

Property Advice Factsheet

Rent reviews

This advice factsheet has been prepared in the light of the COVID-19 outbreak. It has been prepared to help micro and small businesses. The retail, leisure and hospitality industries have been particularly badly affected. If you rent your premises from a landlord, and your business has been affected by the COVID-19 outbreak, or you are concerned that it will be, then:

A rent review is a mechanism in your lease where you and the landlord agree or fix a new rent. Usually this is based on the current market rent. Rent reviews are never popular with tenants and during the current crisis that is more true than ever. Many landlords are being asked to suspend rent reviews during the current outbreak.

Most rent reviews are "upwards only" meaning that if the market rent has gone down, the rent will stay the same.

Most rent reviews work like this:

- The lease will say that someone (usually the landlord) has to serve written notice by letter to start the rent review. That "rent review notice" will generally say what the new rent is that the landlord wants.
- You as the tenant will probably have to serve a "counter notice" letter within a set period of time. That is often twenty-eight days. It depends what your lease says.
- If you miss the deadline, then often the lease will say that you have lost by default and are stuck with the rent the landlord put in their notice.
- Do watch out during the current outbreak that you don't miss a notice. Check where notices are meant to be sent, and try to get them redirected to you if you are not going to be there.
- The lease will say where the landlord should serve notices, so check it. Most leases usually say that if the notice is sent to the property, then that is good enough. It will be legally "deemed" served whether you actually receive or read it or not. So, if you can't be in the property because of the outbreak, let the landlord know where you are. Tell them that is where notices should be served for the time being. The law isn't completely clear what will happen in this unprecedented situation, but do your best!
- Once rent review notices are served, the lease will usually provide for a period of time to try to agree a new rent. If it can't be agreed in that time, there will usually be a procedure for an arbitrator to be appointed. The arbitrator is a highly qualified professional valuer, usually a surveyor. It will be up to him or her to decide what the new rent is. But remember that they will be guided by the evidence that you and the landlord give them.
- If and when the rent review starts, consider getting professional advice from a surveyor to help put your case to the landlord and the arbitrator. The landlord will almost certainly get a surveyor to put their case forward. If you don't put your own case forward, then you are likely to suffer.
- You may have options to terminate the lease or start a lease renewal process. That may allow you to have a new rent fixed by a Court or Tribunal. There are different rules in that situation so you may be able to get a rent reduction. These options are worth considering with a professional advisor, especially if market rents do go down.

UPDATE 1 April 2020: Coronavirus Act 2020 – Business Tenancies

From 26 March 2020 to 30 June 2020 a landlord's right of re-entry or forfeiture arising from non-payment of rent cannot be enforced. No order for possession can be enforced and any order for possession made during that period must take effect after 30 June 2020. This period may be extended by the Government later but has not been as at 1 April 2020. Please note that rent and other sums due under a lease are still payable during this period and this new law does not stop rent reviews or lease renewals from taking place. The guidance in this note is therefore not affected by this change to the law, but we hope you find this information useful.

This factsheet is for general guidance only and should not be relied on as specific legal or professional advice. If in any doubt you should always seek your own independent legal or other professional advice.

The situation is constantly changing. You should continue to seek information from the Government and from the GLA. Measures to assist businesses of all sizes are likely to be announced soon.

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