

Rent reductions – mitigate the impact of Covid-19



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Rent reductions

With the significant economic impact of Covid-19 and the associated closure measures, many organisations are having to modify their strategies to adapt and survive.

Tenants of commercial property should consider whether to seek a renegotiation of their rent payment obligations. Any renegotiation should be done in good faith, and the government has encouraged those businesses that are able to pay full rent to continue doing so.

In order to obtain a concession from your landlord both parties will need to be flexible. You should be transparent and prepared to share to an appropriate extent any relevant financial information in order to support your requests.

Many landlords will try to be accommodating, but will have their own financial commitments to assess, including potentially their own rent obligations if they are not the freeholder.

Without an agreed renegotiation between the landlord and the tenant, the legal position remains that you must continue to comply with the obligation to pay rent. So, if

you are struggling with the rent you should raise this with your landlord at the earliest opportunity.

There are various options to consider when renegotiating rent payment obligations:

1. Rent reduction

You should consider the amount and time period of any reduction. This will largely depend on your individual circumstances.

2. Rent-free period

This could cover any time of enforced closure. However, if you are struggling financially you may wish to request an additional rent-free period.

3. Landlord and tenant to split the cost for the unoccupied period

This could relate to any period of enforced closure, or any other time that you have decided to keep the property closed. If you are in a more secure financial position, then this is a more equitable option than a rent-free period.

4. Change the frequency of the rent payments

It is common in commercial leases that the rent is paid quarterly, but you may

find that paying rent monthly helps with cashflow.

5. Rent varied to the current market rate

The current market rent may be lower than your existing rent. This needs careful consideration and you may wish to speak to a surveyor or agent before requesting this. If you have not had your rent reviewed in a long time, the current market rent could be higher than your previous rent.

6. Rent linked to turnover

This will be particularly relevant for retail or hospitality businesses. The amount of rent to be paid could be linked to a percentage of your turnover. If your turnover is lower, you would pay less rent. Retail businesses who already have turnover 'top-up' rent provisions may wish to remove the requirement to pay base rent and instead pay rent based solely on turnover.

7. Waiver of the requirement to pay interest on arrears

It is standard that a tenant will need to pay interest on any unpaid and overdue sums, and the amount of interest will depend on the lease. The landlord could waive the requirement to pay interest and arrange a payment plan with the tenant for any overdue rent.

8. Drawing from rent deposits

It is usually a requirement that if the landlord withdraws from the rent deposit then the tenant must 'top up' the deposit to its full amount. You could agree that the landlord may withdraw from the rent deposit, but on the understanding that the deposit is not topped up until it is reasonable for you to do so.

Tenants should be aware that landlords may request a change beneficial to them in exchange for the above. For example, removal of a tenant's break right or an extension of the lease.

It is important to consider how any changes would affect you both now and in future. We suggest that you carefully consider all potential options before contacting your landlord, so that you are fully prepared and understand your opportunities and limitations.

Any renegotiation that is agreed should be formally documented in a deed of variation or a side letter. We recommend that you obtain legal advice on such documents to ensure that you are adequately protected.