



## how to negotiate a commercial property lease

**Renting or leasing commercial property usually represents a major part of the operating costs involved in running a business so it is vital that the best possible terms and conditions are negotiated.**

Commercial leases tend to be much less standardised than residential ones and a lot is open to negotiation. Accepting terms that are very onerous or restrictive can saddle a business with premises which become a real liability if things go wrong or the economic climate changes.

**A commercial tenant has far less protection than a residential tenant. The contract that is negotiated is binding on the tenant and not fulfilling all the obligations could cause serious financial consequences.**

**Here is our list of concessions tenants should seek when negotiating a lease:-**

- Negotiate the longest possible rent-free period to cover the cost of decoration, fascia, carpets, equipment etc.
- Insist on a list of existing defects (with photographs) being added to the lease if there are even minor disrepairs which as a tenant you do not expect to put right.
- Check the landlord will meet any Disability Discrimination Act 1995 costs and check for the presence of asbestos.
- Exclude your liability for original building or design defects.
- Discuss free car park rights or credit against cost of public parking.
- Is a covenant needed to prevent competing (or retain complementary) use of neighbouring or adjoining premises?
- Is the right to renew the lease satisfactory?
- Negotiate ample tenant-only unconditional termination rights (eg. any time on 3 months notice by tenant to landlord).
- Do not offer personal guarantees, rent deposits or bank guarantees unless absolutely necessary.
- Watch out for any service charges.
- Check the Energy Performance Certificate supplied by the landlord to ensure energy costs will not be excessive or prohibitive. If energy costs could be excessive you should negotiate a rent or service charge reduction.

This is not an exhaustive list and much depends on the particular circumstances as to what might be achieved by negotiation. However, taking advice and negotiating the best possible deal could save both time and money in the long term. Above all get the lease documents right. For further information or advice, please contact Mark Clayton.