

NICKIE AIKEN MP



HOUSE OF COMMONS

LONDON SW1A 0AA

The Rt Hon Rishi Sunak MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

23rd April 2020

Dear Chancellor,

Landlord & Commercial Tenant Relations During the COVID-19 Outbreak

As you aware the Coronavirus Act 2020 PART 1 Section 82 guarantees protections for commercial tenants against forfeiture actions by landlords for non-payment of rent for the duration of restrictions in place during the COVID-19 outbreak. This was most welcome and gave some reassurance to both commercial tenants and landlords regarding their relationship during the outbreak. However, following discussions with both landlords and tenants on my weekly call with business leaders in the Cities of London and Westminster, it is clear that the Government needs to provide more clarity if it is to achieve its goal of supporting businesses by encouraging landlords and tenants to come to voluntary agreements, as the published guidance states, during this period.

While many responsible landlords, from large private estates to small single property owners, are doing all they can to support their tenants I am also aware of some that are pursuing winding up petitions and enforcing contractual penalty clauses in attempts to compel tenants to pay the rent within this quarter. This could have great negative impact on the position of a commercial tenant, resulting in the downgrading of their creditworthiness even without the case proceeding to court. Indeed, I have been approached by small businesses in my constituency who fear bankruptcy will be forced upon them by landlords taking such action.

I have been able to provide little reassurance to those businesses that have contacted me: Whilst I am able to tell them the Government will not allow their eviction there is no guidance around the other actions that landlords are taking.

I believe that businesses able to meet their obligations to their landlord should of course continue to do so, enabling landlords to direct help to their tenants which need it most. However, some tenants who are facing difficulty may be put in the invidious position of complying with rental demands, despite the Government's assurances

against eviction, in order to prevent the process of a wind-up notice being served and the wider implications that has for the tenant, particularly its relationship with other creditors and, crucially, its ability to maintain its workforce.

This is clearly a loophole in the Government's guidance and legislation. I understand some landlords may equally be compelled to issue proceedings in order to comply with legally binding lease clauses and covenants linked with their own commitments to creditors and investors, despite the fact these proceedings may never be heard in court.

A survey undertaken this week of high street retailers, provided by New West End Company, showed that 64% of them had received statutory demands for one or more of their premises. In addition, 7% were told to expect to receive them shortly. As I'm sure you're aware this gives tenants 21 days to respond before landlords move to issuing a winding up petition.

We need to move quickly to close this loophole: the 21 day period for commercial tenants to respond to statutory demands ends shortly and they will be forced to pay the full quarter's rent in order to avoid a winding-up notice being served.

I therefore ask you, as a matter of urgency, to consider:

1. Amending the legislation to prohibit the serving winding-up orders, backdated to the start of the COVID-19 outbreak.
2. Clarify the messaging that the scheme is intended for businesses which genuinely require support during the COVID-19 period.
3. Reassert the messaging for the financial sector to equally show flexibility to landlords in relation to technical debt and lease agreements, to enable them to support their tenants who need most help.

I am concerned that unless these actions are taken quickly, alongside clarifying the messaging, that many businesses could be placed in additional financial difficulty, significantly reducing their chances of surviving the outbreak.

Please do not hesitate to contact me should you require any further information on this issue, which I have discussed at length with the New West End Company, London Property Alliance and UKHospitality who between them represent more than 1,000 businesses across retail, hospitality and the property sector. They, and I, would be more than happy to provide you with any assistance you require.

Yours sincerely,



Nickie Aiken MP
Cities of London and Westminster

Office of Nickie Aiken MP

nickie.aiken.mp@parliament.uk

Tel: 0207 219 4553

www.nickieaiken.org.uk

CC:

Rt Hon Alok Sharma MP, Secretary of State for Business, Energy and Industrial Strategy

Rt Hon Robert Jenrick MP, Secretary of State for Housing, Communities and Local Government

Signed and supported by:

Paul Barnes, Chief Executive, Association of International Retail

Charles Begley, Executive Director, London Property Alliance

Ros Morgan, Chief Executive, Heart of London Business Alliance

Kate Nicholls, Chief Executive, UKHospitality

Jace Tyrrell, Chief Executive, New West End Company