

**Commercial Property Landlords
With Regard to Rent Review Dates**

June 2020

I think it is now widely accepted that the virus will affect commercial property in an adverse way for some time to come and that this may well extend into several years or so depending on the recovery of the economy.

A matter which needs to be considered is the issue of rent reviews.

The vast majority of business leases have upward only rent reviews at different intervals. It could be three, four or five years but rarely much beyond that.

This potentially brings into play an unfortunate set of circumstances for a landlord. Firstly if the landlord's tenant is one of the 'closed down' businesses there is a real chance not only of having to give a rent holiday but never getting the money back. Care needs to be taken on the recovery as this is not a holiday in the sense that the rent is never recoverable but is more a deferral.

Given almost all rent reviews are upward only that to a certain degree protects commercial landlords from falling rents unless of course the tenancy is likely to terminate in the short term and the renewal negotiations centre round what is the market rent at that time.

Secondly; what happens if there is a rent review in the very near future?

The short answer is that in all probability there will be no increase. Even allowing for the fact that the last rent increase or rent at the beginning of the tenancy was say four or five years ago, whilst a few weeks ago that might well have involved a moderate to reasonable increase it is unlikely to do so now.

It might be sensible for landlords to review their portfolio of investment properties and assess whether the next rent review is going to come so soon as to have a nil effect upon the increase.

If it is then it may be sensible to advise the tenant that in consideration of the assistance which the landlord has given during these troubled months, either by giving a rent holiday, accepting reduced rent or whatever, that in order to allow time for the rent holiday and reduced rent to catch up by payments over a period of years, any rent review is put back to say a further two years down the line with subsequent variations for future rent reviews after that.

That means that it may be possible to recover all of the holiday or reduced rent by the time the deferred rent review takes place. In addition if the deferred rent review is two or three years down the line we may be in an entirely different market situation so far as rental values are concerned. We may not be in any better position but the feeling that I get is that the next year or so is going to lead to an awful lot of rent reviews taking place with no movement.

David Englehart
ENGLEHARTS SOLICITORS

Please note that the people dealing with commercial property in this practice are:

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Jack Englehart
Julia Macey
Tony Morcowitz
Warren Robertson

Michael Williams
Helen Wood

Our address is as below, together with points of contact. The extension numbers of the people mentioned above are set out, as well as their email addresses.

At present in accordance with government guidelines some of the people at our offices are working from home. We are however available to help and advise and to record any arrangements made between landlords and tenant in a sensible and proportionate manner.

We are happy to discuss matters on the telephone or by Zoom, Teams or Skype.

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