

# Commercial Property Owners' Legal Solutions



# Why you need Commercial Property Owners' Legal Solutions

Being a landlord can provide a very good return on investment but it isn't without its pitfalls. In an ideal world you would have a problem-free relationship with your tenants but in reality issues such as a dispute about the renewal of a lease, damage and dilapidation to your property and late or non-payment of rent can all prove an expensive headache.



## What we cover

We have created a product specifically designed to address your needs as a commercial landlord.

We cover the legal costs arising from the following:

- damage to your property, nuisance and trespass
- the repossession of your residential property
- a commercial lease dispute
- the recovery of rent arrears
- a contract dispute for a holiday home.

In addition we can help you overcome a range of common business problems, for example:

- you need expert legal advice quickly
- a dispute with an employee escalates and can't be resolved
- you receive a notice of an enquiry into your tax or VAT returns
- a Health & Safety inspection ends with a threat to prosecute your business
- your business attracts adverse publicity which threatens to damage your reputation and you need PR advice.

*Expertise when you need it most.*



## Legal advice and tax helplines

You can call our legal advice helpline and get immediate advice on all legal problems affecting your business, including commercial and residential property letting, 24 hours a day, 365 days a year. You can also obtain tax-related advice from our tax helpline or use our counselling assistance helpline which is available to your employees and their families.

## Landlords' and Business legal services website

Your policy unlocks free access to our Landlords' and Business legal services website, which allows you to create a wide range of online tenancy and business legal documents and letters which can help your business. Most legal documents are free for you to download but a modest fee is payable for a few documents.

## Why choose ARAG?

We are part of ARAG SE, the largest family-owned enterprise in the German insurance industry. Founded in 1935, on the principle that every citizen should be able to assert their legal rights, ARAG now employs 4,000 people around the world and generates premium income of more than €1.8 billion. Our UK operation provides a nationwide service from our Bristol Head Office. We provide innovative and affordable products to companies and their directors and partners. We are committed to providing our customers with legal advice and representation throughout a legal problem. We recognise that we will only grow by ensuring that we provide excellent products and an outstanding service to our customers.



## What is covered?

The summary table on pages 6 and 7 provides all the information you need to consider before deciding whether to buy this cover but the information below will also help you. If you require full details of our policy terms and conditions please ask to see a policy wording.

### Your commercial property cover

#### **Property damage, nuisance and trespass**

Nuisance, trespass or damage to your property by another party could put a substantial strain on your resources. We will pay for the legal costs of pursuing your rights if your property or its contents are damaged or affected by nuisance or trespass, claiming compensation if necessary.

#### **Repossession of residential property**

We will pursue a claim for the repossession of residential property including where the property has been let to an employee of your business under a service occupancy agreement. You must adhere to the rules regarding tenants' deposits and serve the correct legal notice before proceedings can be issued.

#### **Commercial lease disputes**

We will pursue or defend your legal rights if a dispute with your business tenant develops under the terms of your lease, including opposing the renewal of your lease agreement. We can help where your lease is subject to the Landlord & Tenant Act or where you have correctly contracted out of the Act.

#### **Recovery of rent arrears**

You always hope to have reliable tenants but if they fall behind on their rent it can cause financial problems for your business. We will pursue your legal rights in recovering rental arrears owed to you.

### **Holiday homes contract disputes**

We will provide cover if a dispute arises from a written agreement to let out property as holiday accommodation. We will also cover a dispute resulting from a contract you have entered into to buy or hire goods or services for the property.

### Your business cover

The following cover is also available for your business:

- employment disputes & compensation awards
- employment restrictive covenants
- tax disputes
- legal defence
- compliance & regulation
- statutory licence appeals
- loss of earnings
- claims involving your executives
- crisis communication.

For full details of policy cover please ask to see a copy of the policy wording.





# Examples of when we can help



The following examples illustrate the types of dispute that would be covered under ARAG Commercial Property Owners' Legal Solutions.

## Commercial lease

A landlord wished to oppose the renewal of his tenant's lease in order to redevelop land where the premises were located. Section 30 (1) (f) of the Landlord and Tenant Act 1954 allows a landlord to serve notice on the tenant to end the business tenancy (instead of renewing it) under such circumstances.

Before 2004, the Act required the landlord's notice to state whether he "would oppose" a lease renewal but some changes to the legislation resulted in the wording of the Act being changed to read whether (the landlord) "is opposed" to renewal.

The tenant raised a legal challenge to the Section 30 notice which opposed renewal of the lease arguing that the change to the legislation overrode the established precedent that the relevant date of intention to redevelop under s.30(1)(f) was the date of trial. Instead, he suggested that the landlord had to prove the intention to develop at the date the notice was served on the tenant – between 6 and 12 months earlier in the process.

The court found no Parliamentary intention supporting the tenant's assertion and saw no other reason to change the status quo, which meant our insured was able to proceed with his redevelopment.

## Repossession

Our insured contacted us for legal advice after their residential tenant fell into arrears and continued to ignore reminders for payment. We directed our insured to our Landlords' legal services website to download the necessary legal notice requiring the tenant to leave the property. Unfortunately the tenant ignored the notice and the matter escalated. We instructed solicitors to obtain a court order for repossession and paid the legal costs and the court fee.

## Recovery of rent arrears

Our insured contacted us after their tenant failed to pay rent for three months and then vacated the property. Despite chasing the tenant for payment, our insured was unable to get any response. We approved the claim and passed the matter to a panel solicitor. They were able to negotiate a payment plan with the tenant who was having cashflow issues. The insured received repayment plus interest over the following six months. ARAG settled the solicitor's cost.



*It has always been our vision to enable everyone, not just those who can afford it, to assert their legal rights.*

# Important information

## Important conditions

You must always contact us first before appointing a solicitor or accountant to act for you. If you fail to do this you may prejudice your position and the insurer will not pay costs that they would not have agreed to pay under the terms of your policy.

When we receive your claim we will have it assessed for reasonable prospects of success. Provided that the event is covered by the policy and your claim is more likely than not to succeed, we will help you under the terms of your policy.

We will recommend mediation to resolve your dispute where appropriate or we will appoint a solicitor, accountant or other suitable expert to act for you from our nationwide panel of specialist firms. The members of our panel are carefully selected based on their expertise and work under strict service standards. They are also audited regularly to ensure they provide the best possible service to our customers.

## What happens if I change my mind after taking out the policy?

The policy provides you with a 14-day reflection period in which to decide whether you wish to continue. Cancellation is fully explained in Condition 9 of the policy wording.

## What happens if the insurer cannot meet its liabilities?

The insurer is covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation of up to 90% of the cost of your claim in the unlikely event that the insurer cannot meet its obligations. Further information about compensation scheme arrangements is available at [www.fscs.org.uk](http://www.fscs.org.uk).

## Claims procedure

### Telling us about your claim

- 1) If an insured needs to make a claim, they must notify us as soon as possible.
- 2) Where you are claiming under Part A, you must have correctly issued the necessary notices informing your tenant of your intention to repossess the insured property. (Section 8 and Section 21 notices to repossess residential property and covering letters can be downloaded from our Landlords' legal services website.)
- 3) If an insured instructs their own solicitor or accountant without telling us, they will be liable for costs that are not covered by this policy.
- 4) A claim form can be downloaded at [www.arag.co.uk/newclaims](http://www.arag.co.uk/newclaims) or requested by telephoning us on **0330 303 1955** between 9am and 5pm weekdays (except bank holidays).
- 5) The completed claim form and supporting documentation can be sent to us by email, post or fax. Further details are set out in the claim form itself.

### What happens next?

- 1) We will send the insured a written acknowledgment by the end of the next working day after receiving their claim form.
- 2) Within five working days of receiving all the information needed to assess the availability of cover under the policy, we will write to the insured either:
  - a) confirming cover under the terms of your policy and advising the insured of the next steps to progress their claim; or
  - b) if the claim is not covered, we will explain in full the reason why and advise whether we can assist in another way.
- 3) When a representative is appointed they will try to resolve the insured's dispute without delay, arranging mediation whenever appropriate.
- 4) We will check on the progress of the insured's claim with the appointed advisor from time to time. Sometimes matters cannot be resolved quickly, particularly if the other side is slow to cooperate or a legal timetable is decided by the courts.

The tables on the next page show a summary of cover. For full terms and conditions of the policy, please read the policy wording.

## Summary table

Significant features & benefits	Significant exclusions or limitations
<p>The insurer will pay legal costs &amp; expenses and employment compensation awards up to the sums shown in your policy schedule or as otherwise stated in the policy including the cost of appeals for the following:</p>	<ul style="list-style-type: none"> <li>• It must always be more likely than not that your claim will be successful.</li> <li>• You must report your claim during the period of insurance and as soon as you become aware of the circumstances that could lead to a claim. In relation to rent arrears, this must be within 60 days of the rent first becoming due.</li> <li>• Unless there is a conflict of interest we will choose an appointed advisor until proceedings need to be issued or in any claim dealt with by an Employment Tribunal.</li> <li>• Legal costs, expenses, or compensation awards incurred before we accept a claim.</li> <li>• Costs that exceed the sum we would have agreed to pay a solicitor on our panel, if the insured chooses to use their own representative.</li> </ul>
<b>PART A – YOUR INSURED PROPERTY</b>	
<p><b>1) Property damage, nuisance and trespass</b> We will pursue a claim if your property and/or anything else you own at the insured address is damaged. We will also pursue a claim in the event of public or private nuisance or trespass.</p>	<ul style="list-style-type: none"> <li>• Damage that arises from a contract other than a tenancy agreement or holiday home letting.</li> <li>• Trespass or nuisance by your tenant or ex-tenant, or a holiday home guest.</li> </ul>
<p><b>2) Repossession of residential property</b> We will pursue a claim for repossession of your residential property which is let</p> <ul style="list-style-type: none"> <li>• as an assured shorthold, shorthold or assured tenancy under the 1988 Housing Act</li> <li>• in Northern Ireland subject to the Private Tenancies (NI) Order</li> <li>• to a limited company or business partnership</li> <li>• to your employee under a service occupancy agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• There must be a mandatory ground for repossession.</li> <li>• You must have served the necessary notice on your tenant to leave the property.</li> </ul>
<p><b>3) Commercial lease disputes</b> We will cover a dispute with your business tenant under the terms of a written lease agreement for your property which has been let under the Landlord &amp; Tenant Act 1954 or where you have correctly contracted out of the Act.</p>	<ul style="list-style-type: none"> <li>• Any dispute that arises from a disagreement with your tenant regarding payment or non-payment of rent and or service charges.</li> <li>• You must demonstrate that you have served the correct legal notice on your tenant.</li> </ul>
<p><b>4) Recovery of rent arrears</b> We will pursue a claim to recover rent arrears owed to you.</p>	
<p><b>5) Holiday homes contract disputes</b> We will cover a dispute that arises from</p> <ul style="list-style-type: none"> <li>• a written agreement which you have entered into to let out your property as holiday accommodation</li> <li>• a contract you have entered into to buy or hire goods or services for your property.</li> </ul>	<ul style="list-style-type: none"> <li>• Goods or services which exceed £6,000 (including VAT) in value.</li> <li>• An employment contract.</li> </ul>
<b>PART B – YOUR BUSINESS</b>	
<p><b>1) Employment</b> A dispute with a past, present or prospective employee arising from a contract of service and/or alleged breach of employment laws.</p>	<ul style="list-style-type: none"> <li>• Pursuing an action other than an appeal.</li> <li>• Any redundancy notified claim within 180 days of you taking out this policy.</li> <li>• Internal grievances or disciplinary matters.</li> </ul>
<p><b>2) Employment compensation awards</b> Where we have accepted your claim under Employment, the insurer will pay a basic and compensatory award made against you by a tribunal, or an amount agreed by us to settle a dispute.</p>	<p>Money due to an employee under a contract.</p>
<p><b>3) Employment restrictive covenants</b> A dispute with</p> <ul style="list-style-type: none"> <li>• your employee or ex-employee which arises from a restrictive covenant in a contract of service with you</li> <li>• another party who alleges that you have breached their legal rights protected by a restrictive covenant.</li> </ul>	<p>The restrictive covenant must not extend further than is reasonably necessary to protect your business interests or contain restrictions in excess of 12 months.</p>
<p><b>4) Tax disputes</b> A formal tax enquiry by HMRC, where a dispute arises following a compliance check by HMRC in relation to your business tax affairs, or where a dispute arises about VAT.</p>	<ul style="list-style-type: none"> <li>• Any claim where you been careless or have not met legal timescales.</li> <li>• An investigation by the Fraud Investigation Service of HMRC.</li> <li>• Tax avoidance.</li> </ul>
<p><b>5) Legal defence</b> We will defend the insured</p> <ul style="list-style-type: none"> <li>• in an investigation that could lead to prosecution</li> <li>• if criminal proceedings are brought.</li> </ul> <p>Cover for motor-related investigations and prosecutions is included.</p>	<p>Parking offences.</p>

Significant features & benefits	Significant exclusions or limitations
<p><b>6) Compliance &amp; regulation</b></p> <ul style="list-style-type: none"> <li>An appeal against the terms of a Statutory Notice issued against your business.</li> <li>Representing you throughout an investigation by a professional or regulatory body and at any subsequent disciplinary hearing.</li> <li>Defence of a civil action brought <ul style="list-style-type: none"> <li>for wrongful arrest arising from an allegation of theft;</li> <li>under the Data Protection Act;</li> <li>against your employees where unlawful discrimination has been alleged or there has been a breach of duty in their capacity as a trustee of a pension fund set up for the benefit of your employees.</li> </ul> </li> </ul>	
<p><b>7) Statutory licence appeals</b> An appeal against a formal written proposal to alter, suspend, revoke or refuse to renew a licence or registration.</p>	Registration or licencing schemes relating to your property.
<p><b>8) Loss of earnings</b> The insurer will pay loss of earnings if an insured has to attend court or tribunal for a claim under this policy or because they are called for jury service.</p>	Any sum which can be recovered from the court or tribunal.
<p><b>9) Personal injury</b> We will represent an employee to pursue a claim for compensation if they are injured at work where fault lies with a third party.</p>	Conditions, illness or disease that gradually develop over time are excluded.
<p><b>10) Executive suite</b> The principal, executive officers, directors and partners of your business are covered for the following.</p> <ul style="list-style-type: none"> <li>An HMRC enquiry into the executive's personal tax affairs.</li> <li>A motoring prosecution that arises from driving for personal, social or domestic use.</li> <li>A claim that arises from personal identity theft.</li> <li>A dispute that arises from the terms of your business partnership agreement that is to be referred to mediation.</li> <li>Crisis communication, as described below, covers your executives for matters occurring in their private and personal capacity and that cause reputational damage.</li> </ul>	<ul style="list-style-type: none"> <li>The exclusions that apply to insured events 4), 5) above and 11) below also apply to an executive claiming against this insured event.</li> <li>For identity theft claims the person claiming must have followed advice from the Executive suite identity theft resolution helpline.</li> </ul>
<p><b>11) Crisis communication</b> Access to professional public relations support and crisis communication services to manage adverse media publicity and reputational exposure.</p>	<ul style="list-style-type: none"> <li>Matters that should be dealt with through your normal complaints procedures.</li> <li>A matter that has not actually resulted in adverse publicity.</li> <li>The maximum the insurer will pay is £25,000.</li> </ul>

#### ADDITIONAL SERVICES

<p><b>Legal &amp; tax advice helpline</b> Access by telephone to legal and tax experts for UK and EU-wide legal advice and UK tax advice.</p>	<ul style="list-style-type: none"> <li>Advice will not be put in writing.</li> <li>Advice is restricted to business legal matters.</li> <li>Advice on UK tax law is available Monday to Friday between 9am and 5pm (except bank holidays).</li> <li>We cannot advise on financial planning or financial services products.</li> <li>Services are subject to fair and reasonable use.</li> </ul>
<p><b>Redundancy assistance helpline</b> A specialist consultancy that will assist you to implement a fair selection process and ensure that the redundancy notices are correctly served. The service offers document review, telephone and written advice.</p>	<ul style="list-style-type: none"> <li>Available Monday to Friday between 9am and 5pm (except bank holidays).</li> <li>This service attracts a fee.</li> </ul>
<p><b>Executive suite identity theft</b> Telephone advice to help executives keep their personal identity secure. Where identity theft is suspected, caseworkers can help the victim to restore their credit rating and correspond with their card issuer, bank or other parties.</p>	Available Monday to Friday between 9am and 5pm (except bank holidays).
<p><b>Crisis communication</b> If your business has attracted negative publicity which could cause reputational damage, you can access professional PR support from our Crisis communication experts at any time.</p>	
<p><b>Counselling assistance</b> Qualified counsellors will provide confidential support and advice by phone to your employees or their family members who are suffering from emotional upset or feeling worried and anxious about a personal or work-related problem.</p>	
<p><b>Landlords' and Business legal services website</b> Register using your voucher codes to download legal documents that can assist with day-to-day issues that affect your business.</p>	<ul style="list-style-type: none"> <li>Documents are for business use.</li> <li>Some documents only apply for England &amp; Wales.</li> <li>Many documents are free but a few attract a modest charge.</li> <li>Legal review services are subject to a fee.</li> </ul>
	<p><b>Territorial Limit</b></p> <ul style="list-style-type: none"> <li>Part A – the UK</li> <li>Part B – for insured event 5) Legal defence the UK, Channel Islands, Isle of Man, Norway, Switzerland and EU countries. For other insured events the UK, Channel Islands and the Isle of Man.</li> </ul>

## How we handle complaints

### Step 1

ARAG is committed to providing a first class service at all times. However, if a complaint arises, this should be addressed to our Customer Relations Department who will arrange to have it reviewed at the appropriate level. We can be reached in the following ways:



**0117 917 1561** (hours of operation are 9am-5pm, Mondays to Fridays excluding bank holidays. For our mutual protection and training purposes, calls may be recorded).



**customerrelations@arag.co.uk**



**ARAG plc, 9 Whiteladies Road, Clifton, Bristol, BS8 1NN.**

### Step 2

If we are not able to resolve the complaint to your satisfaction, then you can refer it to the Financial Ombudsman Service (FOS) provided that it falls within their jurisdiction. From 1 April 2019 the FOS will normally deal with complaints from small business with an annual turnover of less than £6.5million and which either; have up to 50 employees, or a balance sheet threshold of £5million. They can be contacted at



**0800 023 4567 or 0300 1239 123**



**complaint.info@financial-ombudsman.org.uk**



**Financial Ombudsman Service, Exchange Tower, London, E14 9SR.**

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. You can find more information on the Financial Ombudsman Service at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

The FOS's decision is binding upon the insurer, but you are free to reject it without affecting your legal rights.