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THE EFFECTIVE "SHORT LEASE"
(fewer words, not years/months)

How many times do you ask for this? We are often told 30 pages should be more than enough for any lease.

While I agree, the challenges are great.

Tricks of this trade

First we have to shake off decades of reactive drafting. Every day most lawyers see something which makes them think “ooh, I must...” and that might be to say service is only effective if... or to add to a two page repair clause a phrase like “put on a concrete floating raft foundation (where necessary)”.

Secondly we have to realise why it is right to get rid of that “torrential drafting” style and instead try to use plain English which is readily understood. Partly because:

1. no document can deal with all eventualities – so you need to hear that it is industry standard/ will do a good job but **cannot** cover every little thing;
2. clear conceptual drafting is more likely to cover the unforeseen than long lists which try to cover everything: by definition the **unforeseen** is not in the contemplation of those negotiating the document so will not appear in lists “not to A, B, C, or D”;
3. long boring lists of different concepts are open to long complex cases about the difference between a list of words saying “A, B, C, or D” or “A, B, C, and D” or “A, B, C, D” and,
4. if you want brevity and clarity, you also need educating that what you are giving up (chance to thump a defaulting tenant with up to an extra 10% of repair liability perhaps) may be worth sacrificing for clarity and the chance to ask the tenant why it has defaulted when the lease was so clear.

Thirdly we have to stick to our goal. The review clause will seem short, but if you have adopted the Arbitration Act, most of your machinery is there; why repeat it? The repair clause will look clear and crisp – but why shouldn't it be?

Why not simply ban something in clear words – often these leases will be short term with rolling break clauses and it is healthy to ban subletting as the tenant should break not sublet.

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