



December 2019

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### New Consultation on MEES

The Department for Business, Energy & Industrial Strategy has published a consultation on Minimum Energy Efficiency Standard (MEES) for the non-domestic private rented sector. There is currently a restriction on letting or continuing to let property with a minimum rating of E (without there being a valid exemption or a registration on the PRS Exemptions Register). The government wishes the minimum rating on the EPC level to rise by 2030 and the consultation seeks views on how this is to be achieved and which level it should rise to.

The paper asks for views on what the proposed new level should be (B or C) and whether that move should be incremental or in one stage. It also asks for views on how to overcome the problems of the practice of letting a property prior to fit out when the EPC rating is likely to be below the necessary threshold and views on how the regulations are enforced.

Responses to the consultation must be submitted by 7th January 2020 so [click here](#) to take part.

Please contact [James Simpson](#) for any other queries on MEES or other commercial property related matters.

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## Contract or Deed -Execution Formalities

A couple of recent court cases remind us that litigation still frequently occurs on whether documents are enforceable due to the way in which they were executed or signed. The first case concerned whether an email exchange signed by an automatic signature was enforceable and the second on whether a witness's signature needed witnessing. David Wells reminds us in his article Contract or Deed - Execution Formalities that until the law is reformed it is necessary to ensure your document complies with any necessary formality.

[Read full article here](#)



## Supreme Court reaffirms longstanding principle that planning permission cannot be bought or sold

In the recent case of *R (on the application of Wright) v Resilient Energy Severndale Ltd and Forest Dean District Council* the Supreme Court has confirmed that a consideration will only be material to the determination of a planning application where it is connected with the proposed use of the land. The case concerned a planning permission for the erection of a wind turbine on agricultural land where the developer promised an annual donation to a local community fund. The Court refused an invitation to "update" the law and held that the donation did not qualify as a material consideration in the determination of the planning application on the grounds that it did not pursue any proper planning purposes and did not fairly and reasonably relate to the development for which permission was sought. The community benefits to be provided were proffered as a general inducement to the Council to grant planning permission and constituted a method of seeking to buy the permission sought, in breach of the principle that planning permission cannot be bought or sold.

For more information, contact Gemma Dudley on 01223 532747 or [click here](#) to email Gemma.



## To be Adopted, Roads need to be Useful.

When a new development is built there are often associated roads and common parts the upkeep of which falls to be maintained pending adoption by the developer. It is usual, once the road is at a sufficient adoptable standard for the developer to make application to the local highways authority to adopt the road. However, in a recent case a highways authority refused to adopt the road as it considered it wasn't of sufficient utility to the public. To read more click on the link below.

[Read full article here](#)



## High Court Rules on Code Rights.

The High Court has recently allowed an operator to enter property to carry out a survey to assess whether the property was suitable to install electronic communications apparatus. The Electronic Communication Code allows operators to have code rights to enter properties to “carry out any works on the land for or in connection with the installation of electronic communications apparatus.” Here the operator wished to carry out a survey of a University of London building to assess whether it was suitable site on which to place its equipment. The University of London argued that such a survey did not constitute works and therefore the operator was not entitled to have access to the property under the Code. The court disagreed and held that the right to enter to carry out a preliminary survey could be granted as a code right on an interim basis.

The new Electronic Communications Code came into force in December 2017. The code is two years old and this case is the latest in a run of litigation concerning it since its implementation. The cases continue to help operators and practitioners alike interpret some of the less than clear provisions of the code and clarify how it will operate in practice in the future.

For further assistance on matters regarding the electronic code or other commercial property matters contact Stuart Simoes on 020 7400 6574 or [click here](#) to email Stuart.



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