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Do we need regulation to achieve net zero carbon in offices? The legal perspective

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Do we need regulation?

Yes

Why?

- Possibly 80% of the buildings that will exist in 2050 already exist
- Not every building is leased
- Leases are negotiated

What are the issues with lease negotiations?

- Often too adversarial
- Not all landlords and tenants are interested
- Concern over effect of “onerous clauses”:
 - Landlord: on open-market rent reviews
 - Tenant: extra costs of compliance
- Landlord and tenant policies often don't coincide

Example lease negotiation

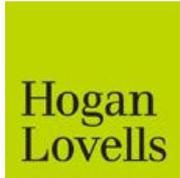
- Space needs new heating / cooling plant
 - Who does works, when and to what standard?
 - Who pays for them?
 - Effect on rest of the space, and operational constraints?
 - Provision of warranties?
 - Who undertakes maintenance and repair, and to what standard?
 - Who pays for it?
 - Reinstatement/dilapidations when the lease ends?
- Once lease is signed, getting other works done is almost impossible

Are green leases the right way of achieving net zero?

- What do they contain? Eg Better Buildings Partnership Green Lease Toolkit – metering and data sharing; “sustainable” alterations/repairs; not affecting EPC ratings; building forum; purchasing renewable power; recycling
- How do they get enforced?
- What incentivises landlord and tenant to comply/enforce?
- What about all the existing non-green leases?

What might regulation look like?

- Obligations on developers, owners and occupiers - address split incentive and cut through questions like those on slide 5
- MEES, NABERS UK etc are starting points, but don't positively require improvement works to be done
- Need carrots and sticks
- Need a better tool than the EPC
- Need to define Net Zero!



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