

It's not easy being green or is it?

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The current UK energy crisis has encouraged homeowners and businesses to focus on environmental improvements to properties, including more efficient heating systems, improved insulation and the installation of energy efficient lighting. While the initial investment may be costly, these items can have a significant impact on reducing future outgoings. Where the position relates to rented commercial property the situation is more complex, as tenants with short term leases have no long term interest in the property and consequently may be less willing to contribute to environmental improvements where they will not benefit in the long term.

One way of encouraging landlords and tenants to improve the environmental impact of their premises is for the parties to enter into a green lease. A green lease describes a lease which incorporates a series of provisions that require the landlord and/or tenant to improve the environmental impact of the premises and consequently make the property more sustainable. This may include energy efficiency measures, waste reduction and water efficiency. While the benefits for landlords are more apparent, tenants can also be seen to benefit financially from green leases from lower operating costs through reduced energy and water consumption, as well as being seen to meet corporate social responsibility requirements.

Although green leases have an important role in new buildings to ensure the standard is maintained throughout the term of the lease, they are of equal importance for older buildings which are likely to be operating at a lower standard, to ensure the building can be occupied and managed in a more environmentally friendly way in the future. Furthermore, where a lease is already in place and does not contain green clauses the parties can enter into a lease variation or alternatively a memorandum of understanding which sets out how the parties agree to cooperate to improve the environmental standard of the building.

An alternative solution for landlords who wish to demonstrate their corporate social responsibility by generating renewable energy is to make use of otherwise unused roof space above their premises by leasing the airspace above the building. Ogier has assisted a number of landlord clients to date who have been able to profit from the unused roof space on their

building (providing a new income stream) by allowing companies, such as Jersey Electricity, to install a rooftop solar farm that generates electricity which otherwise would need to be imported. Alternatively tenants may seek landlord permission to install solar panels as a method of reducing their overheads, bearing in mind that tenants are almost always responsible for electricity and other outgoings, on top of their rent.

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