

Leasing Business Premises: Occupier Guide

The 2007 code provides a framework within which a prospective tenant can reasonably expect a landlord to operate. The Lease Code does not provide all of the protection you need for your business in leasing premises. So it is important to be aware of your own rights.

1. Lease negotiations

The landlord should make clear what you are being asked to agree. You should be able to understand the total extent and duration of the cost and liability you will be taking on if you sign a lease based on the terms being offered by the Landlord.

2. Financial matters, rent deposits and guarantees

The Landlord should provide full details of your expected costs involved in leasing the property. This should include all personal or company guarantees, security deposits or other bank guarantees

3. Rent review

Your lease may contain provisions allowing the Landlord to change the rent. The rules by which the rent can be changed should be clear and understandable. It should be arranged that the Landlord cannot simply impose a rental increase. The basis of rent review should be to the market rent unless clearly stated otherwise. If you agreed increases fixed to an index, the basis should be a published, independent, authoritative source

4. Subletting and Assignment

Landlord's written consent is likely to be required for subleases. It is usual for Landlords to insist that subleases are granted outside the protection of the Landlord and Tenant Act 1954 and on similar terms to your lease.

5. Lease length, break clauses and renewals

The Landlord should make clear the length of the lease, whether there are any rights to break the lease and whether you will be entitled to an extension of the lease on expiry.

Make sure that the term length is suitable for the business. If it's a new start up, you may want to ask for a break clause as the future is unpredictable.

6. Service charges

The landlord should be transparent about costs incurred. Including how these costs are calculated, what they include (and don't include) and the extent to which you will be obliged to pay towards any capital improvements and long-term repairs

7. Repairs

Unless you agree to keep the building in good repair during your tenancy, you may be required to put the property in better condition.

8. Alterations and changes of use

You need the Landlords permission to change the use of the property. The lease will usually put the responsibility on you to check that your proposed use complies with any planning consent.

9. Insurance

You may be required to reimburse the Landlord for his insurance premiums, and the Landlord should tell you what commission payments (if any) he receives.

Remember to inform the Landlord and his insurer if you intend to change the way you use the property; let them know if you are storing any hazardous chemicals in the context of your business or if you propose to leave the property vacant and unattended at any time. Ask the Landlord to ensure inclusion of such activities in the insurance policy and to consult you over any changes in the insurance policy terms.

10. Tenant's defaults and applications for consent

The lease forms a legal contract between the tenant and the landlord, there are serious consequences if you break it.

A fair lease is one which allows you enough opportunity to fix any problems (without loss to the Landlord) before any legal action is taken.

The remedy for a breach of your agreement may range from the Landlord sending in bailiffs, who may seize goods to the value of the breach, to the Landlord taking back the property from you. The Landlord may try to forfeit your lease by locking you out of the Property or by obtaining a court order. In either case you can apply to the Court to give you time to put matters right or to pay what you owe. Seek urgent professional advice in that situation.