



WOODFORD AND COMPANY FACTSHEET

No. 4 **HOW CAN I GET OUT OF A LEASE?**

As in most walks of life, circumstances change, and the property you took a lease of no longer meets your requirements.

- your business may have outgrown the building
- you may wish to cut your overheads
- you might be reducing the scale of your operation

Options

The options available will depend to a large extent upon the lease terms of your current premises. Broadly however, there are 4 main options:

1. You may be able to assign your lease to a new tenant
2. You may be able to sub-let
3. If your lease has a break provision, you can terminate the lease
4. Your landlord may be willing to consider a surrender
5. You may be close to the lease termination and choose to vacate or renegotiate your lease terms.

Assignment & Subletting

Most leases provide an option for the tenant to assign. If you do assign your lease, you are likely to retain some responsibilities, such as giving a guarantee to pay the rent if the person you have transferred to defaults. Also, the landlord will want to be satisfied that the new tenant will be financially secure. There may be restrictions in the lease on who you can assign to.

You may be able to reduce your overheads by subletting all or part of your premises if sub-letting is permitted under your lease. Some leases will restrict how much of the property you can sublet or prohibit subletting the whole. Under this option, you will continue to be responsible to pay the rent but will receive rent from your own tenant.

The act of assigning or subletting your lease first means finding a new tenant. In order to do this, you will have to appoint a commercial agent to market the premises and attract interested parties. There will be a cost associated with this. Similarly, you are likely to have to pay all of the landlords legal and other associated costs as a condition of the assignment or sublease, as well as your own.

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Break Options

Your lease may contain an option to terminate it before the end of the term. Where such options are present, these may be at the same date as a rent review. If you are able to break your lease, ensure that you allow time to serve notice and to vacate your premises. Most break options require that breaks are operated by notice in writing which is subject to a minimum notice period – often 6 months.

The option to break may be subject to meeting certain conditions, for example, leaving the property in a good state of repair. You need to ensure that you will be able to meet those conditions before the effective date otherwise the option might be invalidated.

Surrender

In some circumstances, the landlord will allow you to surrender your lease. However, the landlord is likely to require a financial settlement which ensures that he will be no worse off financially. The precise nature of this payment will be dependent upon surrounding factors.

For example, if the demand for premises by prospective tenants is poor, the landlord may seek a surrender premium equivalent to the outgoings that would have been paid if you had stayed at the property for the remainder of the term. However, if the landlord is confident of re-letting the property, possibly at a higher rent, he may accept a smaller amount.

Tactics

Whatever option you decide to explore, first consider the surrounding circumstances.

- Do you want a clean break or are you happy to retain some responsibility.
- Consider the financial implications of each option first.
- Don't give your position away and possibly give your landlord an advantage.
- Consider the strength of the market. Will finding a good replacement tenant or a subtenant be easy or difficult?
- Do you have any leverage because the landlord is in breach of his obligations, for example.
- Consider using a professional to negotiate on your behalf. Knowledge of the market is vital to securing the best possible arrangement.

Lease Expiry

At the end of your lease, you have the option to vacate a building or stay in occupation. Even if your lease does not expire for a couple of years, if you are prepared to commit to a longer term now it may be possible to renegotiate with your landlord now.

If you would like to discuss these matters in more detail, Woodford & Company would be pleased to offer assistance.

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