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A Guernsey landlord's guide: What happens when a tenant of commercial premises becomes insolvent?

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Here we explore the insolvency processes in Guernsey from a landlord's perspective, highlighting how landlords can protect themselves in challenging situations.

Preparation is key

The best way to protect yourself as a landlord is to prepare at the negotiations stages prior to the lease. Thoughtful planning can provide flexibility and protection if a tenant becomes insolvent.

Consider:

- Conducting thorough Financial Due Diligence on the tenant;
- Assessing the financial status of guarantors;
- Negotiating sufficient rent deposits;
- Requiring tenants to obtain dilapidations insurance; and
- Retaining flexibility to act quickly when insolvency arises.

What happens when a tenant becomes insolvent?

In Guernsey, tenants can enter:

- **Administration:** Offers tenants breathing room via a moratorium, preventing landlords from bringing claims for rent losses—a challenge for landlords needing to act quickly.
- **Liquidation:** Guernsey's modernised liquidation laws include disclaimer provisions, allowing liquidators to reject leases as onerous assets, leaving landlords unable to enforce lease terms or recover ongoing rent.

Challenges for landlords in Guernsey

- Landlords rank second among preferred creditors under Guernsey law. While landlords may recover some losses as preferred debts, this depends entirely on the tenant's assets, and is limited to the value of these.
- Guarantors offer some protection, but their financial stability is key. Without this, landlords may face additional risks.

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- If the head tenant becomes insolvent and the lease is forfeited or disclaimed, sub-leases automatically terminate under Guernsey law. Sub-tenants must ensure their own agreements include safeguards to protect their position.

Mitigating losses as a Guernsey landlord

The best approach? Plan ahead. Early preparation during lease negotiations allows landlords to include provisions that safeguard both their property and finances.

When faced with tenant insolvency, landlords must balance recovering losses with securing the property to re-let or pursue other options.

If you are a landlord navigating these complex situations or wish to ensure your leases are durable in the face of tenant insolvency, our team is here to help.

With market-leading expertise in all forms of property law including residential, commercial and planning, we aim to go above and beyond expectations to provide clients with the best possible service.

Click here for more information.

Click here for view our Insolvency and Corporate Disputes service.

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