

A tenant's guide to Commercial Leases



The prospect of signing a lease for business premises can be a little daunting for a first-time tenant.

Here at Astle Paterson, we will guide you through the process, explaining each step to you until the lease completes and you move in.

First step

The first step is to review the terms of your draft lease. The substantive lease provisions will usually have been negotiated via a commercial lettings agent who has marketed the property for the landlord. Once agreed, those heads of terms will be sent to both your solicitor and the solicitor representing the landlord.

The landlord's solicitor uses the heads of terms to draft the lease, and it is the tenant's solicitor's role to ensure that the heads of terms are accurately reflected in the draft documentation. Sometimes there will be additional documents for the tenant to sign, such as a rent deposit deed or a licence for alterations.

Having reviewed the draft documents, we will prepare a detailed report for you, listing the provisions included within them and explaining the ramifications for you of signing the lease. This also gives you an opportunity to raise any queries you have and to check that the content of the lease accurately reflects the heads of terms you agreed with the landlord's agent.

Second step

The second step is to check through the ancillary documentation supplied by the landlord's solicitor. Amongst other things, this includes:

1. Evidence that the landlord owns the premises and is entitled to rent them to you. The landlord's solicitor will supply a copy of the landlord's Land Registry title and plan. We will review these to assess how any covenants or easements in the title will affect your use and occupation of the property. In addition, we will make sure that if the landlord has a mortgage secured on the property, the lender's consent to your lease is obtained;
2. Replies to the pro-forma commercial property enquiries that are designed to provide practical information about the property and how it has been used in the past; and
3. Other statutory paperwork such as evidence that the landlord has opted to tax the property (and so can validly charge you VAT on the rent), proof that the buildings on the property are adequately insured and have been checked for asbestos, and an up-to-date energy performance certificate, electrical safety paperwork and fire risk assessments etc.

Third step

The third step is to undertake searches for you so that you are in possession of all the available information about the property before making a final decision to sign the lease. Searches are especially important if the lease makes you fully responsible for the property, its upkeep, and any ensuing environmental issues.

The searches are:

Local Search – this is carried out with the local authority and details all planning matters that relate to the property, whether the nearest road is adopted, if the property is listed or sits within a conservation area etc.

Drainage – this is carried out with the water authority and confirms whether mains and surface water drainage are connected to the property, whether there are any drains or other water assets within its boundaries, whether there is a water meter etc.

Environmental – this search checks within a 500-metre radius of the property for contaminated land, flood issues, landfill sites etc.

Once we have advised you on these matters, all resulting enquiries have been raised and answered and the lease and other documentation is in its agreed form, we will arrange for you to sign the lease and to suggest a completion date.

The landlord will generally expect to receive your first instalment of rent when the lease completes together with some buildings insurance (and service charge if this is payable). It is therefore usual for the landlord's solicitor to send through a completion statement detailing the balance due from you on the date of completion.

Once the monies have been paid and the lease has been dated, the keys will be made available by the landlord's agent and you can take possession of the premises.

If you are considering entering into a commercial lease and have some questions about the process, or if you would like a quote from our commercial team, please do not hesitate to contact us on 01283 531366. You can also follow us on Facebook and LinkedIn.