

The Complete Guide to Renting a Commercial Property



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Introduction

If you own any commercial property, it's quite likely that you'll end up needing commercial planning permission at some point. Here's our guide on everything you need to know.

You'll need to apply for planning permission if you:

- Build anything new (such as additional parking, garages, etc.)
- Make any major changes to your existing building such as building extensions
- Change the overall use of your building (such as changing it from a warehouse to an office)

To find out if you need business planning permission, get in touch with your local planning authority (LPA).

So, how do you do that?

Picking out a Commercial Property – What Questions to Ask

Perhaps the most important part of leasing a commercial property is making sure you choose the right one!

What type of property are you looking for?

Are you looking for a retail property, or an industrial base, or perhaps a studio? It may be, of course, that you're looking for a combination of two or three - this is especially common if you're a larger business looking for a head office. Whatever your situation is, know exactly which type of property you need before you start looking.

How much space do you need?

This ties in quite well with the above point; essentially, as well as knowing the details of which tasks the office will be used for, you'll need to know the specifics of these tasks. For instance, if you need an office within your industrial space, you'll also need to know how many desks you're going to need, which facilities you'll want and how much space (specifically) you'll need to fit it all in.

Which on-site facilities do you require?

Another key point. You'll need to make a good-sized list of ALL of the facilities you're going to need, in every area of the business. For your office, you'll need internet and telephone lines, but you might also need meeting rooms, space for presentations, audio-visual equipment as well as facilities for staff such as canteens and kitchens, bathrooms and break-out areas. Depending on where the office is based, you might not need ALL of these facilities, but ensure you've got them all covered in some capacity. The same goes for facilities in industrial and manufacturing areas of the company.

What impression do you want to make?

A company's offices can say a lot about the business itself. Cutting edge companies will want a cutting edge space, for example, just as a traditional solicitor's firm will want offices that give the impression of solidity and professionalism. It's possible to modify the internals of a building - and renovation is definitely an option - but ensure that you're able to achieve this within the terms of the lease before you make any agreements.

What is a Business Lease?

When you're planning to lease new business premises, there are a lot of different things to consider.

A business lease is a legally binding contract between the owner of the commercial property (the landlord) and the occupier (tenant). If either party fails to comply with the terms of the agreement, it could result in court action.

In terms of being the occupier, The 2007 Code for Leasing Business Premises (we'll simply refer to this as 'the lease code' from now on) provides the framework for how the landlord should operate. However, it's only guidance: it's not a guarantee that the landlord will comply with it to the letter. As a result, it's a good idea to educate yourself on what it involves.

Lease Negotiations

Once you've made your application, your LPA will decide whether or not to grant you commercial planning permission. They'll take into account things like:

The landlords should make it very clear just what you're being asked to agree on. As the occupier, you should clearly understand:

- The duration of the contract
- The costs you will be expected to pay
- Which areas you will be held liable for
- What the terms and conditions are
- What the property is and what the agreed boundaries and means of access are
- Who the landlord is by name

You are well within your rights to request alternate terms if you're unhappy with the initial ones, but the landlord is equally able to request a change in rent or duration as a result of the change you want. Just like any negotiation, it's about striking a balance that allows both parties to be happy.

Rental Costs, Business Rates and Other Fees

There are a number of different costs you are likely to incur when renting commercial property, and we're going to cover them in this section. Any or all of these costs may be relevant to you, so it's important to do your research when taking on a commercial lease.

Rental Costs

This will obviously be your largest expense when leasing property. For smaller or start-up businesses, it's often wise to have a guarantor for your rent; if you're unable to get one, then a rental guarantee will probably be required. This works in much the same manner as a traditional deposit - the guarantee will be deposited into a locked account which the landlord will be able to draw from if you do not fulfil your obligations.

Commercial rent is normally paid quarterly in advance on the following quarter days: March 25th, June 24th, September 20th and December 25th. Any additional costs (which we'll cover further down the page) will also be due at this time.

REMEMBER: These payments are due whether or not you receive an invoice, and it's your responsibility to ensure they're paid by the due date. Additional charges can be substantial, and your landlord will be entitled to make them under the lease. In other words: make sure you pay your rent on time.

Professional Fees

These are a standard part of obtaining any lease. Using a surveyor is particularly wise, especially if you're planning on a longer term lease. However, surveyors aren't always cheap: they can be up to ten percent of the annual rent, and disbursements and VAT can be included on top of this.

Business Rates

These are calculated according to the rental value of the property. The evaluations carried out by The Valuation Office Agency (VOA) and are revised every five years. (We've covered business rates in more depth in our article – [A Guide to Business Rates](#)). Scotland has its own system called Non-Domestic Rates. The most recent revisions in both countries were in 2010, so 2015 will see new ones made.

Other Likely Costs

Local authority costs. These can include parking and waste collection.

Insurance. Contents insurance is a must for any company looking to protect its resources. In some cases, you may also be held responsible for paying the building insurance, but be sure to check it.

Running costs and services charges. Much as you would be within a residential property, you will likely be held responsible for paying bills on things like electric, gas, internet and other services.

EPC (Energy Performance Certificate). It's a legal requirement for any commercial property to have an EPC before the lease is completed unless you're entering into a license or renting serviced office space. Double check to ensure you won't be held responsible for paying these costs.

Deposits. This is usually the equivalent of three to six months' rent.

V.A.T. Some buildings have been elected for VAT, which will mean that you are required to pay VAT on rents and service charges. Again, establish this upfront.

Rent Deposits, Guarantees and Other Financial Matters

As part of the agreement, the Landlord should provide full details of expected costs involved when leasing the property, including:

- Bank guarantees
- Company guarantees
- Security deposits
- Maintenance costs
- Rent costs
- Service charges
- Utilities

If a deposit is required (which it often will be) then the conditions under which it is taken should be made clear. The deposit is your money, not the landlord's.

It may be that you're asked to provide some form of guarantee. Whether you choose to do so is entirely up to you, but do not use your home as security (this is sometimes requested). Be sure that you are clear in which circumstances your landlord may call on the guarantee you give, and also what the guarantee will be expected to cover.

NOTE. The best way to think of a guarantee is what would happen if it was called on the first day of the lease: would you be able to handle the consequences?

Reviewing the Rent and Making Changes

Your lease may contain provisions that allow the landlord to change the rent. This is fairly standard, but the rules should be clear before you agree to them.

It is obviously important that the landlord not be able to simply impose an increase in rent whenever they want to. The basis for the rent review should always be the market rent unless stated otherwise, and this should be taken from a published, independent and authoritative source.

The open market rental value provision should specifically exclude any improvements you make as well as any that arise from your own businesses' successes, unless they're part of the lease agreement.

The lease should also include a provision allowing you to serve a rent review notice on the Landlord. This can help you to avoid paying interest on any increase in rent from the appropriate rent review date. Ensure that the interest rate on the difference is no higher than the bank's base rate, and avoid adding strict time limits to the rent review clause.



Subletting

Some leases allow subletting. There are usually restrictions in place regarding the amount of space, the use of the space and the rent you can charge, so it's important to be aware of these if you're planning to sublet.

Typically, landlords will insist that sub-leases are granted outside the protection of the Landlord and Tenant Act 1954, but with similar terms to your existing lease. You will usually be expected to guarantee the lease if you're going to assign it to a third party.

The Length of the Lease

The landlord should make clear the length of the lease upfront, and should specify any circumstances under which it is permissible to break it.

It should also be specified in your contract whether you'll be entitled to a lease extension on expiry.

An official right to break will allow you to walk away from the lease at any time, presuming you have notified the landlord in writing. This will usually only be permissible after you've paid the rent due and given up the property and leaving no sub-leases behind. BEAR IN MIND: The principal rent must clear before the break date. Check that no additional charges are required to clear as well.

When your lease concludes (either due to a break or the expiry) you will be liable for any sum that arises as a result of damage done to the property. The Landlord and Tenant Act 1954 gives you the right to extend your tenancy when the lease runs out unless the landlord can demonstrate specific circumstances such as redeveloping the property or occupying the space themselves. Ensure that you obtain professional advice to ensure your interests are served and protected.

Service Charges

As is the case with residential property rental, service charges are typically included as part of rental rates.

However, you should always ask the landlord to be explicit regarding which service charges will be included and how you'll be calculated. Also check whether you'll be asked to contribute to any capital improvements, such as:

- Long term repairs or replacements of structures
- Repairs of fabric
- Maintenance and repairs of machinery and equipment

Repairs are often a contentious issue. You should establish whether or not it'll be your responsibility to carry out works on the property during the lease period. On some leases, the occupier will be required to put the property into a better condition than it was in when the lease was actually taken, so ensure that this isn't the case. You will, however, usually be required to keep the property in the same condition it was in when you took the lease.

It's also a good idea to check if any alterations or improvements will be covered under the landlord's policy.

Defaulting

It's important to remember that your lease is a legal contract between you and your landlord, and that there will be serious consequences should you breach the contract.

The landlord can take legal action against both you and any guarantors. Property laws can be extremely complex, and you should definitely seek professional legal advice in order to be clear on what your rights are. It's important that the landlord notify you if you're in breach of your contract, and give you a reasonable opportunity in which to remedy the breach before legal action is taken.

Wherever possible, you should try to remain on good terms with your landlord; this will make almost any situation easier to handle, and will allow you to run your business with minimal outside interruptions.

Applications for Obtaining Consent

You will need to make applications to the Landlord during the lease if you're planning to carry out any alterations or if you want to sublease. Your own lease should specify that the landlord doesn't have permission to unreasonably withhold or delay his consent in matters such as this.

Organisations that Endorse the Code

Association of British Insurers - www.abi.org.uk

British Council for Offices - www.bco.org.uk

British Property Federation - www.bpf.org.uk

British Retail Consortium - www.brc.org.uk

Communities and Local Government - www.communities.gov.uk

Confederation of British Industry - www.cbi.org.uk

CoreNet Global - www.corenetglobal.org.uk

The Forum of Private Business - www.fpb.org.uk

Federation of Small Businesses - www.fsb.org.uk

Investment Property Forum - www.ipf.org.uk

The Law Society of England and Wales - www.lawsociety.org.uk

The Royal Institution of Chartered Surveyors - www.rics.org

Welsh Assembly Government - www.wales.gov.uk

Other Useful Links

The Code for Leasing Business Premises in England and Wales 2007

www.leasingbusinesspremises.co.uk

Bills before Parliament

www.publications.parliament.uk/pa/pabills.htm

Building Regulations

www.communities.gov.uk/index.asp?id=1130474

Health and Safety Executive

www.hse.gov.uk

Service Charge Code

www.servicechargecode.co.uk

Town Planning (Link Site)

www.ukplanning.com/ukp/index.htm

Uniform Business Rates

www.voa.gov.uk

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