



# ARREARS FOLLOWING COVID-19

## What is the legal position and what is AFP's policy?

Many of our Clients will be pleased to learn that Alexander Faulkner Partnership received some legal advice on how to address Homeowners who fail to pay their service charges as a result of the Coronavirus outbreak.

At present there is no directive from the Government to relax legislation in respect of the covenant which obligates Homeowners to pay rent or service charges, these are still due on the dates set out in the Lease or Transfer.

Whilst harsh, it is still very much 'Business as Usual'. If residents don't or can't pay, then things will simply not get done. This of course is no different from any other time.

Buildings and Estates still need to be managed and the service must be provided otherwise Landlords, RMC's & RTM's will be in breach of their obligations. Therefore, basic steps we are advised to take in these challenging times are as follows:

- If the homeowner is in genuine financial hardship, there is an argument to work with them to arrange a suitable payment plan to repay the debt owed from the March 2020 (only since Covid-19 lock down measures were put in place), all debts before this time should be treated in the usual way. This of course only applies if the Homeowner is willing to enter this kind of arrangement. If so, we will be drafting a payment plan and placing this in writing for the Homeowner to sign and return. If they fail to make the payments set out, then we will be advising Clients to proceed with the normal debt recovery procedure where the whole debt will be recovered through the legal system in one go.
- The alternative option available to Homeowners who have a mortgage, is for the lawyers to apply to the mortgage companies for the debt to be cleared (only where there is a mortgage on the property). Mortgage companies generally agree to this approach and simply add the debt to the mortgage at the end of the term.

The FTT (First Tier Tribunal) will be looking to see if a reasonable approach to resolve the situation with the Homeowner has been made, a sense of flexibility was indicated. However, there may be some who seek to take advantage of the situation and it will need to be established who is in genuine financial hardship or otherwise.