do the same, we applied to have her case thrown out of court for non-compliance (another £735 in legal fees).

Finally, in late September, we got some good news: the judge had upheld our claim. At a short hearing, he threw out the tenant's defence and wrote a court order stating she owed us £26,450 in rent arrears, plus legal costs, plus any rent she accrued before leaving. (For the final six months, we were being paid her housing benefit direct from the council: it was less than half the rent, but made a big difference.)

He gave her 28 days to vacate. The trial was cancelled. We had won! I bought champagne on the way home, but was drunk on the relief anyway.

A HAPPY ENDING?

Not so fast. When the 28 days passed and she still hadn't left, we had to apply to the court for a warrant for bailiffs. Backlogs in the system meant we were allocated an appointment on January 20, four months later.

We finally moved in this March. I haven't seen a spider yet, and the boiler is working just fine.

Names have been changed. Section 8 and Section 21 notices apply only in England and Wales; rules in Scotland and Northern Ireland differ.

“Our tenant wanted £15,000 and a reference to move out. Our lawyer said we should consider paying up



HM Revenue
& Customs

600

Local Compliance Centres
Let Property Campaign S0790
PO Box 3900
Glasgow
G70 6AA

Campaign Helpline 03000 514479
Monday to Friday 09 00 to 17:00

www.hmrc.gov.uk

Date 29 May 2014

Our ref [REDACTED]

Your ref [REDACTED]

Dear [REDACTED]

Let Property Campaign

HMRC has data relating to landlords and is comparing this with what individuals have or have not told us. This letter is the first stage following that process as HMRC is aware you are a landlord who is letting property and that you may be liable to tax on that income.

The Let Property Campaign gives you an opportunity to bring your tax affairs up to date if you are an individual landlord letting out residential property in the UK or abroad.

What should you do within the next 30 days?

If you have not previously told HMRC about your rental income, or you have not declared the correct amount, please refer to the guidance at <https://www.gov.uk/let-property-campaign>. This will guide you through the process of bringing your tax affairs up to date. As you have not already made a voluntary disclosure of your income prior to receiving this letter, your disclosure will be classed as "prompted". This may affect the penalty which you will have to pay.

We need you to tell us on **03000 514479** if you are making a disclosure. We also need you to call us on the same number if any of the following examples apply to you so we can help bring your tax records up to date:

- you are not a landlord,
- your allowable expenses are greater than your income and there is no taxable letting income,
- your letting income has ceased,
- you have only recently started to make profits that need to be returned to HMRC
- you already return the income to HMRC

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001

Business Head [REDACTED]



Tax August 14, 2017

Landlord jailed over capital gains tax bill



By Damian Fantato

Financial Adviser

A Hampshire landlord who evaded £158,000 of capital gains tax from the sale of properties has been jailed for two years and three months.

An investigation by HM Revenue & Customs (HMRC) revealed that between 2006 and 2013, Richard Fuller didn't declare profit gained from selling properties in the Aldershot area.

This allowed the 53-year-old to evade a total of £157,725 in capital gains tax.

Richard Wilkinson, assistant director at HMRC's Fraud Investigation Service, said: "Fuller thought he was above the law and decided not to declare or pay the tax due from the sale of some of his property portfolio. It is simply not acceptable to steal from UK taxpayers.

"HMRC will continue to pursue those who attempt to hide their gains on assets, their income, and investigate those who attack the tax system."

Fuller was arrested at Gatwick Airport in October 2014 after a holiday to Turkey.

He was found guilty of two counts of cheating the public revenue and three counts of fraud by false representation on 14 July 2017, and was jailed for two years and three months at Winchester Crown Court on 11 August 2017.

Sentencing Fuller, Judge A J Barnett, said: "The jury found you guilty of dishonesty.

"This is a serious matter, you deliberately failed to pay your capital gains tax over several years."

HMRC will seek confiscation to recover the proceeds of Fuller's crimes.

There has been a concerted effort in recent years to crackdown on tax avoidance, with major political parties competing on how tough they can be on this issue.

Delivering his Autumn Statement to parliament last year, Chancellor of the Exchequer Philip Hammond said £5bn would be raised from measures to stop multi-nationals avoiding paying tax.

damian.fantato@ft.com

Buy-to-regret?

Retirees tempted to invest their pension pot in property should think very carefully



TONY MUDD

The Government has empowered a generation of retirees to do much more than they could before, including the idea of investing in the buy-to-let property market.

With meagre returns on cash savings, buy-to-let offers the potential for attractive levels of rental income and capital gains. Some retirees may feel they can tread a more familiar path by investing in bricks and mortar.

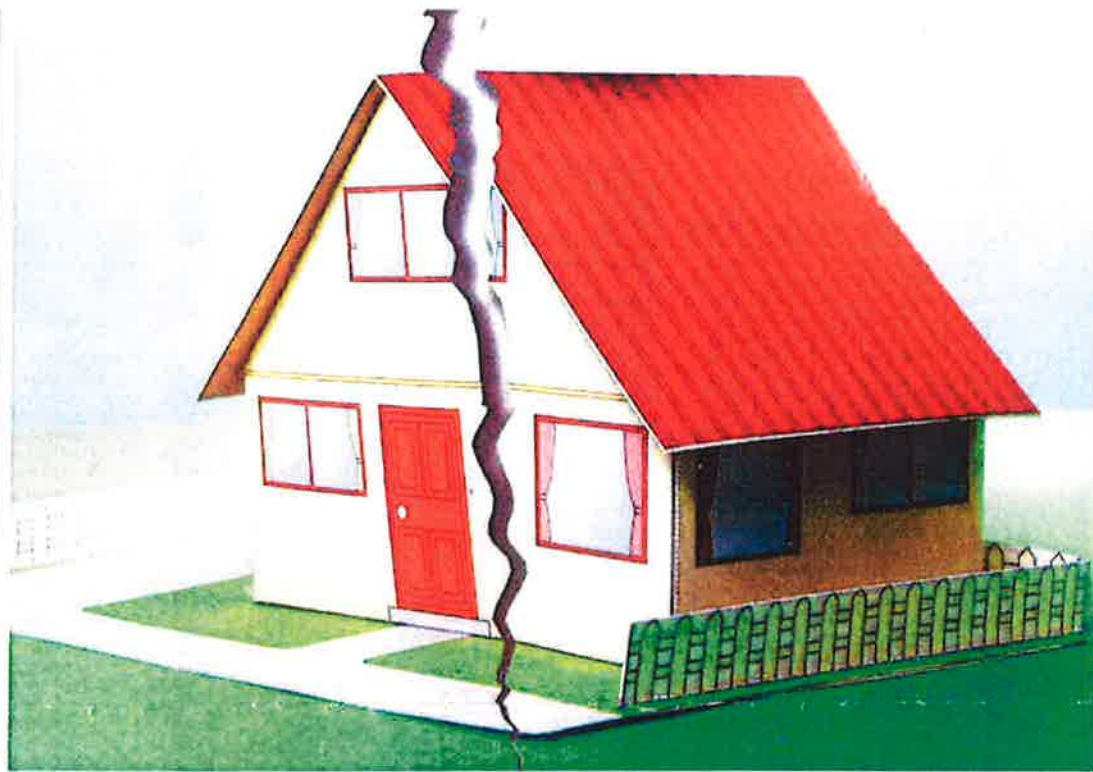
There is no doubt buy-to-let can offer some attractive upsides, but investors who have saved diligently into a pension will balk at the prospect of handing back 40 per cent or more in tax. Those who understand the need to maintain their standard of living throughout retirement will be working hard to minimise the tax they have to pay.

According to a recent Telegraph study, gross rental yields in some property hotspots can be as high as 5.6 per cent per year. As impressive as this sounds, however, buy-to-let is not necessarily the fail-safe investment opportunity these figures suggest. Many other factors need to be taken into consideration.

Tax tail

Residential property cannot be held in a pension; therefore, people buying a house or flat will first need to draw the required sum from the fund. The new rules make it possible to withdraw the whole fund, with 5 per cent available tax-free but with further amounts taxed at the individual's marginal rate of income tax. People taking a large withdrawal could, therefore, find much of it, long with any other income for that year, taxed at the higher 40 per cent rate or the top rate of 45 per cent.

The table (right) demonstrates the potential tax costs of withdrawing the entire pension in a single year, the rental income that could be achieved from the net proceeds invested in a buy-to-let property and the yield needed to achieve the same level of income if the whole fund



There is then the business of appointing a letting agent, paying for repairs and working with tenants – all things people may not want to have to deal with as they get older

remained invested in a pension.

The potential tax burden does not end there. If the value of the buy-to-let property rises sufficiently, it will be liable for capital gains tax when sold. In addition, any property the individual owns forms part of their estate for inheritance tax purposes.

There is then the business of appointing a letting agent, paying for repairs and working with tenants – all things people may not want to have to deal with as they get older.

In contrast, wealth held in a pension fund is remarkably tax efficient for those who choose to keep it there.

Investments held in a pension are not liable to CGT regardless of how much they grow, and if an income is required one can take flexible payments through the newly

created flexi-access drawdown facility.

In addition to the tax-related issues one must consider, there are further downsides to investing in property that should be contemplated. These include:

- Investment of diversification: whether the purchase of a buy-to-let property, when taken together with the individual's own home, over-exposes them to property investment.
 - The necessity, availability and attraction of borrowing to fund all or part of the investment.
 - The 'hassle' of being a landlord; specifically, the value of the individual's time.
 - The actual returns net of maintenance and repair costs, letting and/or managing agent costs and taking into account periods of time when the property is not let.
- Meanwhile, whereas property counts towards the value of your estate for IHT purposes, pensions do not. A pension can even be passed on to beneficiaries tax free if you die before age 75. If death is later than this, income from the inherited pension is taxed at no higher than your beneficiary's marginal rate of income tax.

Tony Mudd is divisional director, tax and technical support, at St. James's Place

POTENTIAL TAX COSTS AND INCOME

Pension fund value	Income tax payable on full withdrawal	Net amount available to invest in buy-to-let property	Income from buy-to-let property at 7% yield	Yield required on full pension fund to achieve equivalent income
£100,000	£19,403	£80,597	£5,642	5.6%
£200,000	£53,643	£146,357	£10,245	5.1%
£500,000	£154,893	£345,107	£24,157	4.8%

ASSUMPTIONS: THE ABOVE IS BASED ON 2015/16 TAX RATES. THE INDIVIDUAL WITHDRAWS THEIR ENTIRE PENSION SAVINGS AND RECEIVES 25% TAX-FREE CASH. THE INDIVIDUAL HAS NO OTHER TAXABLE INCOME IN THE YEAR THEY WITHDRAW PENSION SAVINGS. NO OTHER COSTS OR TAX CHARGES, SUCH AS TAX ON YIELDS, ARE FACTORED INTO THE CALCULATIONS.

SOURCE: ST JAMES'S PLACE

WHY PROPERTY INVESTMENT IS NOT AS SAFE AS HOUSES FOR RETIREES

Pension freedoms have led some retirees to consider investing in property to boost their income, but tax, cost and liquidity dangers make it unsuitable as a single-pronged strategy



PAUL EVANS
Suffolk Life

Direct investment in property has always been popular in the UK and the recent pension freedoms have increased interest as investors try to boost their retirement income. Regardless of whether investment is made through a pensions wrapper or otherwise, however, is such an investment suitable for a client in the decumulation phase? Advisers must weigh up investment potential with tax, cost and liquidity issues.

Dangers for decumulators

The residential buy-to-let market has historically been popular among people looking for a supplementary income stream, although some investors may find investing in commercial property more suitable, particularly business owners and those who want to invest through a Sipp.

However, a retired investor is unlikely to have a regular salary to fall back on if the investment goes wrong. There may be dangers in tying up all of a client's capital in a property – issues that are unlikely to apply to a younger person with a good income.

Choosing the right property must be an investment decision, not one based on personal preference. Even with expert help, property investment is rarely hassle free so it is important to consider the client's ability to handle the pressure. Although property offers the security of savings plus the more favourable returns associated with the stock market, it requires more effort.

Most pertinently in the era of pension freedoms, using pension pot cash to make such an investment is not tax efficient. Investors who decide to take out cash to invest in property are likely to receive only 25% of the value tax free. The remainder of the withdrawal would be taxed at their marginal rate, so the value they receive could be much lower than expected.

Investing through Sipp

Investors can use their pension funds to buy commercial property through a Sipp, thereby avoiding income tax deductions. Those doing this, however, should understand that the property will be classed as a capital asset, meaning the authorities can compel them to use it to contribute to care or nursing home costs.

Properties do not need to be solo investments. Investors can club together if they invest in commercial property through a Sipp.

While a property is occupied, the investor will receive regular income in the form of rent. Rental payments from directly held property will be liable to income tax, whereas rental on properties held in Sipp is classified as investment growth and will be paid into the plan without tax deduction. Investors can offset any costs incurred in a rental property against tax.

It is also important to think about the less obvious costs, such as taxation and the losses that occur when the property is unoccupied. Periods without tenants in the property mean no income but costs will continue.

Investors are responsible for maintaining the property, which can be expensive. This could be for repairs, maintenance or buildings insurance. What is more, the property will need to be managed in most cases.

Commercial leases are often considerably longer than residential lets, which could provide some security for investors who are concerned about this.

Investors using Sipp will need to factor in any extra costs on fees when considering the net returns from their investment.

If the value of the property goes up, investors may

wish to downsize and use the extra money to help fund their retirement. The value of property can also fall, however, so the return could be less than the amount invested.

Lack of liquidity

Unlike most other investments, property cannot be sold off gradually, making it difficult to withdraw money, especially at short notice. Factors that can affect how easy it is to sell a property include the supply of residential rental properties outstripping demand, or a downturn on the high street depressing interest in new commercial ventures.

Where the property is held outside a pension, investors pay capital gains tax (CGT) on any increase in the property value. Investors in stocks and shares can spread profits over several years to avoid, or at least minimise, CGT, but this route is not possible with a property sale if it produces a large surplus.

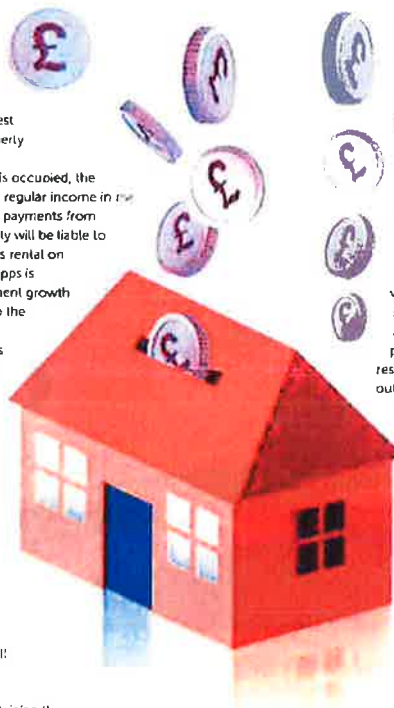
Property held in an investor's estate on death is liable for inheritance tax (IHT).

By contrast, commercial property held in a Sipp falls outside of the estate for IHT purposes.

What is more, a Sipp can be inherited tax free by any beneficiary nominated by the investor, who can thus pass on the commercial property to someone without having to leave the pension. Depending on how old the original investor is when they die, the beneficiary may also be able to take income from the plan without paying tax.

Property investment can deliver good returns but it should not be used as the only way of providing retirement income.

Paul Evans is pensions technical manager at Suffolk Life.



There may be dangers in tying up all of a client's capital in a property – issues that are unlikely to apply to a younger person with a good income