

# Lease health check – planning for your future



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“With the continued uncertainty, now is the time to review your occupation of your premises and assess your options”

We have made it through a tumultuous 2020. Most of us navigated a temporary return to the office by making our premises Covid-19 secure. Our immediate priorities were to complete enhanced risk assessments and to put in place increased hygiene measures, one-way systems, distanced workstations and provisions for continued remote working.

We are now in the midst of a third lockdown and Brexit has taken place.

Even with the fantastic news of the vaccine, there are uncertain times yet to come, and now is the time to review your occupation and assess the options available. What can you do now to secure the future of the workplace for the longer term?

### **1. Expiry date**

If your lease is coming to an end, you need to check whether or not you have a protected tenancy. This will determine whether you need to serve a notice to bring your lease to an end or negotiate rights for continued occupation.

### **2. Break rights**

If you intend to exercise a break right, you need to make sure you comply with any pre-conditions, serve the relevant notice, and move out in time. Failure to strictly comply

with any pre-conditions could invalidate the break. If you have had any rent concessions, then you will need to do a careful review of what has been paid and what is owed.

Farah's article on page 20 has more on break rights.

### **3. Alienation**

If you want to dispose of your premises you need to check your lease to make sure you can do this. This can either be done at lease expiry, by exercising a break right or by sub-letting, assigning or surrendering your lease.

If you are assigning or sub-letting, you will need to make sure you can find a suitable tenant to take over the space. In both instances you will almost certainly have a continuing liability as you will either remain the head tenant or enter into an authorised agreement guaranteeing the performance of the incoming tenant.

If none of those options are attractive or possible, you could ask your landlord to take a surrender of your lease. Your landlord does not have to agree and is likely to require a lump sum payment if a surrender is agreed.

Amy's article on page 17 explores this topic in further detail.

### **4. Rent and service charge**

When is the rent review? Is there scope to negotiate a lower rent now in exchange for the landlord having the certainty of your continued occupation?

Is there a service charge cap or can one be negotiated now as part of collaboration between landlord and tenant as to the future management of the building?

With the need to reduce carbon emissions drastically there may be scope to negotiate cleaner ways of running the building and apportioning the service charge between tenants to take account of any changes.

### **5. Alterations**

Do you need to make alterations now to ensure a more stable working environment for long-term social distancing? If you are seeking to sub-let, then you will need to carry out works to divide the premises. Review your lease provisions carefully as you are likely to need a licence to alter.

### **6. Use**

If you are considering repurposing your space, perhaps bringing multiple sites together, remember that any alterations to your premises could require landlord's consent, and any possible changes to your IT may require wayleaves as well as

landlord's consent.

You might be thinking of creating a hub space, to be shared with other organisations. This would require you to review your lease to make sure you can share space and carry out the necessary alterations – and you may need planning consent for change of use.

### **Conclusion**

In the midst of constant change this can be an opportunity for organisations to trial using their premises to create their strategy for the future.

1. Review your lease
2. Review your organisational needs
3. Create your property strategy for the future.

### **Fixed fee packages**

We are currently offering two fixed fee packages for landlords and tenants to help you with your real estate needs:

- (a) a lease review of your options to terminate or vary your lease and
- (b) a rent concession guidance.

[Find out more here.](#)

