

Property licences



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Moving into licensed property is easier, quicker and cheaper than taking on a lease or buying a feuhold property.

Licensed properties are often ideal for start-up businesses. You can get in fast, you do not need to tie up capital in the property and you have the flexibility to change premises easily as your business grows or your needs change.

Another Start-up Briefing title, **Searching for premises** compares the advantages and disadvantages of licences, leases and buying property. This briefing covers:

- The main features of a licence agreement.
- Why licences suit start-ups.
- What to look for in a licensed property.
- How to identify the real costs.

1 Licence or lease?

The difference between a licence and a lease can become blurred. Unlike England, a licence in Scotland is a short-term lease in all but name. The key practical differences are:

1.1 Licences cover a relatively **short period** of time — usually up to two years.

- Leases usually run for many years.

1.2 Most licences give both the landlord and the occupier the right to **terminate** the agreement (see **5.2**).

- Usually this will be done by giving so many weeks' or months' notice. Alternatively, the party wishing to end the agreement may be required to give formal notice on a specified date.

- A notice period of one month is typical.

Licensed properties with short notice periods like this are often referred to as easy-in, easy-out premises.

1.3 You have **no right to renew** the licence, once the landlord asks you to leave.

1.4 You do not need to spend a lot of **money up front**.

- Solicitor's fees should be low (typically £100 to £300).
- You will need to pay some rent in advance, but usually only one month.
- You may be asked to pay a deposit. Typically, this will be the equivalent of one month's rent.

See **6** for more details about costs.

1.5 The **variety** of premises available on a licensed basis is relatively limited, compared with the range of premises that can be leased.

But there are usually plenty of small offices, studios and workshop units available on licence.

- Your local council, LEC or Enterprise Trust may maintain a property register which lists both licensed and leased premises.
- Some local authorities, LECs and Enterprise Trusts offer easy-in, easy-out licences for small business centres they own. These are sometimes offered at subsidised rates.
- Some private landlords with hard-to-let properties may grant licences for a time, while they are seeking tenants to take on a long lease. Some may offer fully-serviced offices on

licence.

If the nature of your business means that you need specialised premises, you may have to look for leased property instead.

2 The agreement

A licence represents a legal agreement with the landlord. The agreement should be short, simple and written in plain English, but you will still need to check all the details thoroughly.

2.1 Is the name of the **landlord** correct?

- Does the landlord own the property?
- Does the landlord have the right to grant licences in this way?
Even property licences arranged with local authorities, LECs and Enterprise Trusts need to be checked.

2.2 Are **your name** (given under Licensee), the period of the licence, the address and description of the premises, and the notice period all correct?

- If you trade as a limited company, make sure the licence is made out in the name of your company and not your personal name.

2.3 Does the agreement specifically cover all the **free services** you expect to have provided at no extra cost? For example:

- Electricity, heating and airconditioning.
- Communal services, including reception and any security services, and the use of toilets, kitchens and other common parts of the premises.
- Cleaning, window cleaning and refuse collection.

2.4 Does the agreement include the provision of **other services and facilities** you are expecting?

- Office services, such as a telephone answering service, typing and copying.
- Basic office furniture.
- Telephone lines, including the lines you may need for Internet access and fax machines.
- Parking spaces.

What are the charges for these?

2.5 **What else** does the licence agreement cover?

Typical clauses will say that:

- You may not assign the licence, sub-let all or part of the premises, or share the space

with others.

- You and your employees must all conform to the terms of the licence.
- You are not allowed to alter the premises in any way — even to make improvements at your own expense.
- The landlord will not be liable for any losses of yours.
- The landlord is responsible for the repair and maintenance of the property and the provision of communal services.
- The landlord is responsible for insuring the premises, and any furnishings and fixtures that come with the premises.
All other insurances are usually your responsibility.

Be prepared to negotiate to win more favourable terms.

Consult a solicitor before signing the agreement.

3 Real flexibility

Flexibility matters for a new business, as it can often be impossible to predict sales volumes and activity levels more than a few weeks in advance.

3.1 Going into a serviced office block may mean you can **expand easily** if your business grows quickly.

- You may be able to rent extra office, storage or meeting room space for short periods or special projects.
- As the business expands, you may be able to colonise extra offices in the building one by one, so that you are only ever renting the accommodation you need at that time.
- You may want to switch offices entirely, into larger or better accommodation in the same building.

Being able to grow like this, with minimal disruption and keeping the same address, can be a great advantage for a fast-moving start-up business.

3.2 You may have flexible access to office **services and equipment** on a pay-as-you-go basis.

- Many landlords with offices on licence provide word processing and telephone answering services as optional extras for their tenants.
Paying for these when you need them may be a better short-term option than taking on more employees.
- Even if it is just for the first couple of

► This briefing uses the terms landlord, tenant and rent for both leases and licences. In practice, a licence may refer to the licensor, licensee and licence fee.

“The landlord usually pays for basic insurance, passing on a proportion of the costs as part of the licence fee or rent. Ask to see a copy of the policy, to be sure that reasonable cover is in place.”
**Roy Ilott,
Roy Ilott
& Associates**

months, being able to delay or avoid buying equipment like photocopiers or fax machines may be helpful.

4 Check before you sign

Certain problems occur fairly frequently with premises rented on licences.

If you can discuss possible difficulties in advance, you may be able to agree workable practical arrangements before signing the licence contract.

4.1 Limited access can create operational problems for you and security problems for the landlord.

- Will you have unrestricted access to the building in the evening, at night and at weekends?

4.2 Will you be able to operate within the working **restrictions** that affect the premises?

- Is your business likely to generate streams of visitors or to produce noises, smells, waste or any other nuisance that will affect your neighbours?
- Does the licence allow you to put up exterior signage if you wish or carry out minor alterations to the property?

4.3 Are the other **occupants** suitable neighbours for your business?

- Will their activities create a nuisance?
- Might new, unsuitable neighbours move in at some future date?

The rules of the game

A licence will place you under certain obligations and give your landlord some rights that are not widely known.

A Your **obligations** will typically include:

- Paying the licence fee (effectively rent).
- Paying the landlord appropriate amounts for extra office services used.
- Using the premises and equipment in a reasonable manner.
- Observing the rules of the premises (which should usually form part of the licence agreement).

These may sometimes be limiting. For example, you may not be allowed to make any physical alterations to the premises — even including putting up shelves and partitions.

Check whether there are other obligations in the licence agreement which are unacceptable to you.

For example, are you required to repair or redecorate the premises?

B The landlord's **rights** will usually include:

- The right to make you move to alternative, but comparable, rooms in the same property.
- The right to terminate the licence if you fail to pay any money owed on the due date, or breach any of your other obligations.
The landlord must give you reasonable notice to remedy the breach, usually 14 days in the case of non-payment of rent.
- The right of access to your premises at any time.

5 Potential flashpoints

Your contractual and working relationships with your landlord are particularly important in licensed offices.

5.1 If you are going to pay a **deposit**, both parties should be clear about how it is to be treated.

- When will your money be refunded?
- What deductions is the landlord entitled to make?
- Will you be entitled to interest on the deposit?
- Will the deposit be held separately from the landlord's business funds?
What happens if the landlord goes bankrupt?

5.2 Fixed-term contracts with **no get-out** may mean you lose much of the flexibility associated with renting on licence.

- Beware of any licence with a long fixed term that does not give you an explicit and unconditional right to break off the agreement.
- A few unscrupulous landlords even have trick clauses relating to termination in the agreements they offer. These appear innocuous but have the effect of making your break clause unenforceable — they do this by stipulating that you must have fully performed all the terms of the licence, to the letter, in order to exercise the break.

5.3 A **bad landlord**, or a well-meaning one

who does not keep his or her promises, can lead to all sorts of recurring headaches.

Try to establish whether the landlord is someone you can work with.

- Ask other licensees about the landlord's performance in the past and the standard of the services provided.
If other tenants complain that the receptionist is never there or the copier is always broken, take this as a warning.
- Look at the state of the building and form your own opinion about how well it is maintained.

6 Costs

When comparing premises, use the total cost (not just the rent) per square foot as a yardstick. Extra costs, and particularly service charges, can be high.

6.1 How much is the monthly **licence fee** or **rent**?

- Is it fixed, or does the landlord have the right to increase it?
Some agreements give the landlord the right to increase the rent, with one month's notice, after a fixed length of time.
Most landlords are unlikely to raise your rent, as the licence will only be for a short period.
- The rent may include non-domestic rates and most services — for example, heating and reception costs (see **2.3**).

6.2 Find out whether **VAT** will be charged on the rent.

This will depend largely on the building and on the landlord's financial and business circumstances.

- If the rent does not include VAT now, the landlord may decide (or be compelled) to charge VAT at some future date, even though the licence does not say you have to pay VAT.
Your rent will then rise (but if you are registered for VAT, you will be able to claim the VAT back).

6.3 Will the charges for **facilities** and **services** not included in the licence fee be reasonable?

- How are these charges going to be calculated?
For example, does the landlord add a mark-up, in order to make a profit on

telephone calls, or will you pay the standard rate?

Is there a minimum charge for any service, even if you do not use it (eg the photocopier)?

- How are the charges for utility services measured?

Ask other tenants in the building if they are happy with what they have been charged for extra costs.

6.4 Will you have any **setting-up** costs?

Expert contributors

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Further help

There are other Start-up Briefing titles that can help you. These briefings are referred to in the text by name, such as **Business law and using a solicitor**.

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