

A photograph of a residential street with a row of brick houses. The houses have white window frames and some have bay windows. In the background, a city skyline with several tall buildings is visible under a cloudy sky.

# Property Charging – how is it affected by COVID-19?

As practical difficulties start to materialise, we look at 6 key issues registered providers should consider when charging properties and provide short-term mitigating solutions where possible:

## 1. Delays in Local Search results:

There may be delays in obtaining Local Search results from Councils. Most Search Providers (and most Councils) use an electronic service which doesn't require postal delivery, so it is anticipated that they will be able to deliver all search results remotely. With the few Councils who do rely on postal delivery only, we are unlikely to receive these search results now in view of the Government lockdown. It is likely that the turn-around dates for the search results will be longer than they have been previously.

To enable charging exercises to complete without searches, one option is to negotiate with Lenders the acceptance of Delayed or No Search Indemnity Insurance to enable the charging exercise to complete.

## 2. Delays obtaining planning documentation and confirmation of compliance:

There may be delays in obtaining copy planning permissions, Section 106 Agreements and other planning documents as well as confirmations of compliance with them from Councils if they are short-staffed or do not hold their records electronically so are unable to recover information from their archives. Unless registered providers are able to access their records, a solution is to agree with Lenders that appropriate Planning Indemnity Insurance is put in place instead. This would need to be negotiated on a case by case basis.

## 3. Difficulty in execution of documents:

This is particularly difficult where documents need sealing. Registered providers should consider who will be holding the common seal if everyone is working from home and how you will be able to get the seal attested by the appropriate authorised signatories as they need to be present when the seal is affixed. The important thing here is to make sure that sufficient time is factored in to enable documents to be executed during this difficult period. An alternative which you may want to consider is granting Powers of Attorney to specified individuals (which can include Devonshires' Partners). This would mean that all charging documents (including Legal Charges) requiring sealing could be signed under this Power of Attorney with just one signature and without the common seal. If you would be interested in this, please contact [Andrew Cowan](#) in our Governance Team who is already working on this for a number of our registered provider clients.

## 4. Issues obtaining Valuations from Valuers:

Both Savills and JLL have confirmed to us that they are no longer able to undertake external or internal inspections and this will be the same for any other Valuers you may use. If the properties have been valued in the past with internal and external inspections being carried out in the last 3 to 5 years, with the lender's prior approval, the Valuers may be able to provide desktop Valuations with a full Valuation to follow in the future. It may also be possible for Valuers to provide Valuations of new properties which haven't been charged or valued in the past but this will depend on whether sufficient information is available to the Valuer and how familiar the Valuer is with the location and property types. Valuations done without inspections will

need to be updated or confirmed once the Valuer is able to inspect. We would suggest that you touch base now with your Valuers in respect of any Valuations currently in progress and any Valuations that you are likely to need in the near future.

In response to the unknown impact that COVID-19 may have on the real estate market, Valuers are also now insisting that a Material Valuation Uncertainty clause is included in all Valuations going forwards until further notice which Lenders will need to get comfortable with.

## 5. The Land Registry

The Land Registry has confirmed that they will continue to operate as close to normal as possible in light of the COVID-19 pandemic and that their business e-services, which receive the majority of all applications, will run as normal with minimal disruption anticipated in respect of bankruptcy, land charges, MapSearch, index map and priority searches and the provision of official copy documents, with some of these services taking slightly longer to be delivered than their usual service standards.

The Land Registry has confirmed that they anticipate moderate disruption to discharge updates which may take longer to be processed and anticipate more significant disruption to applications for registration of Charges meaning that these are likely to take longer than usual to be registered. We do not, however, foresee this impacting on the ability to charge properties.

## 6. The Covid Corporate Financing Facility (CCFF)

If registered providers are seeking short-term funding, they may be able to borrow under the Covid Corporate Financing Facility (CCFF) which has been set up by the Bank of England. This will provide short term money (one week to 12 months) that corporates can access by issuing a commercial paper. Registered providers must have a certain minimum rating from one or more of S&P, Moodys, Fitch or DBRS to be able to borrow under the CCFF and will need to set up a Commercial Paper Programme which needs to be issued into Euroclear and/or Clearstream.

Our Head of Banking, [Julian Barker](#), can provide further information should this be a route you would like to explore.

In addition to addressing the above, now is a good time to take stock of your property charging requirements and capabilities. In particular:

### a) Excess Security:

If you have excess security charged to existing lenders, you could consider releasing or de-allocating this and using it to secure new funding (especially as the Valuers should be able to provide a Valuation for these properties to the new lender as they will have recently valued them for the existing lenders).

### b) Unsecured Properties:

If you have unsecured properties, think about getting these ready for charging now to identify any issues at an early stage so that these issues can be resolved. This will also help to satisfy Asset and Liability Register requirements by identifying restrictions on use, disposal and value.

### c) Deeds of Variation:

If any of your properties have known issues which prohibit them from being used as security or restrict their value, Deeds of Variation could be pursued to address these defects. Councils and Developers are more likely to have capacity to deal with requests to rectify historic documents now than they would previously with less new developments taking place.

**For more information on the charging process, please contact Sharon Kirkham, Partner and Head of Securitisation at Devonshires.**



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