



# Implications of Coronavirus on Residential Property

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*Updated as of 6 April 2020*

Given the magnitude of economic uncertainty resulting from Covid-19, landlords have been dealing with a flurry of requests from their tenants asking for assistance in mitigating their liability for rent.

Whilst the governments' advice has been ever evolving, the resounding message has been for landlords to show compassion to their tenants and encouraging landlords and tenants to work together to put a payment scheme in place. We have seen a number of our landlord clients taking a long term view, actively communicating with their tenants to determine their financial situation on a case by case basis and agreeing rent suspensions or rent deductions where appropriate.

The government has provided a number of measures to support tenants by limiting landlords' remedies against their tenants for a failure to pay their rent and thereby protecting tenants from eviction:

## **Extension of Notice Periods**

On 25 March 2020, the Coronavirus Act 2020 received Royal Assent. The Act provides that landlords will have to give all renters 3 months' notice (for notices pursuant to Section 8 and Section 21 of the Housing Act 1988) if they intend to seek possession of a property and new prescribed forms have been published. The Act gives the government power to further extend the notice periods to 6 months if necessary.

As these changes apply to all grounds of eviction under Schedule 2 to the Housing Act 1988 (not just rent arrears) this may leave landlords in a difficult position if faced with tenants causing a nuisance or carrying out criminal activities. This may also leave certain landlords without recourse against those tenants with pre-Covid-19 arrears and a consistent pattern of failing to pay rent on time.

## **Possession Proceedings**

Additionally, from 27 March 2020 all ongoing possession proceedings and enforcement applications have been stayed for 90 days due to a change in the Court Procedure Rules. This Practice Direction 51z is to stay in force until 30 October 2020, although at this juncture it is unclear what this means. It is likely that all hearings currently listed will be vacated until further notice and that no new proceedings will be issued, although it is not clear exactly what will happen to new proceedings sent to the Court. Applications to stay warrants of possession have also been prioritised. Whilst these measures are there to protect tenants and ultimately, the public as a whole, unfortunately as a result, landlords who have already incurred costs in issuing proceedings

to obtain vacant possession will have their claims left stagnant for several months without any resolution in the near future. Indeed, even once the 90 day suspension is lifted there is likely to be a huge backlog and further Court delays whilst they try to get everything back on track.

Whilst landlords are also protected by a 3 month mortgage holiday where a Buy to Let mortgage is in place, this does not provide assistance to those landlords ultimately owned by family trusts and charitable trusts, whose portfolios are often not charged.

### **Landlord's Continuing Obligations**

Although the government have recommended that landlords take a common sense approach, there still remains an element of ambiguity. Whilst landlords remain legally obligated to ensure properties meet the required standard by carrying out urgent and essential health and safety repairs such as roof leaks, boiler issues, plumbing issues, broken white goods etc., the position is less clear when it comes to obligatory yearly gas safety inspections which require an engineer to enter into a tenant's property. The advice appears to be that inspections should still be arranged if the landlord can find contractors who are willing to inspect and keep physical/social distancing, and if tenants are willing to provide access. In reality, landlords may find it difficult to comply and should keep records of communications with their tenants and attempts to engage contractors to prove that they took all reasonable steps, although we suspect that local authorities are unlikely to take enforcement action as the Government has asked them to be pragmatic in these unprecedented times. This is also an issue in respect of the Minimum Energy Efficiency Standards legislation ("the Regulations") which, as at 1 April 2020 applies to all properties, meaning landlord's will not be able to let properties if the energy rating is below Grade E. Whilst the works needed to bring a property up to standard are probably not essential on a health and safety front, landlords will not want to be in breach of the Regulations. There are various exemptions, one of which being the third Party Consent exemption which could apply here if a tenant will not allow access. However again, the hope is that local authorities will take a view on landlords who have not carried out these improvement works.

It is not just landlords in the residential sector that have been affected by the ongoing changes. Developers and homeowners also face confusion and uncertainty.

### **Developers**

Developers have been split over whether construction work can and should continue. Major house builders such as Berkley Homes, Redrow and most recently Kier Group have had to close some sites and kept others, carrying out essential works such as cladding removal, operating where possible with a reduced number of people on site keeping to the 2 metre distancing rule. This will inevitably cause delays in development milestones for residential projects and is largely due to difficulties in developers' supply chain in sourcing and maintaining the delivery of materials to sites.

### **Home Owners**

The government's guidance on 26 March 2020 encouraged parties to delay completion for house moves and agree an alternative date to move once the stay-at-home requirements are lifted. This guidance has effectively put the brakes on the housing market and as a result, shares in major housebuilding companies plunged. We can also expect a drop in the housing market generally as we will see a lower demand, with viewings, surveys and valuations abandoned resulting in a reduced volume of transactions. We have already seen several lenders such as Lloyds Banking Group and Barclays temporarily withdrawing new mortgages to customers.

There is no doubt that the market has been put on hold, but it is still too early to predict the effect on house prices and the long term economic impact.

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