



The 8 key steps in a commercial lease process all businesses should know



Leasing commercial property is one of the most important commitments for a business owner, so getting it right is essential.

The steps involved in entering into a lease can be intricate and confusing. Here is a step-by-step commercial lease process chart that will help guide you through the key stages of the process

The 8 Key Steps

1. Negotiation & agreement on Heads of Terms

Where a property is marketed by commercial agents, the agents will be engaged not only to facilitate inspections and field questions on the property generally, but also to seek to agree the key points for inclusion in the lease (commonly referred to as the “heads of terms”). Whilst the heads of terms will form the basis on which any lease documentation is ultimately prepared, it should be noted these are non-legally binding, and therefore better viewed as a statement of the intention of the parties rather than any form of contractual commitment.

2. Solicitors instructed

Once the heads of terms are agreed the agent will circulate these to both parties and their solicitors which then essentially acts as the green light for the legal process to begin.



In terms of timings generally, and whilst every transaction is different, from the issue of heads of terms to completion of the lease generally takes between 4-6 weeks.

3. AML and client care details

Once solicitors are instructed, in line with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the Money Laundering Regulations 2017) the solicitors will then need to undertake certain anti-money laundering checks (including verification of identity). At this stage it is important to note that the solicitor will not be able to progress matters without holding the required ID and having undertaken the associated checks and it is important therefore that clients are aware of this requirement and are able to provide the information required promptly.

At PDT, to assist with the current climate and as a firm embracing advancements in technology, we are pleased to confirm all new client ID requirements are dealt with on a third-party platform called "Onboard" whereby clients can simply upload copies of their documents without the need to be present at the firm's offices.

In addition to AML requirements, the client should also receive confirmation on the firm's terms of business and client care letter confirming its practices and charges for the transaction.

4. Tenant solicitor confirms instruction and requests draft papers

Once all AML requirements have been satisfied, the tenant's solicitor will confirm instruction to the landlord's solicitor and formally request draft papers (commonly to include copy title to evidence the landlord's ownership of the land and capacity to grant the lease) together with replies to pre-contract enquiries (known as "CPSEs") and draft lease documentation for review.

At this time the tenant's solicitor will also liaise with the tenant as regards specific searches the tenant may require or specific concerns or issues to be explored. In terms of searches generally, these broadly consist of: local authority, environmental, water and drainage, chancel repair and highways (although additional searches may be relevant depending on the location of the property).

Whilst there is no legal requirement for searches to be undertaken, these are always recommended to ensure a tenant is proceeding with a full and comprehensive understanding of any external considerations / issues which may exist and with eyes wide open as regards the same.

5. Due diligence and lease negotiations

Once draft papers etc. are received from the landlord's solicitor, the tenant's solicitor will then review these and liaise with the tenant as regards the same including reporting on specific issues or concerns revealed by responses to pre-contract enquiries or searches.

With regards to negotiation of the lease documentation, commonly this goes back and forth between solicitors on a number of occasions, taking 2-3 weeks to iron through to a format acceptable to both parties.

6. Report on lease

Once the terms of the lease and associated documentation have been agreed, the tenant's solicitor will generally prepare a report on the key terms of the lease for the tenant's approval/records. Whilst this should not necessarily raise anything new or of which is a surprise to the tenant, this will act as a useful summary of the overall terms and as a useful aide-memoire for the tenant moving forward as regards its core obligations under the lease.

7. Completion

Once documents are finalised, these will be circulated for signature by all parties. Once duly executed and returned to the solicitors (and the tenant has lodged any required monies (i.e. advance payments of rent or rental deposit etc.), the matter will proceed to completion – generally over a short telephone call between the parties solicitors whereby the lease is agreed as completed and dated.

On completion of the lease, the landlord's agent will be instructed to release the keys to the tenant who will then take possession of the premises and will be liable to comply with the terms of the lease.

8. Post completion formalities

Whilst requirements post completion vary depending on the length and value of the lease, commonly these include the registration of the lease at HM Land Registry (where the lease is granted for a term exceeding 7 years) or noting of the lease and registering of any easements thereunder (where the lease is granted for a term between 3 and 7 years), and preparation and submission of a stamp duty land tax (SDLT) return (and payment of any associated liability).



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