

(ENGLAND AND WALES) COVID-19 – PREVENTING SQUATTERS IN COMMERCIAL PREMISES

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With a large number of retail and restaurant premises closing temporarily due to COVID-19, there is an increased risk of squatters breaking into commercial premises.

Unlike residential premises, it is not a criminal offence to squat in commercial premises and the police will not take any action unless there is a breach of the peace.

Although tenants will retain liability for security during any period of closure, it is in both landlord and tenant's interest to take proactive steps to minimise the risk of property being illegally occupied and damaged.

Securing vacant premises

To minimise the risk of squatters breaking in to vacant premises, the following steps should be taken:

Fully secure the premises

- Alarm systems do not deter sophisticated squatters.
- Empty/vacant units should be boarded up and secured as soon as possible after a tenant has vacated or closed.
- Premises which are temporarily closed, particularly in high profile locations, should also consider erecting hoarding and installing extra security measures such as additional locks to all entry points, and shutting off any potential entry points, such as underground parking.

Monitor for signs of forced entry

- Determined squatters may not always be deterred by hoarding and will often monitor empty units and attempt to break in via rear fire escapes and other potential access points.
- Any necessary repairs to the hoarding or external doors should be carried out promptly to minimise the risk of unlawful entry.

Removal of squatters

If squatters do gain access to empty premises the following action should be taken without delay:

1 ISSUE PROCEEDINGS

- If squatters refuse to leave peacefully a court order for possession will need to be obtained before they can be evicted.
- NB. The Master of the Rolls and the Lord Chancellor have signed an Amending Practice Direction, which amends Practice Direction 51Z (PD) in relation to possession proceedings during the Coronavirus pandemic; effective from 18 April 2020. The amendments clarify that the current stay on possession proceedings does not apply to a claim against trespassers.
- In theory it would be possible to seek an injunction to remove squatters, as an alternative to an Order for possession, but there is a higher evidential burden to obtain an injunction, and the procedure is not as streamlined or straightforward as the usual possession proceedings against "persons unknown" to remove squatters.
- Under the circumstances, it is therefore even more imperative that premises are properly secured during this period of lockdown, and that security systems are tested and in proper working order.

2 SECURE THE REMAINDER OF THE BUILDING

- If premises are part of a larger building or adjoining premises, all necessary steps should be taken to secure any fire escape doors or entry points to minimise the risk of the squatters occupying other units and/or causing damage.

3 TAKE PHOTOS AS EVIDENCE OF ACCESS/DAMAGE

- Evidence of how the squatters gained access and any damage they have caused will assist with court claim.
- Photographs of the inside of the premises, if access can be gained, and outside to show how the squatters gained entry (by breaking down doors/windows) and evidence any damage that has been caused to the premises.

4 MONITOR THE PREMISES AND THE SQUATTERS MOVEMENTS

- So far as possible, the premises should be closely monitored whilst the squatters are in occupation.
- Where possible, security guards should be put in place to monitor the squatters activity at the premises and notify the police of any anti-social or dangerous behaviour.

This note is generic and high-level, and not based on a review of any of specific lease or factual circumstances. Any legal matter or dispute arising in connection with the Covid-19 pandemic will need to be considered on its individual merits and advice given after a full review of the relevant documents, information/facts and legislation.

Getting in touch

When you need a practical legal solution for your next business opportunity or challenge, please get in touch.

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