



7200 The Quorum, Oxford Business Park North, Oxford OX4 2JZ

t. 01865 487210 f. 01865 481482

e. info.uk@cirrustls.com www.cirrustls.co.uk

Tips for Tenants Negotiating a Business Property Lease

After salaries, the cost of your business lease is likely to be the biggest overhead you have. Because a business lease invariably involves a commitment for a substantial period of time, it is very, very important to get the right premises on the right terms.

Here are a few tips:

- Write down absolutely all the features you need in your new premises. Put them in order of importance. Check every property you visit against your list, and make sure you account for any additional cost or disadvantage which each may present.
- Short leases are often called tenancy agreements, but there is no difference in law. You can fix your deal for any period you like. If your landlord likes the thought of your becoming a tenant he will ask for a long term. If you do not wish to be tied then you will negotiate a short term. Start with the deal that you would like, not the one that is presented to you.
- Business property tenants have less statutory protection than residential tenants. Most commercial landlords are either professional landlords or use professional agents, or both. They are experts in every aspect of commercial property. You may not be. Most commercial agents are also experts at negotiating lease terms on behalf of their clients. Again, you may not be.
- The main effect of the comparatively free market in commercial property is that "everything is up for grabs". If the agent or landlord thinks you are likely to take the property on offer it is unlikely that they will move on the terms. If you make it clear that you have several alternatives, then you will find that the previously "fixed" terms suddenly become very flexible. Much depends too upon the state of the market. A landlord may well be tempted to hold out for his set price and terms if he thinks someone else will come along soon and accept them.
- If the market in the sort of property you want is poor at the time you are searching, then you should make sure that there is some sort of a ceiling on the new rent when it is reviewed. You do not want to find you are paying three times as much in three years time.
- Business property leases for longer than three years generally incorporate a provision for the rent to be "reviewed" every three, four, or five years. The review is usually "upwards only". Infrequent reviews obviously lead to your total payment being less over the term of the lease.
- Commercial agents will usually entice you into a deal by setting out only half of the terms which are important to you. Once you have agreed on that basis you will receive a draft lease document, which gives all of the bad news. By now you are psychologically and practically committed to the property, and you may find your advisor's concerns to be an irritation. Because you think the deal has been done, you think "the legals" are a formality. You will sign anything. You can avoid this trap by making sure your deal with the agent or landlord covers all of the terms that will affect you. If they do not know the answers, ask them to find out and tell you quickly. Get it in writing. You are not paying them
- If you take a lease of part of a building, such as a shop in a parade, you will find that some of the terms in the lease may be included for equality and fairness among the tenants. An example might be the division of cost among the tenants for repairs to the roof. It is unlikely that you will be able to negotiate any change on terms of this type. You need to consider in advance what they are before you waste time negotiating inflexible terms.
- Some landlords run a multi-let building or estate on the basis of a "standard" business lease, because they have made special arrangements with a lender to maintain the lender's security by insisting that all units are let on terms which ultimately benefit the lender if the landlord goes bust. Such a lease is often referred to as of "institutional quality". A cynic might say it is the opposite of "tenant quality". A further reason for inflexibility is that the commercial agent now trying to sell you the lease, also "manages" rent collection and repairs and maintenance. They therefore have a strong interest in all the lease obligations being the same, since their job of managing would be more complicated if every tenant had different obligations and rights. One of the questions to the agent at the outset should therefore be as to the flexibility of the lease. If there is no flexibility you should look particularly carefully at the obligations you are being asked to sign.

Despite the forgoing, do not assume that your landlord is trying to take unfair advantage. There may be concessions you can make to the landlord in exchange for concessions that he can make to you. Do not assume that every aspect of the negotiation is contained in the lease.

Finally, remember that in all matters relating to commercial property, the only rule is "there are no rules". You are simply in a commercial negotiating position.