

The New Code for Leasing Business Premises - Guidance for businesses when relocating

If you are thinking to yourself – ‘What Code?’, then you are not alone. According to a report by the University of Reading, less than a quarter of the business tenants surveyed were aware that the previous versions existed at all.

So, what is it, and how can it benefit you?

The Code for Leasing Business Premises in England and Wales came into force in March 2007, with the full support of the government, large landlords and business groups. It is a voluntary Code, aimed to provide guidance to businesses seeking to lease commercial premises. It is divided into three distinct sections; Landlord’s Code, Occupier’s Guide, and Model Heads of Terms. It can be downloaded from www.leasingbusinesspremises.co.uk.

In effect, it acts as a checklist for businesses on the key elements of a commercial lease. It addresses matters such as lease negotiations, rent deposits (and Guarantees), length of term, break clauses, renewal rights, rent review, assignment and subletting, service charge, repairs, alterations, insurance, and ongoing management. The Code does not try to directly interfere with the ‘negotiation’ process.

The model Heads of Terms in the Code goes into great detail, and if followed, can help to avoid unexpected surprises later on. It can also be of significant help to the solicitors by providing a greater level of detail, reducing ambiguity and dispute later on.

The Code really becomes useful when the tenant has found a property, and wants to consider terms.

What the Code does not aim to do is provide guidance on the critical stage which comes before that, namely setting the search criteria. If the company has incorrectly set their search criteria, then at best they will waste time and money through abortive work, or at worst, realise their mistake when they have signed the lease.

Having acted for a wide variety of companies in acquiring property, the most important stage of the process, without any doubt, is deciding on the key criteria.

At an early stage I like to see their current premises, and understand how their business works. This could include considering how different departments

interact, whether there are any critical requirements, and also establishing room for growth.

A typical check list for the search could be as follows:

1. Location: Where do the staff live? Access to road, rail, public transport, key clients, etc.
2. Amenities: nearby shops, pubs, sports facilities. Whether staff are happy with an isolated site.
3. Setting: Rural, residential, industrial, prime or secondary retail frontages. Decisions could be influenced by pedestrian flows in the retail sector, or noise and vibration in the bioscience sector. A rural setting can look idyllic, but in the summer will there be unpleasant smells, dust and noise.
4. Services: Broadband, power and water supply.
5. Size: Different building designs can effect the floor area required. A period building, for example, can have irregular shaped rooms, which will effect efficiency. It is well worth asking an architect to undertake a space plan, if CAD drawings are available. Consideration of the Business Plan is critical to planning for expansion. Think about possible changes in working patterns, such as home working.
6. Tenure: Leasehold or Freehold?
7. Timing: Be realistic. It is advisable to start thinking at least 6 – 9 months ahead of the relocation date.
8. Specification: Changes in subjects such as Information Technology and energy efficiency is having an impact upon the required performance of a building. Buildings which have not been brought up to modern standards may quickly become outdated.
9. Car Parking: Invariably, there is never enough, but consider the future in relation to fuel pricing and possible taxation changes.
10. Budget: An audit will provide an overview of what products cost. A useful website is www.egpropertylink.com. Remember to add on Business Rates, Service Charge (if appropriate), utility bills, cleaning, security, cabling and new infrastructure, etc.

Moving your business can be a minefield, but careful planning, and taking appropriate advice will pay dividends.

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