



This is the first of our Commercial Property Alerts and as there have been many recent developments in this area we have picked a few of those which may affect the day to day running of your business.

0207 566 4100

Non Payment of Rent

Recent court decisions send an important reminder to commercial tenants about the effects of non-payment of rent to landlords. Many businesses only pay monies out on invoices received from both suppliers and landlords/managing agents. Rent due under a lease or tenancy, however, is payable even if not formally demanded by the landlord. Non payment will constitute a breach of the lease even if the tenant is awaiting an invoice for payment and such a fundamental breach of the lease could of course lead to the issue of forfeiture proceedings by the landlord. Business should therefore check that there is a mechanism for rent to be paid on time and without the need for an invoice. Forfeiture is not, however, the only risk to the business. If the lease or tenancy contains a clause giving the tenant an option to break the lease, non-payment of rent could mean the loss of the break right. The effect of this could be devastating if the business is then tied into an expensive lease for a further period during which the business will have to continue to pay rent, service charges and the usual outgoings. If you are due to exercise an option to break a lease then it is imperative that you check that rent is paid on time at the time of the service of the notice and the expiry of the notice period.

Conduct at the end of the lease term

You may be surprised to hear that most commercial leases do not contain an obligation on the tenant to notify the Landlord that it is leaving at the end of the term. Landlords should therefore instruct a solicitor to check their existing to ensure that they are not at risk of a tenant vacating on the term expiry date without giving prior notice which would leave the landlord with vacant premises and a gap in rental income whilst they are remarketed and possible rates implications. For landlords currently negotiating the grant of leases consideration should be giving to the inclusion of a clause obliging the tenant to notify the landlord of its intentions in advance. Commercial tenants should obviously ensure that at least one year before the expiry of their lease term they seek advice on any obligations with which they need to comply at this time.

Bribery Act 2010

April 2011 sees the provisions of the Bribery Act 2010 coming into force in England and Wales and this poorly thought through legislation could have consequences for those in the property industry. The Act creates offences of promising offering, giving or requesting an “advantage” (financial or otherwise) in both public or commercial activities. This will obviously be a concern to those businesses by whom corporate hospitality is seen as an essential marketing tool. Businesses will have to guess what level of “advantage” and hospitality is reasonable and what may result in prosecution and they will need to ensure that anti-corruption policies are in place and understood by those in the business with the authority to offer hospitality so that they can defend themselves against potential liability.

If you would like further information on our services and charges please contact our corporate lettings team at Wedlake Saint either:

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