

Commercial Rent Arrears Recovery (CRAR) & Forfeiture of Lease



Commercial tenant not paying their rent or breaching their contract?

Has your commercial tenant breached their Contract?

You can serve a Section 146 (S146) and then instruct us to do the Forfeiture of Lease.

The tenancy contract will normally give the landlord the right to re-enter and forfeit the lease if the tenant breaches the contract. The tenant will first need to be served the S146 document, this details the contract breaches to the tenant, giving an opportunity to put it right by a specific date. After this date if the breach is not corrected then you can instruct us to do the forfeiture. The process for the **Forfeiture of Lease** is detailed below under Option 1.

If needed we can assist you with drafting the S146 and serving the tenant, we can help the fee for this is £150 +vat.

Has your commercial tenant not paid their rent?

Without going through the Courts, here are the two popular opinions, your solicitor may have other options for you:

- 1) **Forfeiture of Lease:** peaceably re-enter the premises without notice (known in legal terms as forfeiture). The tenancy contract normally gives the landlord the right to re-enter and forfeit the lease if rent payment is overdue by a specified period - often by 21 days (or the time period specified in the lease).

Or

- 2) **CRAR:** Under Commercial Rent Arrears Recovery (CRAR) if the commercial rent is 7 days overdue you can instruct us to get your money back, by visiting the premises and remove goods to sell if they don't pay. **Due to COVID the government has put restrictions on enforcement on some CRAR cases, we will review your case to see if this applies to your tenant.**

Option 1: Forfeiture of Lease

(Eviction the tenant and securing the premises)

The fee for this option is £895 +vat, plus locksmith fee if needed.

We would send you an instruction document to complete. You email us the completed instruction form along with a copy of the rent contract for us to review. The premises needs to be 100% commercial, with no residential contracts and there can not be anyone in the premises at the time of the forfeiture.

We will send our Court Certificated Enforcement Agents to attend the property when it is closed and gain entry. The agent will then place the 'Forfeiture Notices' at all entrances to the property and at prominent places. The locksmith will change the locks. The agent will ensure the property is left secure.

If there are items of the previous tenant left in the property then for **free** we can put up 'Tort Notices', giving the owner time to arrange collection of the goods or they will be classified as abandoned and you the landlord can dispose of them.

Option 2: Commercial Rent Arrears Recovery (CRAR)

(Visit the premises for the money)

This option is normally **free** to the landlord, as the tenant will be instructed to pay the enforcement fees with the unpaid rent.

The rent needs to be over 7 days in arrears, you will then be able to instruct us to get your unpaid rent. We will send you an instruction document to complete, this will be our warrant to enforce. You email us the complete instruction form along with a copy of the rent contract for us to review.

We will send a Notice of Enforcement letter to the tenant giving them 7 clear days to pay. If payment is not paid, we will send our Court Certificated Enforcement Agents to visit the premises and instruct the tenant to pay the rent.

If the tenant still refuses to pay or make an arrangement that you the landlord and the agent would be happy with, then the agents will look to take control/remove goods to sell and clear the debt.

Enforcing of the money owed for the rent with a High Court Writ

When enforcing for the money of the unpaid rent under Commercial Rent Arrears Recovery (CRAR), enforcement agents are restricted to the demised premises (the property that the rent was due). With a High Court Writ of Control our High Court Enforcement Agents can go to any property in England and Wales where the debtor is trading or lives to enforce on the debt.

Also due to COVID there has been restrictions on Landlords enforcing on the unpaid rent under CRAR, and currently the rent needs to be 554 days or more overdue to enable enforcement until 25 March 2022. However, you can apply for a County Court Order for the money owed, once awarded we can transfer to High Court for you and send our High Court Enforcement Agents to enforcement on the debt. The debtor and any guarantees can be named on the court application for enforcement.

There are normally no enforcement fees to you as we instruct the debtor to pay our fees. Though, you will need to pay the court fees to obtain the court orders, these costs will then be added to the debt for collection.

This is also a good option to landlords when the tenant is no longer at the rented property.

If you think this is the best process for you, see our client flyer called 'Obtaining a CCJ and High Court Writ for unpaid monies' for the full process. We can help every step of the way.



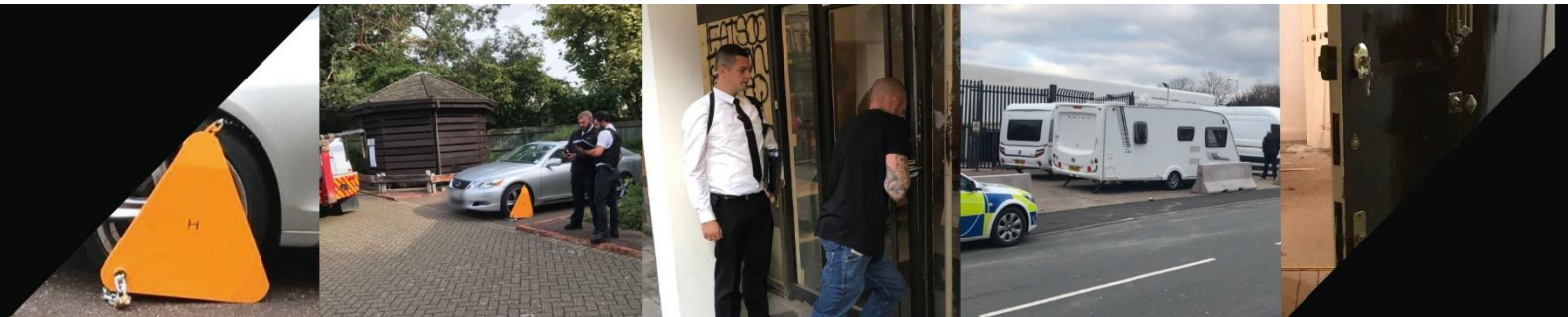
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