

OFFICE OF THE DEPUTY PRIME MINISTER

Commercial Property Leases

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper): Further to my Statement of 24 February about Reading University's final report on the impact of the property industry's 2002 Code of Practice for Commercial leases, I wish to announce our conclusions following the completion of the research and our own consultation exercise last year on upward only rent review clauses.

The Government continues to be concerned about flexibility in the commercial property market. The Reading report shows that the property market has become more flexible, notably with continuing trends towards shorter leases and break clauses, and I welcome these. However, there are still areas of inflexibility.

The Reading report indicates that the major problems are now inflexible assignment and subletting provisions in leases. These can make it difficult for tenants to dispose of properties they no longer need for their business. We intend to undertake a review of the law of assignment and subletting, with the aim of easing the position for tenants while not jeopardising property investment, including looking at legislative options.

We continue to have concerns about the prevalence of upward only rent review clauses in longer leases. The Reading report shows that their impact has been diminishing, as fewer leases contain any form of rent review provisions, and that tenants are currently more concerned about inflexible assignment and sub-letting provisions than they are about upward only rent reviews. We do however believe that further progress in this area is necessary to improve the flexibility of the market. We will therefore continue to monitor the situation and retain the option to legislate in future if necessary. But we do not propose to legislate against upward only rent review clauses at present.

The other major area of concern is the continuing lack of awareness of property issues among small businesses. The Reading report shows that many small businesses fail to obtain the best leasing terms available because they lack essential information about the leasing environment and the local market. There is a need for action by both Government and the property industry.

We are asking the property industry to undertake a joint review of the Code of Practice, to carry out a renewed campaign to disseminate the Code and provide an effective mechanism for dealing with complaints. We want to make sure that everyone negotiating a lease adopts the Code.

We will be undertaking a further monitoring exercise over the next three years, and we will be looking for further movement on flexibility. We believe that achieving greater flexibility in the market is extremely important and that further market reform is essential.

We shall be inviting the property industry to join us in practical steps to improve small business knowledge of property matters.

We will shortly be making available on our website a summary of the responses to the consultation paper on upward only rent reviews. We will be placing copies of individual responses in the Library of the House while copies will also be available for public inspection in the ODPM Library.