

Claims Preparation Advice for COVID-19 Losses



In our latest bulletin aimed at assisting property owners during what has been an extraordinary time, we focus on the key information required by the insurance market to consider a claim for business interruption losses following closures due to COVID-19.

It is important to note at the outset that claims notified to insurers will always be reviewed taking into account the specific circumstances of the loss; the period the loss has been sustained, the financial loss suffered and whether the lease contains clauses allowing tenants to suspend rent in certain circumstances.

Most leases do not include “force majeure” clauses – i.e. a clause allowing tenants to walk away from the lease in the event of pre-agreed circumstances, usually outside one or both parties’ control. Even leases that do contain such a clause may not take into account an outbreak of a pandemic resulting in closure.

To assist in building an initial claim to present to the relevant insurance company for their consideration, the following should be provided as a minimum (in addition to any specific requirements set out in your policy documents), and of course discussed with your service team before submission of the claim:

- 1 Date of premises closure.
- 2 Details of the financial loss suffered – this should include a schedule of tenants including the loss of rent/service charge/turnover rent.
- 3 Evidence that the closure is on the order or advice of a relevant statutory authority (by way of press releases/notices), and the date of closure order. This differs in each territory.
- 4 Details of the tenant’s grounds for seeking an abatement of rent i.e. the full tenancy/lease agreement showing that the tenant is entitled to an abatement of rent.
- 5 Details of the circumstances where the tenant has confirmed they are withholding rent (email correspondence with the tenant), including any civil codes allowing tenants to withhold rent.

It is important to note that generally, it is not the intention of a Property Insurance Policy to include cover for insolvency of a tenant and thus their inability to pay rent. Furthermore, it is also not their intention to provide cover for circumstances in which a landlord has agreed to a reduction in rent, or a rent suspension or “holiday”.



Therefore, even in such difficult times as we are facing now, any dealings with your tenants should follow the provisions of the lease and only those concessions granted by the lease terms should be agreed. In circumstances where insurance cover may exist, insurers would always consider whether the policy holder has complied with their duty to mitigate any loss.

Your service team are on hand to provide further guidance where needed, and work with your legal advisors where required to formulate a claim for notification. If in any doubt, please do not hesitate to contact Gallagher for a confidential discussion, and we would be happy to assist.

This note is not intended to give legal or financial advice, and, accordingly, it should not be relied upon for such. It should not be regarded as a comprehensive statement of the law and/or market practice in this area. In preparing this note we have relied on information sourced from third parties and we make no claims as to the completeness or accuracy of the information contained herein. It reflects our understanding as at 28th April 2020, but you will recognise that matters concerning COVID-19 are fast changing across the world. You should not act upon information in this bulletin nor determine not to act, without first seeking specific legal and/or specialist advice. Our advice to our clients is as an insurance broker and is provided subject to specific terms and conditions, the terms of which take precedence over any representations in this document. No third party to whom this is passed can rely on it. We and our officers, employees or agents shall not be responsible for any loss whatsoever arising from the recipient's reliance upon any information we provide herein and exclude liability for the content to fullest extent permitted by law. Should you require advice about your specific insurance arrangements or specific claim circumstances, please get in touch with your usual contact at Gallagher Real State.

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