

Proposals put to Government on how to deal with the end of rent arrears protection



Following closure of the Government's call for evidence on 4 May, we wait with interest to see what action (if any) the Government decides to take when the current rent arrears restrictions end on 30 June. Back in April, we considered the range of options put forward as part of the call for evidence.

Since then proposals have been put forward [by the British Property Federation \(BPF\)](#), created by British Land and Landsec, and [by the British Retailer Consortium \(BRC\)](#). The common ground between the proposals is encouraging and reflects the pragmatic approach being taken by the majority of stakeholders.

There is acknowledgement that:

- A 'cliff edge' withdrawal of all restrictions is not desirable
- Some protection should remain in place in order to ring-fence existing arrears and to give breathing space to resolve those arrears – a period up to December 2021 is suggested
- Rent should be reduced for periods when an occupier has been unable to trade because of lockdown restrictions: a 50% reduction is suggested as a guide, depending on the scale of the business
- A binding arbitration process to be used if arrears negotiations are not successful
- Rents due after 30 June should be paid as normal

There are some important differences, such as whether the arrears should be protected from County Court Judgments.

The BPF proposal is particularly detailed and includes the suggestion of a statutory limit on compromising



arrears through the insolvency process, acknowledging the danger of restructuring processes and CVAs being used to clear arrears.

Given the authorship, we would expect the government to take the BPF and BRC proposals seriously when considering what to impose in terms of post-moratorium relief.

What might good practice be between property owners and occupiers?

Even if the government doesn't compel the parties to sign up to the BPF proposal of an approximate 50% discount for "lockdown" arrears (i.e. the arrears that accrued while trade could not operate from the premises due to lockdown legislation), it is possible that a 'good practice' protocol could be issued along the lines proposed by the BPF.

This is by which the parties might be required to submit to binding arbitration (in the absence of being able to agree terms along the lines of the protocol) and the arbitrator may well have the protocol (and any recommended discount) in mind when making its decision.

Ultimately, this may encourage landlords and tenants to seek to settle arrears claims before 30 June where they might be concerned about faring worse under any scheme proposed by the government.

How we can help

To chat to us and for further guidance, please contact [Mike Scott](#).

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