

Insights

BCLP RETAIL INSIGHT: THE WEEK THAT WAS VOL. 2

Jul 06, 2020

SUMMARY

This week we assess the impact of Intu's administration as one of the first high profile corporate casualties of the COVID-19 crisis. However it's not all doom and gloom as we also take a look at two publications that the Government hopes will help those in the retail sector to weather the economic storm of the pandemic: the Code of Practice for Commercial Property and the Business and Planning Bill. Finally, we share tips on how e-signing can help keep the wheels moving on transactions during the COVID-19 crisis.

Impact of Intu's Administration

On Friday 26 June, shopping centre owner Intu Properties Plc filed for administration after its lenders refused to support a standstill on its debt repayments. Each of Intu's shopping centres are owned by individual SPVs which are not in administration. Despite initial concerns from retailers that the centres may close, just 2 weeks after opening post-COVID, the administrators have lined up asset managers to manage these assets for 3 months so the centres can remain operational. Any fire sale of these assets to try and recoup monies for lenders could have an impact on shopping centre values.

June Quarter Day: Impact of the New Code of Practice?

News following the June quarter day has made for grim reading: rent collection figures have been at record lows with on average around 20% being collected, a notable decrease from the March quarter day. Some of the larger retailers have withheld rent and the first high-profile corporate casualties of the pandemic have emerged. With landlords unable to use forfeiture, statutory demands or winding up petitions to collect arrears until the end of September, the decline in rent collection is set to continue to the September quarter day. The Government's new Code of Practice for the Commercial Property Sector (available [here](#)) encourages tenants who are in a position to pay in full to do so, and landlords to support tenants who are unable to do so where reasonably possible, whilst having regard to their own financial commitments and fiduciary duties. The Code is a welcome reminder of

good practice and we are hearing that it is prompting more conversations between landlords and tenants and has encouraged tenants to pay service charge arrears. Only time will tell whether the Code will help to deal with all those rent arrears.

Planning for Post-Lockdown: The Business and Planning Bill

Saturday 4 July marked another milestone in the UK's route out of lockdown as restaurants, pubs and hairdressers were among the businesses permitted to re-open (subject to following COVID 19 secure guidelines). With this in mind, the Government published its Business and Planning Bill on 25 June, which introduced a fast track procedure for pubs, bars, restaurants and others selling food or drink for consumption to obtain a "pavement licence" from the local authority. The Bill also varies the Licensing Act 2003 until 30 September 2021 so that businesses holding only an on-premises premises licence on the day before the Bill takes effect, are automatically and immediately permitted to sell alcohol for consumption off-premises, either for take away/delivery or to drink outside the premises. The Bill is expected to become law before the summer recess. Will these measures help to bring footfall back to retail areas that boasted a wealth of food and drink outlets pre-lockdown? For further information and commentary on the Business and Planning Bill, please click [here](#).

E-Signing Makes Transactions E-as-y

One trend in the retail space which is likely to emerge from the COVID-crisis is a move towards shorter term leases offering greater flexibility for retailers, including for pop-up shops for both established and new-to-market brands. Leases for a term of less than five years and documents that do not need to be registered at the Land Registry such as side letters and rent review memorandums, can be approved and signed using a dedicated e-signing platform. The Land Registry is also coming under increasing pressure to accept e-signed documents for registration purposes, especially given that the working-from-home 'new normal' for many companies is likely to persist for some time. Further information on e-signing can be found in our blog [here](#).

The Great Outdoors

As customers have returned to shops they are slowly becoming accustomed to the new normal: hand sanitiser upon entry, strict one-way systems once inside and employees hiding behind Perspex screens at the check-out. However, as some customers remain hesitant to venture inside shops, outdoor space is becoming a commodity for retailers seeking to offer COVID-secure shopping locations. Greater outdoor space between shops has enticed customers back to out of town retail parks, which have the added benefit of being easily accessible by car. Meanwhile, car parks are increasingly being seen as a preferred location for open-air markets – particularly where those markets were previously located inside a building or along a busy high street. Larger shops, such as garden centres, with their own car parks, can offer contactless click and collect too, which is particularly appealing to their more vulnerable customers. If you are thinking of re-purposing

outdoor space, any changes of use must be made in accordance with the relevant lease provisions and planning regulations and specialist advice should be sought.

Please get in touch with the BCLP Retail Team if you have any queries regarding the topics raised in this bulletin.

This article was co-written with Trainee Solicitor Jack Pepper.

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MEET THE TEAM



Justine Oldale

Co-Author, London

justine.oldale@bclplaw.com

[+44 \(0\) 20 3400 4187](tel:+442034004187)



Sunita Chawla

Co-Author, London

sunita.chawla@bclplaw.com

[+44 \(0\) 20 3400 4511](tel:+442034004511)



Jeremy Bark

Co-Author, London

jeremy.bark@bclplaw.com

[+44 \(0\) 20 3400 2122](tel:+442034002122)

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