

Insights

UK - COVID-19 - BCLP RETAIL INSIGHT: THE WEEK THAT WAS, VOL. 8

Oct 09, 2020

SUMMARY

This week, the BCLP Retail team analyse the recent rent payment figures from the retail sector and discuss possible creative means of fostering resiliency for landlords and operators. We look at the reaction from retailers to new government restrictions in light of the rising Covid-19 case numbers, and consider the post-pandemic prognosis for the sector.

Retail Rent Shortfall

Although recent reports suggest that retailers only paid a fraction of their September quarter's rent on 29 September, recent data shows more retailers have paid their rent in arrears, bringing the retail sector more in line with payment figures of other sectors. The extension of the moratorium on landlord remedies for non-payment of rent is likely to have impacted the latest figures. Please click [here](#) for a detailed analysis of landlords' remedies for tenant default. The increased restrictions bring additional uncertainty for retailers - particularly whether the prized Christmas trade, which normally compensates for less profitable months, will materialise. Retailers are concerned whether shops will be permitted to remain open in the coming months, what type and amount of aid will be forthcoming from the Government and what compromises tenants can reach with landlords. Landlords themselves are faced with a potential multi-billion pound shortfall in rent and about meeting the obligations of their lenders, whether through renegotiation, eventual payment from tenants, or some form of Government aid.

Closed doors, but open windows of opportunity?

The pandemic has exacerbated the existing phenomenon of the declining high street, with predictions of a large percentage of shuttered shops remaining permanently closed and large space retailers looking to scale back operations and repurpose vacant space. Landlords must find an alternative use for the empty square footage. Repurposing of retail space into offices and flats offers a means of preserving the value of these assets. However, with the Government's reversal of

its back-to-work message, whether office space conversion will continue to be attractive remains to be seen. An innovative proposal that both operators and landlords could explore is the idea of 'co-retailing', where multiple operators share one space. Considerations surrounding co-retailing structures include current permissions in leases, permitted use classes and the degree of control over the space they occupy. It is clear that innovative solutions will be required to benefit both retailers and their landlords.

Retail Reacts to New Support Measures

The most recent round of economic support measures from the Government (a timeline of these measures is below) has been met with a mixed response from retail operators. The support package includes an extension of the reduced VAT rate for the hospitality sector and lengthens the period of bounce back loans (worth up to £50,000, targeted at small businesses) from six to ten years.

Some feel these measures do not go far enough to address the specific needs of the bricks and mortar retail sector. Whilst bounce back loan term lengthening may be good for immediate cash flow needs of smaller businesses, mid-to-large size retailers do not benefit to the same extent. Many retail operators think that the VAT reduction should have applied to retailers, as well as the hospitality sector. The lack of any new measures addressing business rates leaves retailers with questions as to what will happen at the end of the relief period in April 2021.

Can COVID be a positive?

It is a common refrain that challenges facing the retail sector have been amplified by the pandemic. However, some research suggests that not all forecasts of the future of retail need be doom and gloom - while there are indeed closures and bankruptcies occurring, the reduction of supply may potentially benefit the remaining stores. Resilient retailers will be able to harness trends increasing in popularity, including direct-to-consumer delivery, a strong online presence, and a focus on customer service in their bricks-and-mortar stores. Retailers are taking tough longer-term decisions to close underperforming stores and streamline their portfolio, so as to be match-fit for a post-pandemic world.

Updated Timeline of Real Estate Relevant Covid-19 Measures

This timeline is accurate as of October 9, and will be updated on a rolling basis.

UK – COVID-19

Relevant Measures for Real Estate

16th: First daily update on COVID-19 given by Boris Johnson

19th: Bank of England cuts interest rates to the lowest in its history, 0.1%

20th: Closure of pubs, leisure centres and restaurants

23rd: “Stay home, Protect the NHS, Save Lives”: lockdown begins, wide restrictions on movement enacted, enforceable by law

26th: Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 made restrictions enforceable by law

MARCH
2020

APRIL
2020

20th: Coronavirus Job Retention Scheme launched to provide support for businesses with furloughed workers. A timeline of the scheme can be accessed [HERE](#).

11th: Publication of “Our Plan to rebuild: the UK Government’s COVID-19 recovery strategy”

MAY
2020

JUNE
2020

15th: Reopening of non-essential shops
Health Protection (Coronavirus, Wearing of a Face Coverings on Public Transport) (England) Regulations 2020 require passengers on public transport to wear a face covering

19th: Government publishes COVID-19 Code of Practice for Commercial Property (link [HERE](#)). The Code encourages landlord and tenant collaboration regarding management of the effects of the pandemic on businesses. More information can be accessed [HERE](#).

25th: Corporate Insolvency and Governance Act 2020 enacted, limiting measures creditors can take in debt recovery. Prohibition on statutory demands and winding-up notices issued until 30 September. Government guidance accessible [HERE](#).

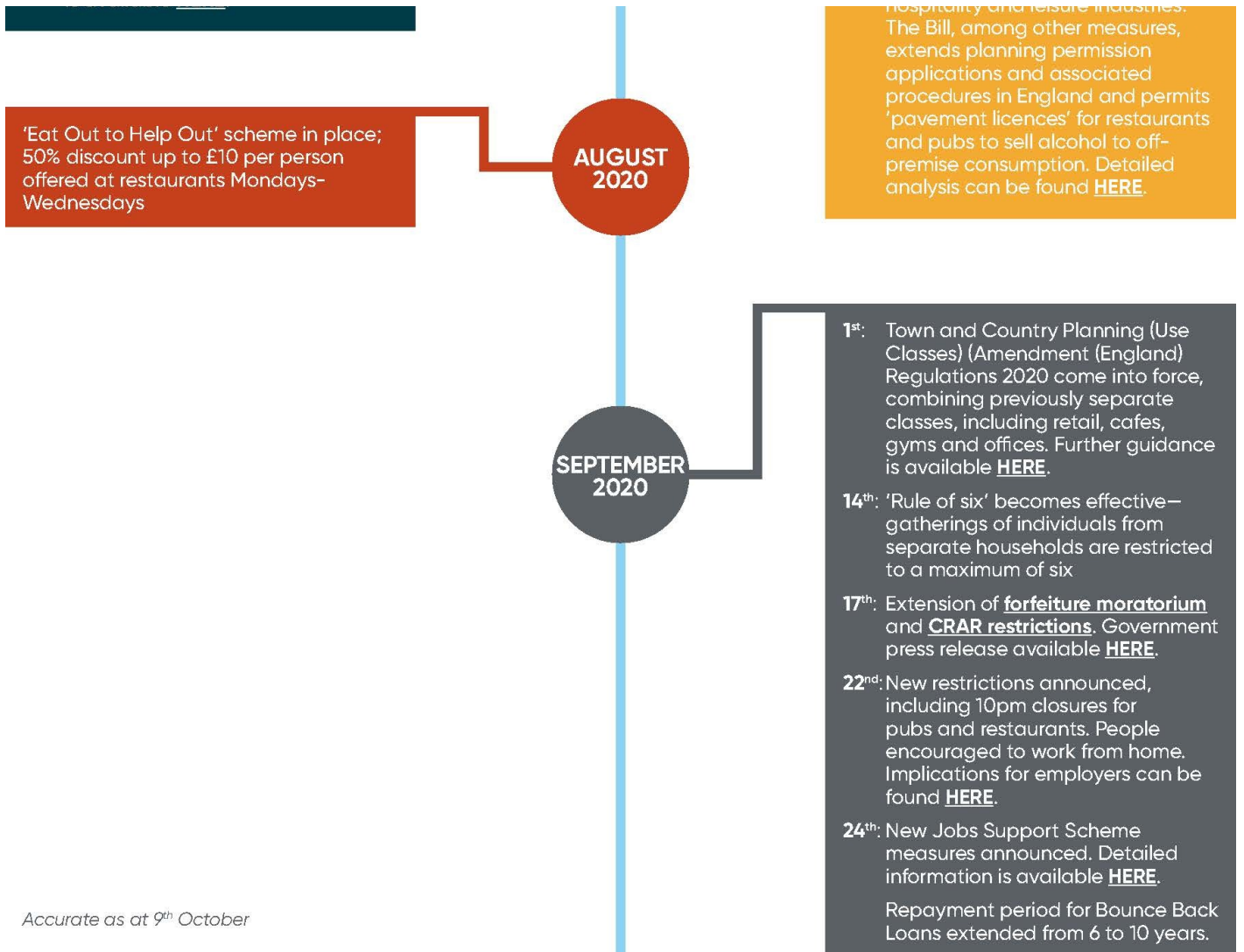
4th: Pubs and restaurants reopen

8th: Targeted VAT cut to 5% until 12 January 2021, applicable to hospitality industry (more details and analysis [HERE](#)) to stimulate public spending on accommodation, food and beverage and outings to tourist attractions and cinemas

8th: Face coverings in shops and public spaces become largely compulsory, punishable by up to £100 fines. Government guidance is available [HERE](#).

JULY
2020

Business and Planning Bill is passed, providing relief to construction, hospitality and leisure industries



Please do get in touch with the BCLP Retail Team if you have any queries regarding the topics raised in this bulletin. This bulletin was co-written with Trainee Solicitor Madeleine Lofchy.

RELATED PRACTICE AREAS

- Real Estate
- Real Estate Retail
- Real Estate Sector
- Retail & Consumer Products

MEET THE TEAM



Sunita Chawla

Co-Author, London

sunita.chawla@bclplaw.com

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



Justine Oldale

Co-Author, London

justine.oldale@bclplaw.com

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



Jeremy Bark

Co-Author, London

jeremy.bark@bclplaw.com

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

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.