

## Coronavirus – Property Note – Our Views



As we continue to experience the continued health and economic havoc that Coronavirus is wreaking this note provides a very high-level summary of the legislative changes (including the new Coronavirus Act) and themes we have seen in the last 7 days.

### Rent Payment

#### Landlord's position (if the Tenant is solvent)

1. Cannot forfeit a business lease for non-payment until 30 June – but the rent still remains due
2. Can charge interest
3. Can use CRAR – aka the “bailiffs”
4. Can draw upon a rent deposit deed
5. Can enforce a guarantee
6. Is not obliged to grant any concessions
7. Depending on sectors (especially retail and leisure) some (larger) Landlords are immediately offering 3 month rent holidays
8. Serviced office providers tend not to grant business leases and under such arrangements they can probably still forfeit/terminate for non-payment of “rent”.

#### Tenant's position

1. Cannot legally force the Landlord to grant a concession
2. Leases generally state that Tenants cannot withhold or offset rent
3. Almost every Landlord is accepting monthly rent
4. Dictated by market forces
5. Reduced rent, deferred rent, rent holidays are being requested.

#### Another solution!

Possibly the Landlord might have loss of rent insurance which covers Government action, denial of access or disease. Not very many policies though look as though they will pay out in such circumstances for Coronavirus and even if they do then most of them are time/financially limited. Worth asking the insurers/brokers though.

### Can the Tenant terminate the Lease?

Almost certainly not! People have spoken about force majeure or “frustration” which might end a lease but these are not yet recognised by English Law in relation to leases which are already in existence. A major Court case would need to change this fact.

### Any good news?

There is automatic business rates relief for a number of sectors including shops, restaurants, cafés, drinking establishments, cinemas, live music venues, leisure, estate agents and letting agencies.

Small businesses in the retail, hospitality and leisure sector are receiving £25K Government grants per property, for each property with a rateable value over £15K and below £51K, and £10K grants per property with a rateable value below £15K.

### Conclusion

So much has changed so fast in the last few weeks that this note is designed to be a high-level review and as ever the precise wording of a lease/insurance policy could have a very dramatic effect on the final position. So, if you have any specific questions, please do contact us. This summary sets out the position as at 31 March.

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**PS**, just as fast moving as Property have been changes in Employment Law/Practice. To read our views on this, please follow this link - <https://www.marriottharrison.co.uk/2020/03/27/coronavirus-briefing-friday-27-march-2020/>