

High street rental auctions: further developments



When we last posted about the government's proposed high street rental auction policy in November 2023 we were waiting for the outcome of its consultation. Many questions remained unanswered about the policy, which is intended to give local authorities the power to auction for rental town centre commercial properties that have been vacant for more than one of the previous two years.

On 14 May 2024 the government published the consultation outcomes and its response, giving more information on the proposed policy. Should the scheme come into force, key provisions will be that:

- Local authorities will be able to outsource all, or elements of, the auction and marketing process to commercial agents.
- The marketing period is to be at least 5 weeks long.
- No reserve price will be set for the auction.
- The auction will be by sealed bid, with the landlord selecting a winning bid which need not be the highest rent offered
- The costs of the process will be borne by the local authority, with the incoming tenant paying for searches, surveys and the legal fees connected with the lease. It is intended that £2million of government funding will be provided to local authorities.
- The landlord will be required to do works to bring the property up to a minimum standard and there is no exemption for landlords from MEES.
- A tenant will be able to fit out for its use without needing the landlord's consent, but any external or structural works will be subject to landlord's consent (not to be unreasonably withheld or delayed).
- The tenant will be given a 4 week rent free period to allow for its fit-out.
- The tenant will give the landlord a rent deposit of £1,000 or equal to three months' rent, whichever is

greater.

- The tenant's repairing obligation will be limited by reference to a schedule of condition.
- If the landlord wants a service charge it will have to opt for it and elect whether the service charge will reflect provisions in a superior lease, match a regime in operation with its other properties, or it will need to select from a list of services to provide.
- There will be a permitted development right allowing a change from existing use to a high street use determined by the local authority to be suitable for the duration of the lease.

At the end of its response the government stated that it would be working with stakeholders 'over the coming months' to design and develop secondary legislation to give effect to the proposals. At the same time it said it 'anticipated' that the scheme would come into force in 'mid 2024'.

If that timeline seemed optimistic, or perhaps a relic of an initial draft, then the subsequent announcement of a general election may mean it is even less likely to be kept now. The outcome of the election may impact on whether the high street rental auction scheme comes into force as currently proposed, or with modifications, or indeed at all. For now it is a case of continuing to watch this space.

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