



Tenants Guide to Subletting

OFFICE



Solve

officesolve.co.uk

Subletting

We find ourselves in the midst of the largest home working experiment ever undertaken. The consequences will continue long into the future and will have a lasting impact on how businesses manage their operations.

The introduction of Covid-Secure measures for the workplace along with existing and evolving media and communication technologies will compel companies to look carefully at how they use and pay for their office space.

There are two reasons for this:

1. Health, Safety and Staff Wellbeing
2. Operating costs and economic impact of social distancing measures



Reasons to Sublet Your Office Space

These are unprecedented times for businesses many of which are tied to lease contracts for their office space.

If you are renting office space you may find that you are now reviewing your space requirements. This may lead to identifying surplus space that may no longer serve your business but is causing a drain on your financial resources. You might even consider subletting the entire space if you are changing the location and logistics of your business to suit new staff arrangements.

One option is to sublet these spaces, cut back on wastage and save money by recovering some of the costs for that space.



Check YOUR lease

Before considering whether you should look to sublet your space you need to check whether you are permitted to sublet under the terms of your lease. Do not go through all the trouble of finding a subtenant before checking your contractual obligations.

Some leases prohibit subletting; others may allow for partial subletting but with specific conditions such as on a floor by floor basis or some other configuration. There might be restrictions as to whom you can sublet to or there might be insufficient time left on your lease to generate interest in the market. For larger demises, the number of sublets might be restricted.

If you find that you are restricted by your lease but need to find a solution you might consider talking to your Landlord to see if he is willing to relax the restriction/s and permit a subletting. Forward thinking Landlord's in this business climate are probably more inclined to help their tenant's find a solution, so you might still find options available to you.



Talk to local businesses

Once you are satisfied that you are permitted to sublet, go to the market, and find a suitable subtenant/s.

However, before you offer the space on the open market or appoint a letting agent, make enquiries with local businesses to see if there are any requirements for space either in your building or your neighbourhood.

Some businesses might be contemplating an imminent expiry and have an immediate requirement that you might be able to fulfil by subletting your space to them. Companies operating in close proximity might be looking to consolidate operations from other offices that are outside your local area.

If you don't know anyone looking to sublease, talk to iTango and see if we can help you secure a sub tenant. We carry out research and have access to data on thousands of business leases, some of whom might be in the market for your space. We can marshal our resources and contact our pool of tenants looking to share a portion of an office.



Due diligence

Having subtenants can be an ideal solution for your needs, but not if you attract the wrong business.

First, make sure you are not subleasing the space to a company working in a competing industry. A tenant in your building may have an agreement with the landlord specifying that no other companies in their industry can rent space in the same building. In this case, the Landlord would be prohibited by its obligations and would have no alternative other than to reject your application for his consent to sublet.

Second, make sure that your subtenants are solvent and will be able to pay the rent of their share of the rent and costs, as appropriate. You are still subject to the terms of your lease and that means paying your rent even if a subtenant fails to pay you.

Third, choose a subtenant/s that you are comfortable with and don't mind sharing the building. If their working practices or culture is vastly different to your own; for example, they are noisy or disruptive, you probably won't want them working in your office.



Determining the sub rent

Traditionally, businesses become interested in subleasing rather than direct leasing spaces because they offer shorter periods and reduced costs. However, there are many alternatives in today's market for businesses looking for flexibility and affordability.

The alternative option must be kept in mind when deciding upon a rent and charges for your subtenant. Moreover, some leases prohibit tenants from charging a profit rent rather than just seeking to cover the rent that they are contracted to. This is especially the case where landlords offer leniency and relax restricts to subletting in leasing contracts.

You might cover all of your costs for the sublet space which would be ideal, but it could still be in your interest to agree terms with a reduced rent that covers the majority of your costs to minimise your outgoing costs for the surplus space that you are trying to offload.

You might seek a deposit to cover potential damages that may occur during the subtenant's period of occupation. Damage deposits are typically equal one month's rent.



Sublease Agreement

Agree heads of terms. You will need to discuss factors like potential renovations; lease terms; payments for utilities; sharing amenities and office services; branding; and office environment. Be sure to discuss and determine these arrangements prior to concluding any terms so these can be incorporated into the drafting of the sublease.

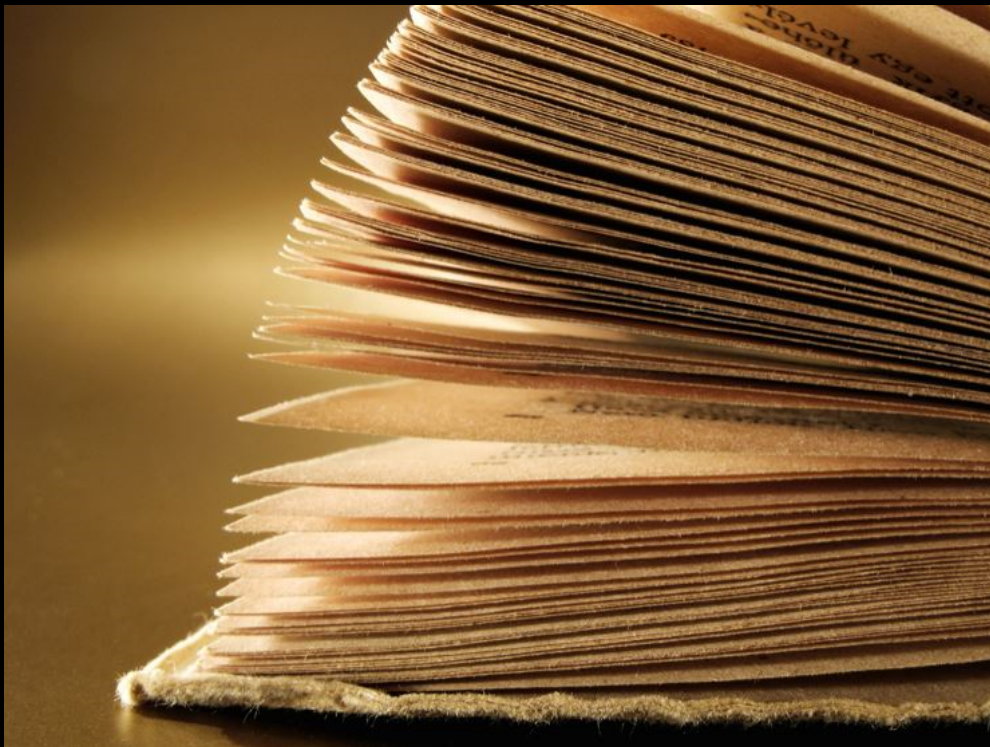
Seek appropriate legal representation from a solicitor that specialises in conveyancing to ensure that all parties interests and protected.

Conclude the agreement. Upon concluding terms and completing the sublease, agree arrangements for your subtenant to move in.



Lease clauses to be aware of when subletting

As tenant you will retain responsibilities to your landlord even if you have a subtenant. We summarise the type of clauses that are typical in leases, which will or may have a significant bearing on your subleasing arrangements. This often means that you may still be accountable to your landlord for the actions of your subtenant as well as your own.



Repairing obligations

The tenant is responsible for ensuring that the 'entire' premises are kept in repair. The definition of repair varies depending on the original lease.

Comply with statutes

This relates to the observance and compliance of appropriate Acts of Parliament orders, regulations and byelaws that might relate to your demised premises. There is usually a requirement for the tenant to indemnify the Landlord in such matters.

Planning

Usually a requirement to comply with Planning Acts and consents permissions and conditions that affect the Demised Premises. These might include works carried out on the premises or the use of the premises.

Fees

To pay or indemnify the landlord against all costs charges and expenses (including professional fees) incurred by the Landlord:-

- incidental to or in contemplation of the preparation and service of a schedule of dilapidations or notice to repair
- in connection with or in procuring the remedying of any breach of covenant on the part of the Tenant and by extension the subtenant
- in connection with any application for landlord's consent
- in connection with the approval and supervision of any permitted works to or affecting the Demised Premises

Fire Precautions

Typically, to comply with requirements and recommendations of the appropriate authority and those of the insurer's e in relation to fire precautions affecting the Demised Premises. There is also a standard obligation to keep the Demised Premises sufficiently supplied and equipped with fire-fighting extinguishing apparatus and appliances.

Health and Safety

The fire safety requirements will be set out in your health and safety risk assessment for your demised premises.

These precautions and responsibilities apply to general Health & Safety, Covid-Secure and Safeguarding of staff and visitors.



Alter services

There might be a prohibition to alter or add to the electrical installation wiring or related services within the Demised Premises without your Landlord's prior written consent. There will be references to the relevant Institutions of Engineering and Technology and the regulations of the electricity supply authority.

To repair or replace any electrical installation wiring or other services in the Demised Premises if it becomes dangerous or is required. The use of suitably qualified contractor/s approved by the Landlord is often stated.

Alterations

Not to make any installation or alteration to the structure.

Not to make any internal erection alteration or addition to the Demised Premises without landlords previous written consent. There might be a reinstatement obligation requiring the tenant to put the premises back to its previous state when the tenant returns possession to the landlord on expiry of the lease. You will be required to provide plans, specifications and risk assessments and method statements and submit these to the landlord for his approval as part of the consent process.



Not to cause nuisance

Not to use the Demised Premises or any part thereof (including the sublet parts) in a manner which may be a nuisance to the Landlord or other occupiers.

There will usually be a requirement to keep the Landlord indemnified against proceedings and damages that might arise out of a breach or nuisance.

Subletting Clause

The tenant might be prohibited in the following circumstances:-

- underlet the whole of the Demised Premises
- underlet any part or parts of the Demised Premises except for an underletting of a Permitted Part subject to conditions
- share possession or occupation of the whole of the Demised Premises or any part or parts thereof.

An undertenant might be required to enter into a direct obligation with the Landlord to observe and perform the obligations of the Tenant.

The Tenant may not be permitted to underlet the Demised Premises at a rent that is below the full market rent. The agreed annual sum being approved by the landlord.

The subletting agreement will include similar covenants, agreements, and stipulations as those contained in this Lease.

The Tenant will not accept any surrender of an underlease or vary the terms of an underlease without the prior written consent of the Landlord.

Regulations

To comply with all reasonable regulations imposed by the Landlord for the management of the Building.

Indemnity

To indemnify the Landlord from all liability in respect of any injury to or the death of any person or damage to any property or the infringement or destruction of any right arising out of the repair, condition, or any alteration by the Tenant.

Underlessee's Covenants

In the event of a breach of any of the provisions in the lease by an underlessee, the tenant will at its own expense take all necessary steps to remedy the breach.

Not to vitiate insurance

Not to do something that would invalidate the landlord's insurance.

To pay additional premium/s

To pay the Landlord the amount of any increase in the insurance premium where this is attributable to the use or occupation of the Demised Premises.

