

Lease Structures, Terms and Lengths:
Does the UK lease meet current business requirements?

**A Report on the Attitudes of Occupiers in the UK
for the
Royal Institution of Chartered Surveyors**

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Summary of Findings

- Responses were received from 139 organisations constituting three main groups; International Corporates (30%), UK Corporates (32%) and the Public Sector (35%) covering nearly 30,000 leases and a rent roll of £2.15 billion
- Respondents mainly occupied office (40%), retail (25%) and industrial (10%) property with 37% mainly in prime located properties, 52% mainly in secondary and 11% in tertiary locations.
- Only 8% think that there are no problems with the landlord and tenant relationship. However, 60% believe that the system operates satisfactorily on the whole but believe that there are some aspects which create difficulty “sometimes”. A significant minority (27%) believe that the UK leasing system is unsatisfactory and undermines the organisation’s ability to operate effectively.
- International and UK corporate occupiers are significantly more concerned about the leasing process than public sector occupiers. Around 40% of this group believe that the system is unsatisfactory.
- Property characteristics such as quality of location, quality of property specification and type of property make no significant difference to the attitude to leases. Any differences therefore are due to the type of company or organisation occupying the premises. The exception to this is the attitude to review type where occupiers of mainly retail space are significantly more concerned about this aspect of the lease than those who mainly occupy office space.
- The five most problematic lease terms in rank order are; lease length, break clauses, assignment and sub-letting, repairs and insurance, and rent review type. Upwards-only reviews are an important element of occupier concerns regarding review type, especially retailers, but are *not* top of the occupier’s concerns regarding leases.
- Lease length is the major concern of all occupiers with a significant mismatch between business planning horizons and length of occupation. This was particularly highlighted as a problem to international occupiers. This group are also very concerned about other clauses which impact on the length of occupational liability and ease of exit from the premises such as break clauses and assignment. A number of respondents in this group make specific and unfavourable comparisons with leasing in other international commercial real estate markets.
- Many of the comments concerning other clauses such as break clauses, assignment, sub-letting and review type are connected with length of occupation. A shortening of lease length would allay many of these other concerns. For example, concerns at the lack of breaks, difficulties in assigning leases and the impact of upward-only reviews would be reduced if leases were shorter and more in line with business strategies.
- Coupled with these concerns about lack of flexibility of occupation, occupiers are unhappy with the duration and cost of some procedures involved in the landlord and tenant relationship. For example, operation of breaks, consent for assignment, sub-lettings and

alterations and procedures for dispute resolution, are all felt to be unduly onerous and often protracted by the landlord.

- Overall the UK leasing system appears to be undermining the ability of a wide range of organisations to manage the business change which is now a fact of life. With international corporates particularly concerned about the system, there is a possibility that the leasing system weakens the competitive position of the UK as a strategic global location.

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Lease Structures, Terms and Lengths

Does the UK Lease Meet Current Business Requirements?

1.0 INTRODUCTION

Over the last year, the UK property industry has been debating the commercial property landlord and tenant relationship. This debate was engendered by the DETR research report by Crosby, Murdoch and Markwell (2000) of the University of Reading, on the operation of the Code of Practice for Commercial Leases. Although this report was specifically targeted at the operation of the Code of Practice, introduced by the industry in response to a Government consultation process in 1993 and 1994, it raised wider questions concerning the landlord and tenant relationship.

The specific concerns of government were the upwards-only rent review, dispute resolution and confidentiality agreements but the government also has the wider concern that the leasing market should be flexible and provide all tenants with leases that meet their business needs. The DETR report highlighted the specific issue of small business tenants, who appear to be lacking in knowledge concerning the implications of leases and are often unrepresented in lease negotiations. Where they are represented in negotiations, it is often by solicitors alone, whose concerns may be restricted to the legal interpretation of specific clauses rather than the wider issues concerning matching lease clauses to business needs.

The DETR report included a survey of tenants but, given the focus of the research questions set by Government, concentrated on the operation of the Code of Practice rather than tenants' wider attitude to the system as a whole.

Crosby, Gibson and Murdoch (2000) built off this research and compared data on actual leases signed in 1998 with survey work of corporate office occupiers' requirements for length of lease collected by Gibson (2000). This comparison suggested that although office lease lengths reduced during the 1990s, there was still a mismatch between what the lettings market provided and what tenants said they needed.

Despite these analyses, there are still gaps in the knowledge concerning the attitude of tenants to leasing. This research seeks to fill one of these gaps; the attitudes of corporate or larger scale tenants to the leasing practices in the UK. In order to address these attitudes, a survey of the membership of a number of occupier interest groups, including the Corporate Occupiers Group (COG) of the Royal Institution of Chartered Surveyors (RICS); the UK chapter of NACORE and the members of the Association of Chief Estate Surveyors (ACES), was undertaken. A short questionnaire survey was distributed to the membership of these organisations, which totalled approximate 2000, in December 2000. The results from 139 responses were collated and analysed in January 2001 and these results are set out in the following sections of the paper.

Due to the nature of the membership of these interest groups, the issue of the attitudes of small business tenants has not been addressed. It might be assumed that their business needs are similar and that attitudes to lease flexibility and complexity may be similar as well. However, Crosby, Murdoch and Markwell (2000) found that small business tenants were more likely to be unaware of the Code of Practice. They also found that those organisations that were "Code unaware" were more likely to take leases on the first terms offered, not worry too much about lease terms and be mainly concerned with rent level. It may therefore be that they have different attitudes to leases than the larger scale occupiers.

This research therefore gives no real indication of the attitudes of small business tenants. However, the DETR survey data of tenants is being revisited with a more specific analysis of the small business tenant respondents (as opposed to Code aware/unaware respondents) to examine if any further information can be found which contributes to this wider debate on UK leasing structures. This will be the subject of a separate paper.

Therefore, the findings in this paper must be seen as only truly representative of the group that participated: large organisations which occupy significant amounts of space in the UK. The survey consisted of two main types of question: those which required a specific response from a limited set of choices and those where respondents were asked to indicate problems and solutions in their own words.

The paper is structured so that each of these aspects of the survey is considered separately. The following section reviews the quantitative data and provides statistics on the level of concern within occupiers. It also presents an analysis of different sub-groups of respondents (i.e. private versus public sector; international versus UK only corporates) in order to identify those who feel they have the greatest difficulty with the UK lease. The third section concentrates on the qualitative findings, which identify the most problematic lease terms, and proposes possible solutions. This section also examines responses based on the different sub-groups so that particular issues for each can be identified. The paper is finally drawn to a close with a summary of the main findings of the survey.

2.0 THE SURVEY RESPONSES

As outlined in the introduction, the survey was sent to approximately 2000 individual occupiers and results were received from 139 respondents, giving a response rate of just under 10%. Although this may appear to be a poor response rate, it needs to be considered in a wider context. The surveys were sent in a pragmatic way to all members of a specific interest group. There was known to be considerable overlap between some of the groups (COG and NACORE in particular) and the covering letter requested that only one response be submitted. It was also known that many organisations would have more than one member of each interest group and therefore there was the possibility of multiple responses from the same organisation. In practice this did not occur. Respondents came from 139 separate organisations. Therefore, given the number and distribution of the responses, it is felt that this sample provided a good representation of large occupiers within the UK market.

2.1 The Nature of the Respondents

The survey responses are set out in full in Appendix One. The 139 survey respondents were distributed between international corporate occupiers (30%), UK national corporates and regional operators (32%) and the public sector (35%). Half of the respondents employed more than 5,000 employees in the UK and another 26% more than 1,000. More than half of the respondents occupied more than 100,000 square metres of space. Around 25% were mainly occupiers of retail space and 10% were mainly occupiers of industrial premises. However, the largest group, which accounted for 40% of respondents, occupied mainly office accommodation. Just under 40% claimed that they mainly occupied prime located property, 52% suggested they mainly occupied secondary locations and 11% tertiary locations. Interestingly, only 30% said they occupied mainly high quality specification properties, the majority occupied medium quality property (61%) with 9% in low quality property.

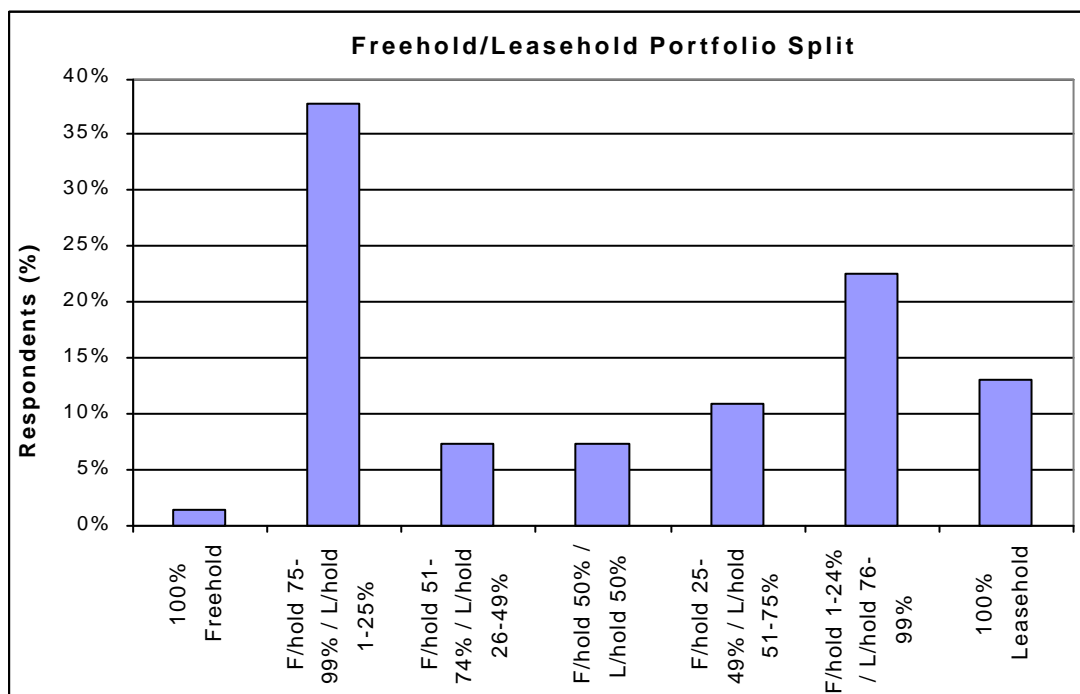


Figure 2.1 : Portfolio Balance : Freehold and Leasehold Property

The average number of leases held was 223 with an average company rent roll of £17.8 million. Overall the rent roll of the respondents was £2.15 Billion from around 30,000 leases. The vast majority of respondents held portfolios of both freehold and leasehold properties; only 1% had no leasehold and 13% no freeholds. The spread is illustrated in Figure 1 and shows that companies tend to lean towards either mostly freehold or mostly leasehold; the frequency of respondents holding an equally balanced portfolio is small.

2.2 Attitude to Leases

The number of respondents who believe that the current leasing system is responsive to their organisation’s requirements and have no problem in negotiating appropriate leases is only 8%. However, 60% believe that the system operates satisfactorily on the whole but has some aspects which create difficulty “sometimes”. A significant minority (27%) believe that the UK leasing system is unsatisfactory and undermines the organisation’s ability to operate effectively. Only 5% felt unable to concur with one of these three alternative responses and suggested others. However, analysis of the different groups within the respondents set out in section 2.3 will show that one group in particular, international occupiers, are unhappy with the system and that not one private sector corporate occupier responded in the category of having no difficulty negotiating appropriate leases for their needs.

Using the criteria of where respondents found a lease clause a major problem either regularly or occasionally, the lease terms which are the most problematic are Lease Length, Break Clauses, Assignment and Sub-letting, Repairs and Insurance and Review Type. Figure 2 illustrates that 54% of respondents felt that lease length regularly or occasionally creates major problems, this falls to 51% for break clauses and assignment/sub-letting, 38% for repair and insurance and 31% for review type.

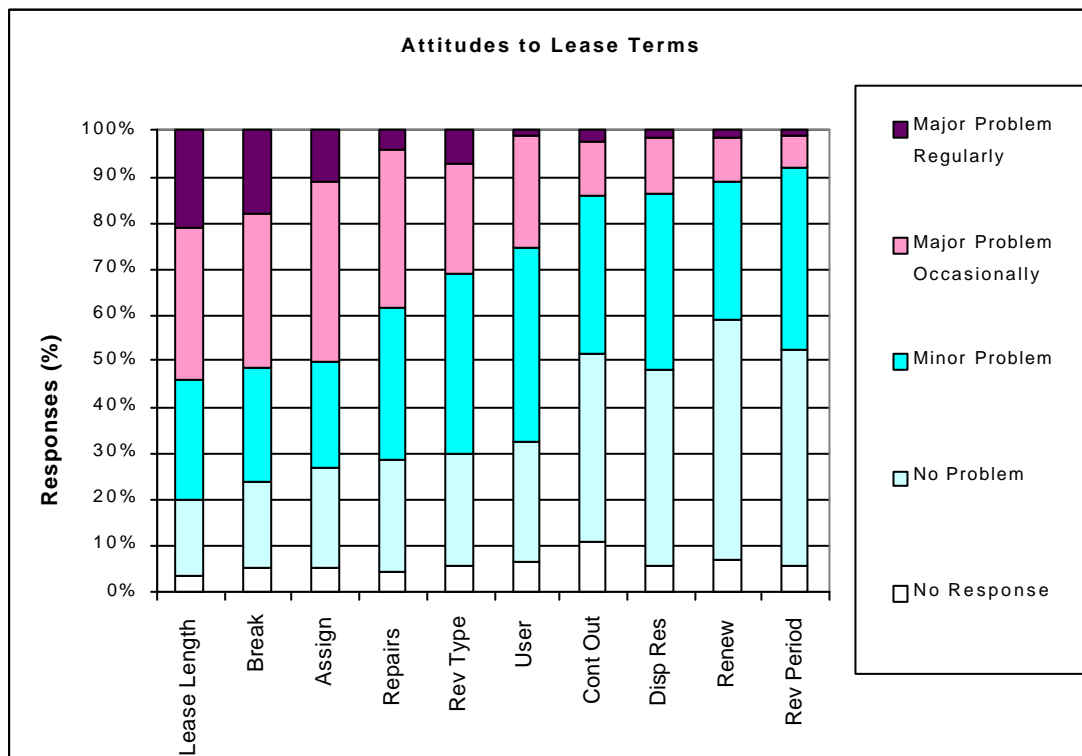


Figure 2.2: Attitude to Leases Terms

These five most problematic issues will be examined in greater detail later in this paper. Figure 2 identifies further issues which can cause problems to tenants and these are led by the User Clause followed by Contracting Out, Dispute Resolution, Rights to Renew and Review Period. However, none of these were identified by more than 25% of respondents as being a major problem at any time.

Respondents also volunteered other issues which occasionally or regularly created major problems and these were consents to alterations, service charges, and dilapidation and reinstatement issues at the end of leases. Less than 10% of respondents identified these issues. Other issues mentioned by up to 2 respondents are listed in Appendix One.

The questionnaire asked respondents to elaborate on (up to) three of the most problematic clauses identified above and suggest solutions to the highlighted problems. Comments were made by 57% of respondents on lease length, 44% on alienation, 42% on break clauses, 29% on repair and insurance clauses and 23% on review type. In addition, comments were received on sixteen other issues and these comments have been tabulated and examined. Before discussing the nature of the issues raised and solutions proposed by respondents, the basic responses set out previously in this section are examined further for any differences between the types of respondent and the types and standards of property occupied. This will identify any particular problems faced by these different groups and inform the later analysis, by identifying where the overall responses might be misleading without reference to particular sub-groups within them.

2.3 *Analysis of Sub Groups*

The sub-groups analysed were the different types of respondent, the different types of main property occupied and the different physical characteristics of the property occupied.

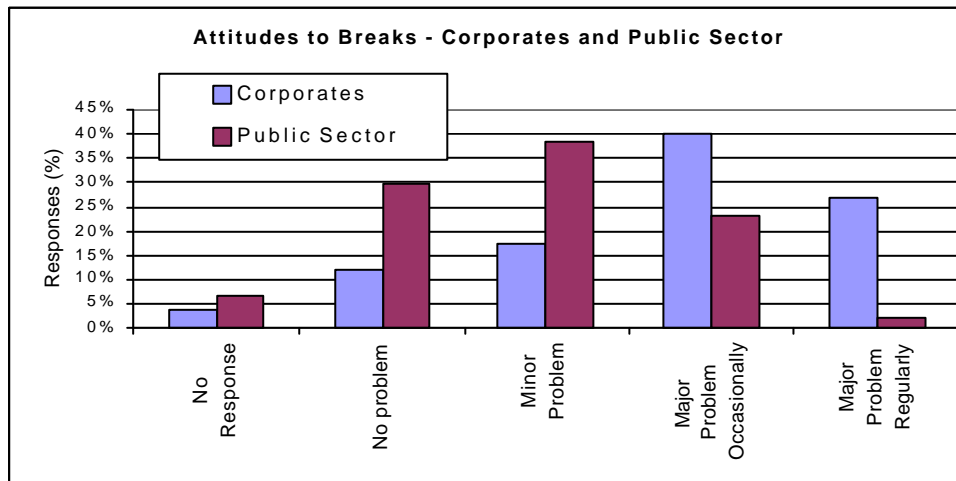
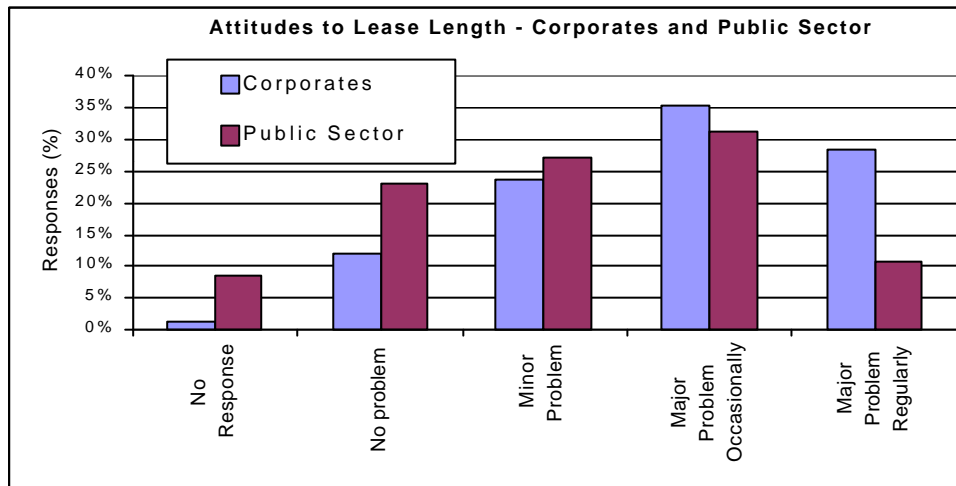
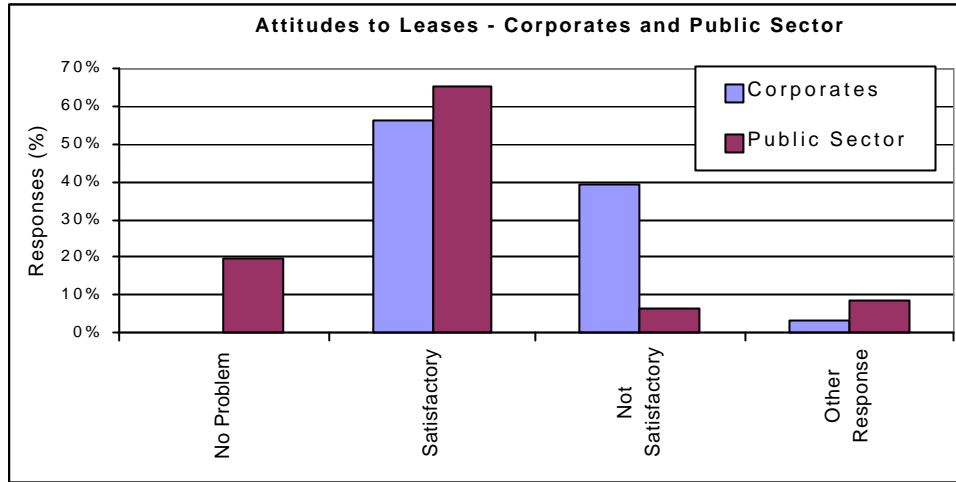
Respondents included private and public sector organisations and both international and national occupiers. Initially, the corporate occupiers were compared to the public sector occupiers and then the international occupiers were compared to the UK corporates using chi-squared analysis of significant differences.

In addition to these analyses, using the same tests, comparisons were undertaken of the differences between occupiers of office and retail property; occupiers of prime, secondary and tertiary locations; and occupiers of high, medium and low quality properties. The full results are set out in Tables 2.1, 2.2 and 2.3 which identify where significant differences in responses occur and provide a full commentary on the nature of those differences. Figures 2.1 to 2.4 illustrate the differences graphically.

Table 2.1: Corporate Occupiers v Public Sector
Tests of Significant Differences (Chi-Squared Tests)

	Statistically Significant Difference	Level	Comment
<i>1. Overall Attitude to Leases</i>	Yes	1%	A similar number (between 55% and 65%) of both groups believe that the operation of the relationship is generally satisfactory; but 40% of Corporates are dissatisfied while this is less than 10% of the Public Sector. No corporate believes that the system has no problems compared to 20% of the Public Sector.
<i>2. Attitudes to individual lease terms</i>			
Lease Length	Yes	5%	Around 25% of both groups think that lease length is a minor problem and over 30% of both groups feel that it constitutes a major problem occasionally. But nearly 30% of Corporates think it regularly presents major problems compared to only 10% of the Public Sector. In contrast, over 20% of the Public Sector think that lease length is not a problem compared to only just over 10% of the Corporates
Break Clauses	Yes	1%	Over 35% of the Public Sector respondents think that break clauses cause only minor problems and a further 30% that they do not cause any problems at all. But only just over 10% of the Corporates believe that they do not constitute any problem and under 20% think the problems are minor. Over 25% of the Corporates think they constitute a regular major problem and a further 40% think they are a major problem occasionally.
Assignment	Yes	1%	Similar numbers of both groups think that assignment cause major problems regularly (around 10%) and causes minor problems (around 20%). The differences come in the response to causing a major problem occasionally, with over 50% of corporates compared to around 25% of the Public Sector. Only just over 10% of Corporates think it is not a problem while this view is held by over 30% of the Public Sector.
Repairs	Yes	10%	The difference between the groups is less marked than in the other comparisons but is still statistically significant at the 10% level. More Corporates feel that problems exist in all three categories of minor, major occasionally and major regularly than their Public Sector colleagues. Only 20% of Corporates think there is not a problem with this clause while 30% of the Public Sector respondents held this view.
Review Type	Yes	1%	Over 35% of Corporates and over 40% of the Public Sector think that the review type causes minor problems. But over 35% of Corporates think it is a major problem occasionally and a further 10% think the major problem is a regular occurrence. Less than 10% of the Public Sector think it causes any kind of major problem. In contrast, over 35% of them think it is not a problem at all compared to only just over 15% of the Corporates with that view.

Figure 2.3: All Corporates vs Public Sector Tenants :
General Attitude to Leases, Lease Length, Break Clauses



**Figure 2.4 : All Corporates and Public Sector Tenants:
Assignment/Sub-letting, Repairs and Insurance and Rent Review Type**

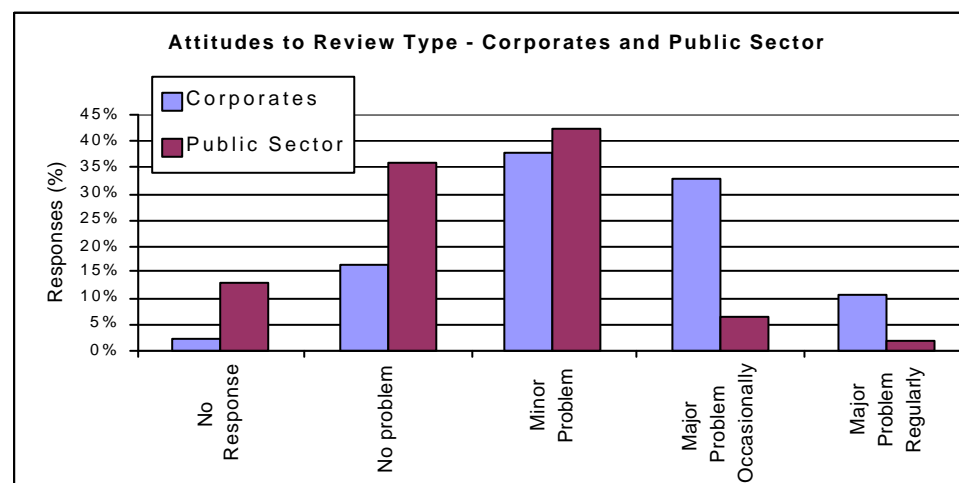
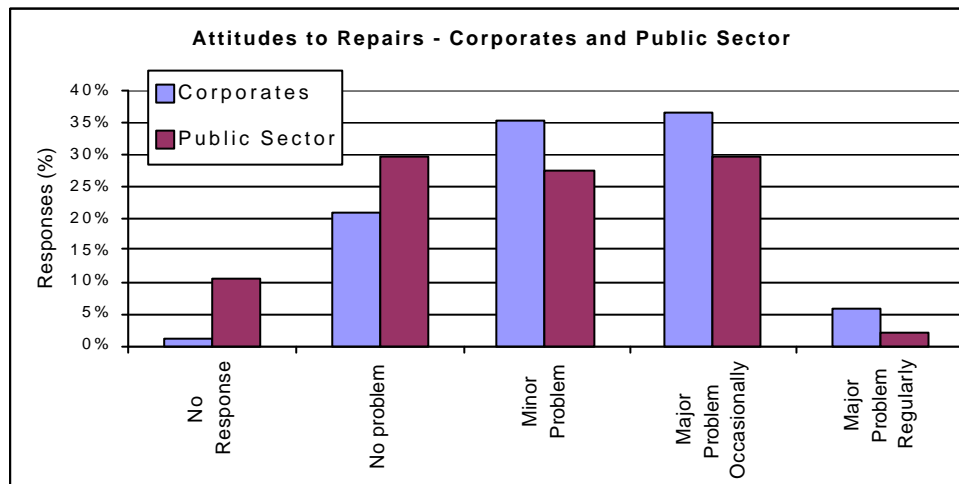
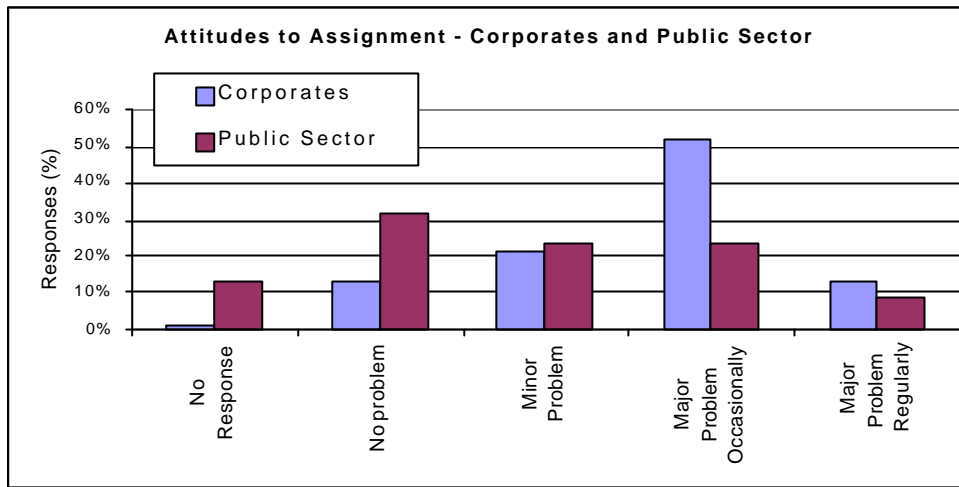
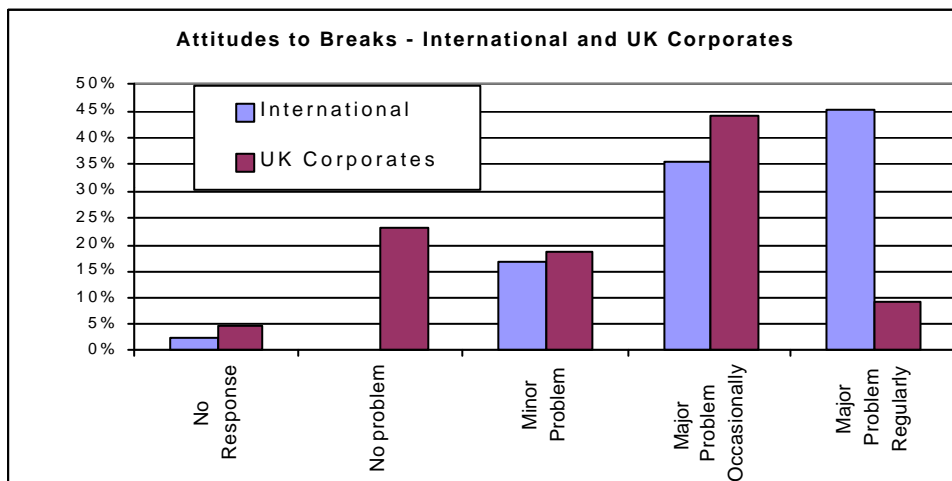
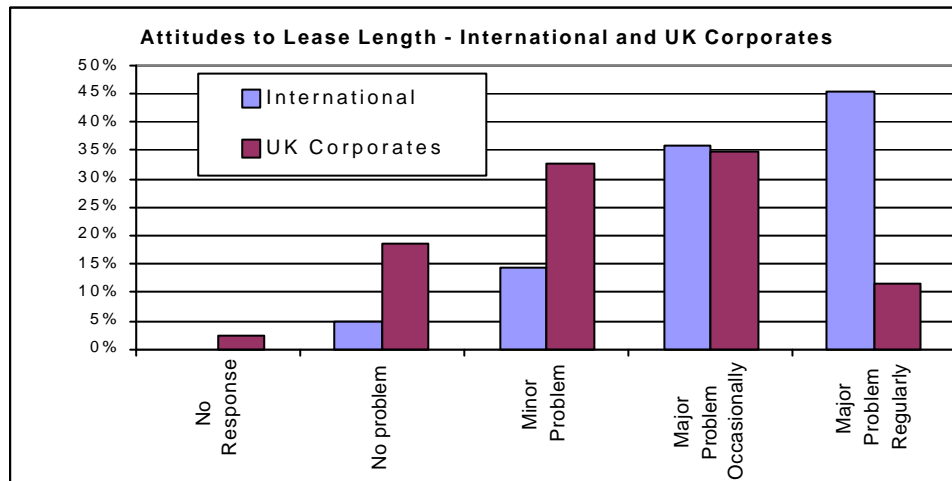
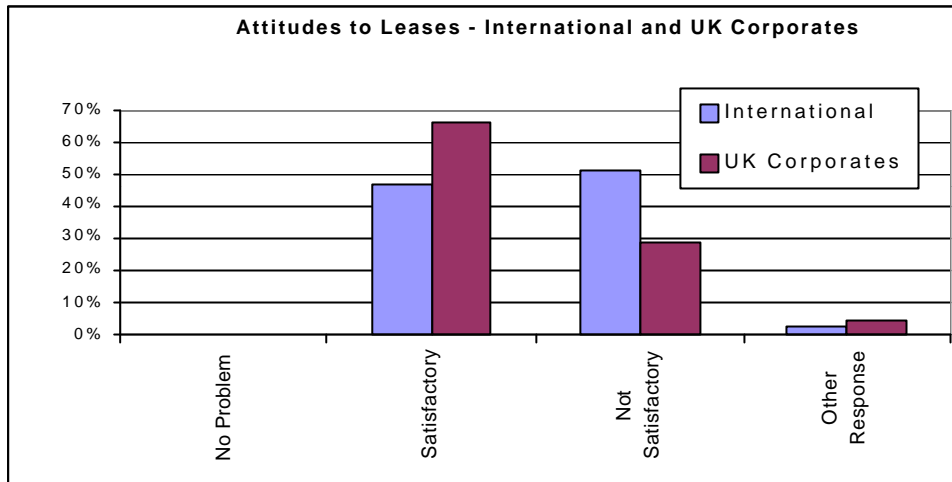


Table 2.2: International v UK Corporates
Tests of Significant Differences (Chi-Squared Tests)

	Statistically Significant Difference	Level	Comment
<i>1. Overall Attitude to Leases</i>	Yes	5%	Not one international or UK corporate think that the system has no problems at all but nearly 70% of UK corporates think it is satisfactory, compared to less than 50% of the international companies. Over 50% of them think it is unsatisfactory compared to only around 30% of UK corporates.
<i>2. Attitudes to individual lease terms</i>			
Lease Length	Yes	1%	Together with break clauses, this item is the one about which the international and UK corporates have the most diverse responses. Around 45% of international companies see this as a regular major problem compared to only just over 10% of UK corporates. Around 35% of both groups think it a major problem occasionally, leaving only around 20% of international occupiers believing lease length is either not a problem or only a minor one. This contrasts to around 50% of UK corporates with this view.
Break Clauses	Yes	1%	The shape of the responses on breaks is very close to lease length. Around 45% of international respondents think that breaks cause major problems regularly and only 20% think they are not a problem or a minor problem. As with lease length, around 50% of UK corporates believe this.
Assignment	No		
Repairs	No		
Review Type	No		

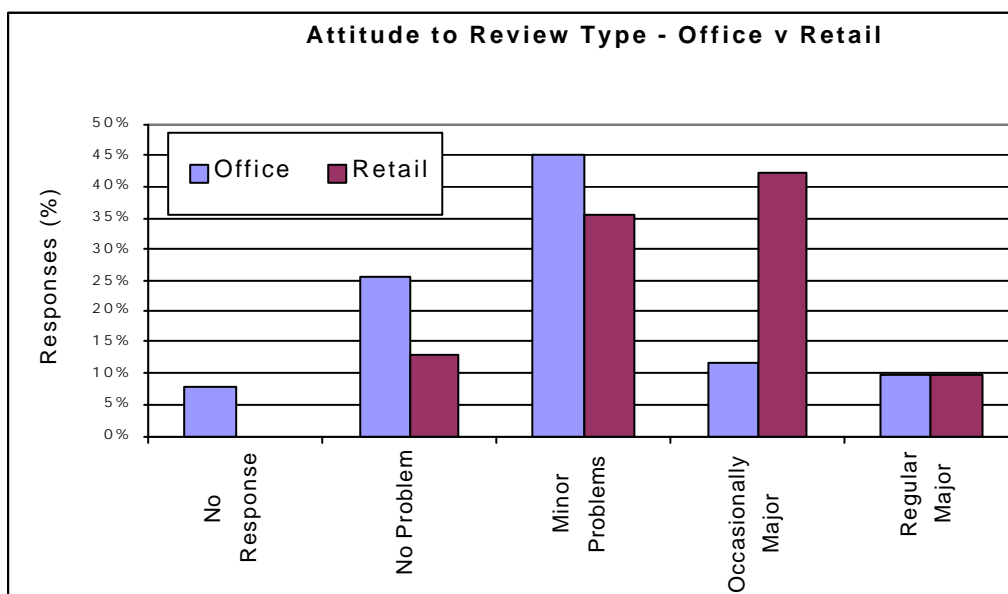
**Figure 2.5: International vs UK Corporate Tenants:
General Attitude to Leases, Lease length, Break Clauses**



**Table 2.3: Property Type, Property Location, Property Quality
Tests of Significant Differences (Chi-Squared Tests)**

<i>Office v Retail Property</i>	Statistically Significant Difference	Level	Comment
<i>1. Overall Attitude to Leases</i>	No		
<i>2. Attitudes to individual lease terms</i>			
Lease Length	No		
Break Clauses	No		
Assignment	No		
Repairs	No		
Review Type	Yes	5%	More office users think it is either no problem (26% against 13%) or a minor problem (45% against 35%) while more retailers think it is occasionally a major problem (42% against 12%)
Location : Prime, Secondary, Tertiary			
<i>1. Overall Attitude to Leases</i>	No		
<i>2. Attitudes to individual lease terms</i>			
Lease Length	No		
Break Clauses	No		
Assignment	No		
Repairs	No		
Review Type	No		
Property Specification Quality			
<i>1. Overall Attitude to Leases</i>	No		
<i>2. Attitudes to individual lease terms</i>			
Lease Length	No		
Break Clauses	No		
Assignment	No		
Repairs	No		
Review Type	No		

Figure 2.6 : Office vs Retail Tenants: Review Type



Overall, any different responses seem to be based on the type of occupier rather than main type of premises occupied or the quality of the location or specification of the premises occupied. The international occupiers are the group most concerned about UK leasing structures and the public sector occupiers the least concerned. The major concern of the international occupiers is the length of their occupation and, given their experiences overseas and the shorter leases available elsewhere (see for example, Crosby and Murdoch, 1998), this is hardly surprising. However, it is firm evidence of their concern although anecdotal evidence has been plentiful. The fact that breaks are also of more concern to international occupiers is most likely linked to their concern over length of occupation commitment which the further analysis in the next section confirms.

Apart from issues of the length of occupation, the international and UK corporates have similar concerns regarding other terms of the lease. These are significantly more than the concerns of the public sector across all of the five main issues highlighted in the survey.

The one exception to the result that property-related criteria have no impact is that of the review type. Office and retail occupiers had different opinions and retail occupiers seem to believe that review type is more problematic than office occupiers. If the main thrust of the concern is the upwards-only provision then this may be an unexpected result as the main impact of the upwards-only clause in the early 1990s is usually suggested to be on the office sector, which had the largest reductions in rental value. However, most of the analysis of the impacts of the property crash is based on mainly prime property indices such as the IPD whereas the respondents to this survey occupy predominately secondary property; and secondary and tertiary retail property may well have suffered similarly to prime offices in the property crash of the early 1990s.

3.0 EMERGING PROBLEMS AND THE SUGGESTED SOLUTIONS

As well as collecting statistical data, the questionnaire asked respondents to list the three most problematic lease terms, describe the problems faced and the negative business impact which results, suggest a solution and indicate whether they would be prepared to pay extra for the solution.

Only two of the 139 respondents did not respond to these questions. Not all respondents indicated three lease terms, some only discussed one or two clauses. In total 361 lease terms were indicated by respondents. Given the results of the previous analysis, that any differences in responses were largely based upon type of company responding, Table 3.1 sets out the results disaggregated by occupier type in rank order of the overall number of times a particular lease term was listed by respondents.

Table 3.1: Problematic Lease Terms

Lease Term	Overall	International	UK Corporates	Public Sector	Others
Lease Length	81	36	21	22	2
Assignment/ Sub-letting	63	23	20	18	2
Breaks	58	28	11	16	3
Repairs and Insurance	40	8	14	16	2
Review Type and Period	38	11	15	10	2
User	25	2	11	12	0
Rights to Renew/ Contracting Out	15	5	6	4	0
Dispute Resolution	10	2	4	3	1
Service Charges	10	1	4	4	1
Consents to Alterations	8	3	5	0	0
Dilapidations	7	0	2	5	0
Other	6	2	4	0	0
Total	361	121	117	110	13

The order is very similar to the previous analysis apart from assignment and sub-letting which has taken over from breaks as the second most problematic lease term for occupiers. Lease Length again comes out top and is a particular concern to international occupiers.

The comments of respondents on the precise nature of the problems illustrate that leases should be seen as a whole document, rather than the sum of the parts. Individual clauses impact on others and it is this inter-action which often creates the issue, rather than one lease term in isolation. However, the analysis of the problems necessarily commences with an examination of the individual problems as identified by respondents.

3.1 Lease Length

Key issues

The major issue was that the length of leases in the UK was incompatible with business planning horizons. Over half of the 81 responses were of this nature and over half of those were from international occupiers. Typical comments from these occupiers were:

“Our properties are taken to undertake client contracts which are often for 5 years or less. Often cannot match this to lease length and quality of building (ie only older poorer buildings readily accepting short leases)”

“It is nigh on impossible to run a business on a flexible basis when tied into real estate on long lease terms. Double costs of renting/maintaining redundant real estate can cancel out the positive benefits of relocating or opening new premises/operations”

“Lack of flexibility- ie (on average) outgrow our buildings on a 3-5 year cycle and am unable to secure new/modern buildings”

“Lease length and lack of break clauses can seriously reduce flexibility to exit property - and thus reduces ability for real estate solution to match the needs of the business”

“Length of lease not compatible with flexible business structure”

“Long leases - generally restrictive in meeting ever increasing changing business needs - can lead to sterility in business location”

A number of international occupiers compared the UK lease length with that obtainable overseas, making an unfavourable comparison. Comments were:

“I prefer the 9-year lease with 3-year breaks [unless it is agreed not to operate them] that is possible in France and Belgium. We do not like taking 10 or 15 yr leases and avoid them if we can, long leases do not fit our business cycle”

“Institutional length leases are simply too long, businesses require buildings for their business needs, no need - no building. Easy in easy out as in France or Partnership as in the US would be helpful”

“We are subsidiary of a US owned multi-national corporate. In most countries we operate, leases are commonly 3-5 years with tenant renewal rights. Every property acquisition of any size requires corporate approval and they refuse to approve traditional UK lease terms of 10-25 years”

Seventeen respondents specifically identified the problem of getting rid of unwanted properties as the principal issue concerning lease length (as can be seen by the second quotation above, others identified this issue within other comments). The long lease was identified as a problem as disposal of the unwanted asset was often difficult, costly and time-consuming, especially in falling markets. Of those 17 respondents, nearly half were UK corporate occupiers. Typical comments were:

“Difficulty of disposal of ... property when surplus to needs, and costs/inflexibility”

“Forced to retain outdated poorly located premises with little market to off load to another occupier”

“Landlords often seek longer term than that required by the business, resulting in potentially surplus property in future years”

“Disposability sometimes difficult”

The penultimate quotation emphasises the relationship between the two issues; longer leases extend way beyond business planning horizons and changing business needs may well result in a change in property needs which results in surplus space. The fact that assignment and sub-letting is the second most problematic issue reinforces the point.

Only a handful of respondents mentioned the proposed new ASB accounting rules for leases as being another reason for wanting shorter leases but 2 international occupiers appeared to suggest that their own accounting rules required the current capitalisation of leases in accounts.

However, accounting rules were the single most important reason for public sector tenants' concerns on lease length. It would appear that funding requirements discriminate against leases in excess of 10 years and this is a major constraint on the local authorities' ability to take longer leases. However, the public sector tenants also commented on the difficulty of shorter term planning horizons compared to the length of leases and the occurrence of unwanted leases. Typical comments were:

“Landlords generally want to let on longer terms than we want to commit to. Large organisations can be slow to rationalise space”

“Government bodies are subject to the 10 yr rule which prevents a lease of longer than 10 years being taken without setting aside significant capital. Result - difficult to negotiate on some buildings, may not be possible to lease others”

“Aspirations for long leases are contrary to the need for flexibility. This can result in property being retained when the need could be better provided through some other building or property solution”

“The Council cannot take a lease of more than 20 years. Causes problems of amortising capital expenditure”

“We are presently looking to rationalise our HQ office. We are looking for short-term leases to accommodate extra staff temporarily pending a permanent move. Little is on the market at the right standard”

“Occupiers require flexibility for operational reasons. Institutional leases restrict choice. Links to capital finance regulations restrictions on Local Authorities”

A further six respondents across all occupiers commented generally that long leases lacked flexibility.

Proposed solutions

When asked to consider solutions to the problem of lease length, the overwhelming response was the predictable one of the provision of shorter leases. In some instances this was coupled to breaks, rights to renew and more frequent reviews. A few comments were targeted at the attitudes of funders in the UK suggesting a change of attitude was required there.

A number of public sector tenants suggested that the government accounting rules needed amendment to enable them to operate efficiently in the UK leasing market.

Typical comments were:

Public Sector

“By landlord accepting shorter term”

“By relaxing capital accounting rules”

“ Need greater flexibility in market....”

“Landlords need to be more flexible in granting short term leases of 3 to 5 years or a maximum of 10 years. Whilst avoiding capital finance restrictions”

*“More flexibility ... to grant short leases or break clause alternative.
Further changes in Local Government Financing and Financial Regulations”*

UK Corporate Occupiers

“We consider landlords must learn to be more flexible. Tenants must stand their ground”

“Shorter lease terms generally give businesses greater flexibility. 5-10 year terms”

“Landlords accepting shorter leases. New contracts for occupying property being offered by owners of property”

“.... Ideal solution = tenant only break in long lease with say penalty of 12 months. Accessible on rolling period of say 2 years”

“Acknowledgement in the market for the need of shorter or more flexible lease terms”

“There is a need for the industry to take stock of the changing needs of business. One off local resolutions will not address the problem. There needs to be a macro recognition which will enable a realignment of lease structures to be achieved which enables landlords to achieve the returns they need from the investment but allowing business needs far greater flexibility to be met. Greater rental certainty could also then be achieved”

“Why should tenants have to pay more? Flexibility works both ways!”

International Occupiers:

“More flexibility toward shorter lease terms/more break options”

“Variable at an explicit premium”

“Rents are already high in UK but a small premium together with annual indexation on all leases would be fairer and would give greater viability for developers/financing”

“5 year leases”

“ Alternative approach to funding new development that doesn't rely on 20/25 year leases being secured”

“Landlords granting 10-15 year leases as norm with 5 year breaks.”

“Higher rental”

“Lease terms of 3-5 yrs with right to renew”

“Shorter terms than currently recognised institutional leases require should be available”

When asked whether they would be prepared to pay for the solutions offered, nearly *half* the respondents indicated some form of additional payment would be possible. Where a simple uplift in rent was mentioned, it was usually 5% - 10%. A significant minority implied that they did not believe that they should pay more for the solution offered and that landlords needed to be more open and flexible to the changes as a matter of course.

3.2 *Assignment/ Sub-letting*

Key issues

The two main problems associated with the assignment and sub-letting process were the difficulties in getting landlords to accept an assignment from a good covenant tenant and perceived delaying tactics of the landlord adding to the time and expense of the process. Around one-third of the 63 respondents who raised this issue were mainly concerned with each of these two issues. The remaining third raised a number of issues concerning restrictions on sub-letting.

The public sector respondents were particularly concerned with the tenant covenant strength issue. Comments included:

“Strength of Local Authority covenant can make it very difficult to dispose of a lease”

“Landlords not keen to lose a "blue chip tenant" will sometimes seek to tie in over and above Authorised Guarantee Agreements”

“Landlords tend to resist right to assign or sublet. With modernisation of local government and more partnership working to deliver better services [there is an] increased need for County Council to assign or sublet”

However, both international and UK corporates experienced similar difficulties. Comments included:

“Difficult to match AA covenant, therefore limited opportunities to assign, etc unless terms are relaxed”

“Restrictions on who and how many restrict choice when this is used as an exit route from unwanted premises or parts.”

There was an equal amount of unrest over the tactics of landlord. Comments suggested that the tenant’s ability to leave the premises was at worst thwarted and at best delayed by the nature of the process that needed to be undertaken to agree an assignment or sub-letting.

“No incentive for landlord to proceed quickly. Often landlords know at outset whether they will consent but still go through the ritual. Either retain rent liability or unable to acquire speedily”

“Landlords and particularly managing agents take too long and request unnecessary information”

“Still easy for landlords to delay or prevent subletting/assignment despite supposed improvement with Landlord & Tenant (Covenants) Act, 1990”

“Landlords being unreasonable, using delaying tactics, withholding consent unless rent review settled at above market level. Frustrates the disposal of surplus space”

There was a similar amount of concern over the nature of the sub-letting process. Problems were perceived to be the inability to sub-let at less than the passing rent, sub-letting part of the premises, and sub-letting on short leases. All types of occupiers had similar concerns. Comments included:

“Landlords prefer 1 tenant; always difficult to negotiate, however in end usually a compromise. Local Authorities increasingly need to sub-let to newly created bodies / arms length companies and part floor splits prohibited”

“Creates major difficulties when over rented and inability to sublet at below passing rent (particularly if longer leases) assignments too dangerous”

“Sometimes landlords seek to restrict assignment or subletting for a number of years which restricts business flexibility. Landlords may also seek to restrict ability to sub-let in parts, again restricting flexibility which could be onerous when leasing large space”

“Often restricted by size of unit but unable to split, by use of alternative tenant and by level of rent required under the lease on any sub-letting”

“Sometimes difficult to dispose of properties that are surplus to requirements especially when over-rented. Leases that can only be sub-let at passing rent rather than market rent are a problem in a falling market”

Proposed solutions

The solutions proposed included those who thought that the restrictions on assignment and subletting should be lifted. More specific suggestions included the lifting of the requirements for sublettings to be at no less than market or passing rent and subletting part of the premises should be allowed. The suggestions for speeding up the process were related to simplified documentation. One respondent thought that a system of differential rents for different covenant strengths should be introduced to persuade landlords to release the better covenant tenants, others felt that shorter leases would also impact on this problem. Solutions included:

“By applying a full test of reasonableness without having to rely on case law”

“Reforms to landlord and tenant systems allow "clean break" as per Europe”

“Provide open clauses”

“A simple form, without solicitors, should allow a lessee to put a third party into their shoes in the terms of the lease with landlord's consent. All three parties to sign the same document”

“This is a practical issue - enables business to downsize, relocate etc. There should be restriction on ability to effect reasonable forms of disposal”

“Realism”

“Should be able to assign/sub-let at any rent that can be achieved. Clause requiring letting at passing rent or above should not be allowed. General increase in flexibility re splitting unit, sub-letting part etc should be allowed”

“More rigorous legislation to prevent landlord blocking disposals on spurious grounds”

“Specific time limits for decision. Standardise information on assignee. Landlord should make known any concerns at outset”

Around 20% of tenants suggested that they would pay extra for the solutions offered, either a rental uplift or some sort of penalty if the assignment/sub-letting were allowed.

3.3 Break Clauses

Key issues

The third most problematic clause was the break clause. The issues can be classified into two categories; first, the incidence of breaks and, second, the operation of breaks. Around two-thirds of concerns were in the first category and the number of breaks in leases were not perceived to be sufficient.

This concern was most noticeable with the international tenants and the public sector tenants. Comments included:

Public Sector

“Leases without break clauses tie occupation down. Flexibility to move and/or downsize to meet business needs severely affected”

“Landlord generally unwilling to entertain inclusion of a break clause which is essential to the Company if the landlord is rigid with the terms of the lease being longer than the contract period”

“Restricts flexibility. Local Government is continually changing and likewise so is its accommodation needs”

UK Corporates

“Insufficient in number. If more breaks we could have longer leases which would overcome objections at 1 above” (i.e. lease length)

“Not granted - inability to shed surplus space and/or relocate to better space”

“Business needs are dynamic which too often cannot be accommodated by typical lease structures”

“General insistence from funding market for retention of “25 year lease””

International Occupiers

“Still reticence? For landlords to take current view on granting more frequent breaks in leases”

“The lack of these [break clauses] fetters our ability to be flexible in moving businesses without considerable financial cost”

“Long leases - generally restrictive in meeting ever increasing changing business needs - can lead to sterility in business location. Provision of break clauses with commercial penalties, enables business to plan more effectively and respond to market/business changes”

“Absence of break clauses under a long lease would be unacceptable due to the constraints it imposes on the company which would be willing to pay a higher rent to secure flexibility”

The comments illustrate the inter-relationship between breaks and lease length, with some tenants seemingly happier taking longer leases where breaks exist. However, there are a number of concerns about the operation of breaks where they exist. These concerns are about the fixed timing within leases and the drafting of the break clauses causing problems in actually exercising breaks. About one-third of the comments were primarily about these concerns. Compliance with other clauses in the lease seems to give the opportunity for landlords to contest breaks and generally makes them difficult to operate. The timing of breaks, often close to the beginning of the lease, also seems to give some tenants difficulties later on in the term of the lease when they are more likely to need to break.

“Lease length exceeds period of business plan. Conditional break clauses always proposed by landlord - tedious negotiation”

“Conditions attached to break clauses make exercising breaks hazardous and put us in weak negotiating positions vis a vis dilapidations”

“Of limited benefit as often conditional and difficult to predict when they will be required.”

“Free of restrictions. Length of notice required (often 1 year) can cause problems operationally. Contracts often renewed very late in the term so decisions on lease breaks often made before contract negotiations completed.”

“Sometimes difficult to operate if in breach, minor or otherwise, of clauses within lease e.g. schedule of dilapidations with very minor items outstanding could stop break being exercised”

“Break clauses are often conditional. If it's offered as a way of reducing the term then they need to be totally conditional”

“Often only at an early stage in the lease (after yr 1, 2, 3) rarely allow flexibility longer term”

“These do not offer genuine flexibility as they are fixed "escape hatches" rather than a useful tool to aid CRE. They are still hard to negotiate”

“Cumbersome procedures”

“Complete covenant compliance clauses (cannot effect break without complete repair!) cause regular problems”

Proposed solutions

The solutions offered concerning the incidence of breaks are generally tied into having more frequent breaks or shorter leases; the latter would reduce the need for the former. The solutions offered for the operational concerns are that there should be a less restrictive regime whereby breaks are less conditional upon other items. More radical solutions suggested were

that breaks should be rolling and not fixed to a specific time and that tenants should be able to serve notice on landlords to operate them.

“We will refuse to agree leases with difficult to exercise break clauses. Legislation not required”

“More general acceptance of need for business to be able to break leases. Often problem is resolved by including break options but at a premium”

“Shorter lease. Landlord drop conditions”

“Penalty if exercised - say 12 months notice + 1 year outgoings- therefore having break clauses available at specific periods throughout the lease term”

“General acceptance of a rolling break from tenant subject to a penalty”

“Increase rent premium”

“Incorporate flexibility for breaks with sensible and practical commercial penalties”

“If landlords properly understood risk/reward equation, they may be more flexible, even in strong markets. Valuation methodology needs to change”

The comments suggest that a number of tenants would be willing to pay for the increased incidence of easily operated breaks and that penalty payments at the break, if exercised, are as popular as an increased rent during the lease. Overall, about one-third of tenants indicated they would be prepared to pay extra for the solutions offered and amounts of 5% and 10% were common, similar to those for shorter leases. The final comment above, coupled with previous comments concerning the funding of property investment transactions, raises the issue of whether lenders and valuers are appraising short lettings correctly and, if not, are they fuelling landlords' reluctance to grant shorter leases, breaks and more relaxed alienation provisions?

3.4 Repairs and Insurance

Key issues

The main issues associated with repairing and insuring clauses were unclear division of responsibilities between landlord and tenant, especially in multi-let buildings, impractical terms, over-zealous interpretation, landlords controlling costs borne by tenants, and a view that full repairing and insuring obligations were outdated, especially for shorter leases.

The public sector appeared most concerned regarding the over-zealous interpretation of clauses, impractical terms and unclear division of responsibilities. Comments included:

“Mainly to do with Repairs expenditure. Negotiations, defining what is meant by 'Repair' as opposed to improvement or replacement”

“Obligations in multi-occupied buildings can be unclear, leading to disputes with landlords and occasionally legal costs to resolve the issues”

“Sometimes it is impossible to obtain or include a schedule or condition to the lease and, if the property is not in good repair, we end up being held liable for repairs which were not a result of our occupation”

“Managing agents apply over-zealous repair requirements during term of lease, probably to enhance their fees. Same thing happens when they are involved in landlords consent being required for improvements”

“Repairs clauses often vague and often the subject of dispute especially on dilapidations.”

“Uncertainty as to some responsibilities”

One particularly contentious issue was where the landlord had responsibility for arranging insurance or repairs but was able to recoup the costs. Tenants, particularly private sector tenants, felt that landlords abused this situation.

“Repair - Landlords often attempt to extract money from Tenant with spurious dilapidations claims. Insurance - Premiums charged vary enormously and we can usually insure (if permitted) for same risks at much lower premiums. This comment applies irrespective of "size" of Landlord”

“Individual landlords don't insure competitively and they retain discounts. Some surveyors are over zealous with repair standards. All increase occupation costs”

“Too great a variance in Landlord insurance costs across a landlord portfolio. Suggests landlord sometimes regards insurance premium recovery from tenant as a 'profit centre'!”

“The benefits of large landlords are never passed on to lessees, who, of course, cannot obtain their own insurance”

“Landlords insuring with themselves and not passing on discounts, charging for things they are not allowed to charge for e.g. valuations etc”

Four respondents felt that full repairing and insuring leases were no longer appropriate in shorter leases.

“Full repairing and insuring by landlords on short leases is quite unreasonable”

“Full repairing leases are no longer appropriate in leases of 10 years and less. In the case of underleases, tenants will limit obligations to a record of condition”

Solutions proposed

The solutions suggested by tenants for the unclear obligations included better drafting of leases and standard repair clauses. Concerning impractical terms, there were suggestions that fair wear and tear and latent defects should become landlords' responsibilities. Unfair allocation of responsibilities would be solved by having internal repairing leases only, but where external repair and insurance remain the tenant's responsibility for payment but not arrangement, competitive insurance rates should be charged backed by a landlords' penalty clause.

Specific comments were:

“By changing to internal repairing leases only”

“Limit tenant's responsibility to exclude structure, roof and heating/ventilation”

“Code of Conduct to have statutory basis with clear penalties for breaches”

“Landlords retain responsibility for external repairs and recover costs either through higher rentals or increased service charges”

“Clearer drafting and agreement at start of lease - better agreed definition of 'repair'. Wider use of records of 'detailed' property condition at start of lease”

“Landlord should take responsibility for latent and inherent defects. If they built it, they have warranties, if they bought existing they should rely on their survey not on mine and my company's covenant”

“Fair 'wear and tear' being landlords' responsibility”

“Landlords in UK should incorporate USA and European landlords' idea of sharing in the structural repairs to buildings”

“Clearer unambiguous statements and definitions of Repairing Obligations”

“Landlords should get competitive [insurance] quotes”

“Penalty clause to penalise either party who deliberately over/under estimates liability”

“Landlords should not receive any benefit for negotiating discounts for insurance. They should insure competitively with all discounts going to occupiers. Clearly established rules of repair should be established.”

These suggested changes were not accompanied generally with offers of increased rents or other increased revenue to the landlord. Apart from the general movement from full repairing and insuring to internal repairing, which tenants felt would be accompanied by increased rents, the solutions were seen as creating a clearer, less ambiguous system where cost control was in the hands of those who paid the bills.

3.5 Review Type and Period

Key issues

Most of the comments concerning rent reviews were about the type of review rather than the period of review. The exception was a number of comments about the length of the review period. A few respondents commented on the lumpiness of the periodic review system which led to sharp increases; a few respondents would prefer a system of more frequent gradual reviews. However, the solutions to this require a change in review type so these two items have been combined in this discussion. Incidentally, these comments were balanced by a number suggesting the review period was too short

The major issue is the upwards-only review (UORR). Over half the comments refer to this issue and it is a particular concern for the private sector and, even more particularly, the UK corporates. It is perceived to be unfair by tenants who do not understand why landlords should be protected from market fluctuations. Comments include:

“Carrying the cost of over-rented offices through economic downturns and not being able to reflect the then lower rent at review places excessive financial burden on business”

“Where we have taken a unit at the then market rent and when the pitch changes but the review is upwards only we can be left with a unit which in fact costs us more to operate than the income. This would be aided by an up and down review”

“Upwards only, has resulted in over-rented properties”

“Upward only rent, tied to long leases, gives landlord unfair advantage - totally unrepresentative of a full moving market ie European/US - short term leases/index-linked”

“Unwards only rent review makes it difficult to plan a business over a long period of time”

“Upward only - results in excessive rental, inability to trade profitably and/or assign”

Retail users were more concerned than office users about review type and it is the upwards-only nature of the review which dominates their concerns. Of the 11 retailers expressing concern on review type, 9 refer to the UORR. In the office sector, there are also 11 responses, only 6 of which refer to the UORR.

Comments which do not refer to the UORR are spread over a variety of other issues. The next most important issue is the use of alternative review forms such as indexation and turnover. Other issues concerned the fixed period between reviews (as discussed earlier in this section), difficult interpretation of review clauses, review clauses becoming outdated over time and the unfair and expensive dispute resolution process. Typical comments were:

“Long and badly worded review clauses (usually historic) cause more problems during discussions on proposed rentals”

“Interpretation of the definition of Rent Review Clauses”

“Lawyers and surveyors do not always understand the implications of the wording in some clauses”

“5 yearly causes peaks which can be difficult to plan for”

“Lumpiness of rent reviews - particularly in current market - favours a more gradual increase in rents rather than the current 5-year step”

“The frequency of review periods (5 years) and the basis of rent change makes it very difficult for business to plan with certainty in relation to this overhead”

“Long and expensive process to review rent”

Proposed solutions

Most suggested solutions referred to combinations of the issues of the UORR, cost of review and type of review. Some respondents suggested were that the market should not use UORRs and a few suggested further that if the market persisted then banning would be in order. Other solutions included the use of index linking, on their own and in combination with periodic market reviews, standard review clauses and floors to the market review. These were also offered as solutions to the cost of reviews. Comments included:

“Upward or downward rent reviews subject to rent not reducing below commencing rent (at start of lease). Statutory intervention if necessary”

“Indexation or agreed stepped rents”

“If landlords don't grant up/down reviews then upward only reviews should be banned by legislation”

“Shorter leases/fewer rent reviews are already overcoming most of the concerns. As long as landlords in our market continue accepting these shorter terms the problems will diminish”

“Simplify the whole process - link rents to an inflation index similar to how rents are reviewed in most european countries”

The problem of misunderstanding of the review clauses, especially old ones, could be solved by better drafting. Specific comments included:

“Standard rent review clause, endorsed by professional bodies, fair to both sides, incorporated in leases”

“Clearer and more concise definition within leases”

Only about 30% of those suggesting that UORRs should disappear were prepared to offer landlords financial recompense, the majority suggested that they would obtain their reward from more frequent indexed reviews every year if these were implimented.

3.6 Other Lease Terms

Key issues

The preceeding five sections have discussed in detail the lease terms which are of most concern to respondents. As already identified earlier in this section, there are a number of other terms which occasionally give tenants major problems. As these terms are not as problematic as the previous five, a more detailed analysis may infer greater importance than is warranted. Table 3.2 sets out these lease terms, identifies the problems and the suggested solutions.

A number of these other lease terms appear to have the common threads of unclear obligations and time-consuming procedures that are perceived to be a constraint to taking business decisions quickly and efficiently. Many of the solutions offered are that clearer, sometimes standard, clauses should be drafted and that procedures should be streamlined and simplified.

Table 3.2 : Suggested Problems and Solutions to Other Lease Terms

Clause	Problem	Solutions
User Clause	Almost all comments referred to restrictive user provisions and how they restrict what can be done in premises and to whom they can be assigned/sub-let	Reduce restrictions, open up the clause but situation is helped by shorter leases
	Costs incurred in granting A2 consent (1 comment only)	Open up the clause
Rights to Renew/ Contracting Out of 1954 Act	The difficulty of negotiating leases within the Act when landlords trying to contract out more frequently	Some respondents suggested that they never agreed to contracting out and others that they should remove the right to contract out from landlords.
	The extra costs incurred on account of new court rules	Simplify procedures or use alternative dispute resolution
	Time consuming procedure	Tighten up the time limits for third party hearings
Dispute Resolution	Expensive and time consuming coupled to uncertain costs	Stricter time limits on the process, alternative dispute resolution used more often.
	Unfair to tenants	Less reliance placed on market comparables
Service charges	Vagueness in what should be included and unfair allocation of costs	Code of conduct with statutory authority and penalties for breaches
	Incompetent LLs managing technical facilities such as air conditioning plant (1 comment)	
	No accountability to tenants for costs they pay but do not arrange	System for tenants to challenge uncompetitive charges
Alterations	Unreasonable delay in gaining consents	No consent required where re-instatement clause exists, wider definition of minor works which can be undertaken, and time limits on landlords' responses to tenants' requests
	Inflexibility to change M&E especially related to new telecommunications technology	Landlords need to be more aware and sympathetic concerning tenants' needs in changing workplace
Dilapidations	Uncertain costs/budget difficulties for public sector tenants	
	Unwarranted claims (1 comment)	RICS/Law Society take disciplinary action (1 comment)
Others	Keep open clauses	Either make them illegal (1 comment) or do not sign (1 comment)

4.0 CONCLUSIONS

The attitudes of the large-scale corporate and public sector occupiers represented by the sample, drawn from a range of corporate occupier interest groups, indicate that the majority of occupiers feel that the UK leasing system operates satisfactorily. However, there are significant differences between the international occupiers, UK corporates and the public sector with the private sector in general being significantly less satisfied than the public sector. This level of dissatisfaction is mainly due to the attitudes of the international occupiers who make unfavourable comparisons with leasing practices in other countries. Comments included:

“Undertook a 'deal' recently in Holland. V. simple, v. quick!”

and

“Other countries landlord and tenant relationship is a partnership. Landlords take risks!”

The most problematic lease term is lease length with many respondents commenting on the mismatch between business planning horizons and lease length. As the two next problematic areas are break clauses and alienation clauses, which are of equal concern, it is clear that the inability to manage entry and exit strategies is a primary concern to occupiers. The better covenant tenants were concerned at how difficult it is to transfer occupational rights by assignment and sub-letting. Therefore, breaks are a necessary facet of a flexible lease. Perceived problems with both breaks and alienation are the opportunities for landlords to use the current procedures to make exit as difficult as possible by adding to the expense and the delay. Other perceived procedural problems are the delay in obtaining other consents such as for alterations, the right of entry being abused and the tenants' inability to control costs when landlords arrange insurance, repair and service charge expenses and then claim back the costs. A number of tenants feel that landlords profiteer rather than pass on the fruits of any economies of scale to them or do not search for value for money.

Review type is the fifth most problematic lease term according to respondents. A major concern is the upwards-only review clause but there are also concerns about the complexity of legal interpretation of some clauses, especially in older leases, and some calls for alternative review mechanisms, with indexation often being suggested.

The solutions offered by occupiers to the problems were largely predictable. Shorter leases, more breaks and up/down reviews were suggested and a relaxation of restrictions on a range of issues such as breaks, assignment, sub-letting, consents for improvements, etc. The mechanism by which such changes should be delivered was hardly mentioned at all, with only a few specific calls for government intervention, most notably in the area of the upwards-only review clause.

Not all tenants expect landlords to concede current terms without some financial inducement. Approximately half feel that lease length reductions should be accompanied by rent increases and figures of 5-10% occur regularly. Breaks and assignments also come with an expected price tag, although it was suggested that penalties for breaks could be usefully extended to other areas such as assignment where consent of some form was needed, rather than an initial rent increase. However, a reduction in lease length would reduce many of the concerns of the respondents concerning these other terms and it is therefore not surprising that the highest price tag was attached to a reduction in lease length. Shorter leases may reduce the need for breaks, reduce the incidence of unwanted properties which may have to be held until lease expiry, reduce the number of reviews and reduce any length of time on which a set of upwards-only clauses have an effect.

Whether these results suggest a compromise between landlord and tenant remains to be seen. Landlords, often driven by funding constraints, require a fixed long-term rent stream and it is ironic that many of the more innovative financing schemes are based on current low level long-term bond rates making long-term fixed rents paid by high quality covenants particularly attractive. This may mean that the landlords' desire for long term leases is currently very high. Historically leases of less than 10 years are treated as short term in the UK and values discounted accordingly. Landlords therefore expect a high price to be attached to a short lease. Because of funding, the floor to the rent is important, hence the reluctance to give up the upwards-only review. But a 10-year lease with a market review in 5 years accompanied by a break, subject to index linking, might be acceptable. The rent floor would be the initial rent, so if inflation rose but the market rent remained static, the rent would be reduced at the review to the starting rent. The operation of the break would be accompanied by a penalty. Landlords would most likely end up with a higher cash flow over the 10 years, so may accept a lower starting point, so reducing the effect of the floor. However, tenants would pay extra for the increased flexibility, so putting the rent back up again. Ten years should be enough to attract finance, especially as the floor exists, and the additional rent may help income cover calculations, so helping the loan to be based on some form of part amortisation over a shorter loan period. Re-financing would still be a bit of a problem due to the reducing lease expiry period. If this could be accompanied by reduced procedures and expense and delays, tenants would pay more for the lease and landlords' total returns should increase to account for taking on more of the property risk.

The results of the survey suggest that there are major concerns about the operation of the system and these revolve around the length of commitment to occupy and the speed of reaction to business change. As these concerns are most noticeable with the international occupiers, it raises the question of whether perceived inflexibility in the leasing market actually works against companies from overseas setting up in the UK. There is evidence from the investment market that this inflexibility has helped to attract property investment funds from overseas, seeking the security of rent under a long upwards-only lease. Whether it works the other way for occupiers depends on the relative importance of property costs to other business drivers.

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APPENDIX ONE
Lease Structures Terms and Length
A Survey of Occupiers
Summary of Findings

Section A: Background Information

1. Please give the sector of your organisation (i.e. business services, retail, manufacturing)			
<i>No response</i>	2%	<i>Retail (General)</i>	13%
<i>Financial Services</i>	9%	<i>Food Retail</i>	3%
<i>Business Services (Law/ Acct)</i>	9%	<i>Pub/ Leisure Retail</i>	5%
<i>Publishing/ Media</i>	3%	<i>Transport</i>	1%
<i>IT</i>	4%	<i>Public Sector (Local Authority)</i>	32%
<i>Telecoms</i>	1%	<i>Public Sector (Central Government)</i>	1%
<i>Construction and Development</i>	2%	<i>Public Sector (Other)</i>	1%
<i>Industrial/ Manufacturing</i>	7%	<i>Health Care</i>	1%
<i>Logistics/ Distribution</i>	2%	<i>Research and Development</i>	1%
<i>Utility</i>	1%	<i>Higher Education</i>	1%
2. Which of the following best describes your organisation?			
<i>International Corporate</i>	30%	<i>Local Business</i>	1%
<i>National Corporate</i>	25%	<i>Public Sector</i>	35%
<i>UK Regional Operator</i>	7%	<i>Other (Please Specify)</i>	3%
3. How many people are employed by your organisation in the UK? (Full Time Equivalent)			
<i>Less than 20</i>	1%	<i>500 to 1000</i>	11%
<i>20 to 100</i>	1%	<i>1000 to 5000</i>	26%
<i>100 to 500</i>	11%	<i>More than 5000 employees</i>	50%
4. How large is your organisation's UK property portfolio?			
<i>Number of separate locations</i>		<u>Total area occupied (square metres)</u>	
<i>1-5</i>	10%	<i>Less than 2,500 sq. m.</i>	2%
<i>6-10</i>	9%	<i>2,500 to 10,000</i>	8%
<i>11-50</i>	8%	<i>10,000 to 50,000</i>	16%
<i>51-100</i>	13%	<i>50,000 to 100,000</i>	22%
<i>More than 100 separate locations</i>	60%	<i>More than 100,000 sq. m.</i>	52%

Lease Structures, Terms and Lengths

5. Type of Property Occupied? (Please tick one in each category. Please respond in terms of **volume** of space)

<i>Main type of property occupied</i>		<u>Main type of Location</u>	
Office	40%	Primary	38%
Industrial	10%	Secondary	52%
Retail	24%	Tertiary	11%
Public House	1%	<i>Main Specification</i>	
Other	25%	High quality	30%
		Medium quality	61%
		Low quality	9%

6. Freehold / Leasehold Information (Please respond in terms of volume of space)

<i>Which best reflects the freehold /leasehold split</i>		<u>Average Number of Leases Held</u>
100% Freehold	1%	223
75%-99% Freehold / 25%-1% Leasehold	38%	
51%-74% Freehold / 49%-26% Leasehold	7%	
50:50 Freehold/Leasehold Split	7%	
25%-49% Freehold / 75%-51% Leasehold	11%	
1%-24% Freehold / 76%-99% Leasehold	22%	
100% Leasehold	13%	
		<i>Average Rent Roll on these Leases</i>
		£17,870,903

Section B: Attitude to Leases

7. Which ONE of the following best reflects your organisation's satisfaction with the UK Leasehold System?

- The property market is responsive to my organisation's requirements. We have no difficulty in negotiating appropriate leases for our needs. 8%
- Although there are some aspects of the current UK lease which sometimes create difficulties for my organisation, on the whole it operates satisfactorily. 60%
- The UK leasehold system is unsatisfactory. It undermines my organisation's ability to operate effectively in the current fast moving environment 27%
- Other 5%

8. Please identify which lease terms/clauses are problematic for you as an occupier?

** Element of non-response for all categories. Figures have been sorted so that terms/clauses regularly creating major problems are at the top.*

<u>Lease Term/Clause</u>	No Problem	Creates Some Minor Problems	Occasionally Creates Major Problems	Regularly Creates Major Problems
Lease Length	17%	26%	33%	21%
Break Clauses (or lack of)	19%	25%	33%	18%
Ability to Assign/ Sub-let	22%	23%	40%	11%
Repair and Insurance	24%	33%	34%	4%
Review Type	24%	39%	24%	7%
User Clause	26%	42%	24%	1%
Contracting out of 54 Act	41%	34%	12%	2%
Dispute Resolution Procedures	42%	38%	12%	1%
Right to Renew	52%	30%	9%	1%
Review Period	47%	40%	7%	1%

Others Lease Terms/Clauses Identified

**Numbers in brackets following lease term/ clause represent total number of respondents who listed the term/ clause as either "Other 1" or "Other 2" in Question 8.*

<u>Lease Term/Clause</u>	Creates Some Minor Problems	Occasionally Creates Major Problems	Regularly Creates Major Problems
Consents/ Alterations (9)	1%	5%	1%
Service Charges (12)	1%	5%	2%
Dilapidations/ Reinstatement (5)	0	3%	1%

Other terms/ clauses listed by only one or two individual respondents include:

- Exclusivity provisions (1)
- Covenant as a Partnership (1)
- Slow and expensive property supply chain (1)
- Environmental reinstatement (1)
- Inherent defects (1)
- Keep open clauses (2)
- Flexibility (1)
- Right to renew non occupational lease (1)
- Adversarial tone of lease (1)
- Local Government Finance Regulations (1)
- Length and complexity of leases (1)
- Authorised Guarantee Agreements (1)
- VAT (1)

9. Most problematic terms/ clauses

**Total number of survey returns 139. Responses have been ordered by total mentions.*

Lease Term/Clause	First	Second	Third	Total Mentions
Lease Length	53%	3%	1%	57%
Ability to Assign / Sub-let	11%	14%	19%	44%
Break Clauses (or lack of)	5%	29%	7%	42%
Repair and Insurance	4%	10%	16%	29%
Review Type	9%	9%	4%	23%
Dispute Resolution Procedures	1%	8%	7%	17%
Consents/ Alterations	1%	3%	3%	7%
Service Charges	1%	1%	5%	7%
Contracting out of 54 Act	0%	2%	5%	7%
Right to Renew	3%	3%	0%	6%
Review Period	2%	0%	4%	6%
User Clause	1%	4%	1%	6%
Dilapidations/ Reinstatement	1%	1%	1%	4%

Other terms/ clauses listed by a single respondent include:

- Exclusivity provisions
- Covenant as a Partnership
- Environmental reinstatement
- Keep-open clauses
- Local Government finance regulations
- Length and complexity of leases
- One-sided relationship
- Flexibility