

Commercial Property

Acting for Tenants

If you are looking to take a lease (or have already done so) of premises for your business, you will encounter a number of situations in which it would be sensible to obtain professional advice. Provided it has been correctly entered into, a lease is a legally enforceable contract between you and the landlord, which means you cannot simply walk away if you find the terms unsatisfactory. Ultimately, any failure by you to abide by the terms of your lease could lead to court action.

Our advice

At Gordon Brown Associates, we offer a full range of legal services to tenants of commercial property; our clients range from sole traders occupying single high street or industrial estate units to companies with multi-million pound turnovers operating from a number of retail outlets. Irrespective of the size of our client's business, we always offer the same level of efficient service, giving practical advice whilst legally protecting your best interests.

In particular, we can offer advice on the following matters:

- Negotiating Heads of Terms - in other words, the summary of terms for a new lease agreed between you and your landlord, which is used by solicitors as a starting point in the preparation of the formal lease; the sooner you involve us in this process, the more effective we can be for you;
- Reviewing the lease to ensure it does not contain any terms which would be detrimental to your interests as tenant and making any amendments necessary to strike a fairer balance between you and the landlord (since the first draft of the lease is generally prepared by the landlord's solicitor it is, consequently, slanted in the landlord's favour);
- Additional terms required by the landlord, such as a request to provide security for the payment of rent, either by way of a rent deposit or (if you are taking the lease in the name of a company) a personal guarantee; it is not unusual for landlords to ask for both. You need to fully understand the nature of both types of security, the circumstances in which they can be called upon and the implications for you personally;
- Applications for landlord's consent. Leases usually contain terms prohibiting tenants from "assigning" (selling) their leasehold interest, granting an underlease or carrying out any alterations without first obtaining landlord's consent. Any such consent will be evidenced in a formal, legal document and will be granted subject to a condition you pay the landlord's costs (including those of the landlord's solicitor and surveyor). We can limit the negative implications for you of conditions that may otherwise be laid down by the landlord;
- Where you may find yourself in default of the terms of the lease – this can allow the landlord to exercise his right to forfeit (cancel) the lease (either by locking you out or obtaining a court order). We can advise on the procedures that must be followed by the landlord, what action you can take in response and the measures you can take to minimise any disturbance to your business or the costs of default;

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- Lease renewals. As a business tenant, you may be entitled to remain in the premises following the expiry of your lease (a process referred to as “holding over”); you may also be entitled to the renewal of your lease for a further term of years. You may agree terms for the new lease with your landlord or, alternatively, these can be determined by the court; in either case, we can guide you through this complicated process, in which failure to act can cause you to lose the right to a new lease;
- Termination of leases. You may choose to vacate the premises at the end of the contractual term or you may agree to “surrender” your lease prior to that date (usually upon terms requiring the payment of a “premium” to your landlord). Whatever the circumstances, you will have to ensure the premises are left in the condition required by the lease and any alterations are removed (if required by the landlord). Failure to comply with these termination requirements can invite the service upon you of a “schedule of dilapidations” by the landlord and a costly repair bill. We can advise you on your precise obligations, and seek to limit the cost of termination.

As a lease is a binding legal contract between you and your landlord, any breach of which may have serious consequences for you and your business. Our business is to provide clear, professional advice on your obligations and rights as a tenant, so you get the maximum benefit and value from your use of the property.

The next step

If you would like to discuss further the ways in which we can help, please contact a member of our team:

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