



## EXITING OFFICE LEASES ON THE MOVE

Rachel Francis-Lang, Tom Merrick, Patrick Brown and Kate Davies of Lewis Silkin LLP discuss the key considerations for a business that wishes to exit its leased office space.

The move to hybrid working following the COVID-19 pandemic seems to be a trend that is here to stay. This means that many businesses now require less office space than they did before the pandemic and may wish to cut back on the cost of leasing expensive offices that are underused (see *News brief "Hybrid working after COVID-19: home is where the work is"*, [www.practicallaw.com/w-031-0840](http://www.practicallaw.com/w-031-0840)).

However, exiting a leased office space midway through the lease term can have significant implications for a business. By being well prepared and understanding the legal position, the business can get this important step right first time, achieve the best deal, incur the lowest legal spend, and avoid any costly delays and nasty surprises.

This article examines some of the options that a business may wish to consider, including:

- Exercising a break right.
- Consolidating offices.
- Subletting and assigning a lease.
- Navigating a lease surrender.

### BREAK RIGHTS

One of the main methods for a tenant to secure a clean exit from their office space is to exercise the tenant break right, if the lease contains such a right.

#### Notice

Breaks are typically only available on specified dates during the term. They usually stipulate a minimum notice period, which is often between three and six months, although they can also be rolling; that is, the break right can be exercised throughout the term

or, more commonly, at any time from a certain date onwards.

The notice provisions in the lease will stipulate the form that the notice must take, as well as the required method of service, such as by email or post. Case law makes it clear that these are strict requirements; for example, if a lease stipulates that the notice must be printed on blue paper, it will be invalid if it is printed on pink paper (*Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd [1997] UKHL 19*; [www.practicallaw.com/3-100-0903](http://www.practicallaw.com/3-100-0903)).

While it is possible for a landlord to cure an invalid notice, this would be at its absolute discretion and it would be extremely unwise to rely on the landlord doing this, so the tenant should aim to get it right in the first place. It is, therefore, vitally important for a tenant, at the earliest possible stage, to ensure that the break notice is in the correct form and

is validly served on the landlord before the deadline.

### Conditions

The break clause will most likely contain conditions that need to be complied with on or before the break date. It is usual for a break to be subject to all principal rent having been paid up to the break date and there being no outstanding material breaches by the tenant.

However, sometimes a break will be subject to delivering up the premises with vacant possession at the break date, which renders the break virtually impossible to exercise in practice. Vacant possession is an extremely high threshold to meet, as it requires all items that have been brought onto the property to be removed and all alterations to be reinstated. This may not be possible, depending on the alterations that have been made. If, for example, telecommunications apparatus has been installed, the tenant probably would not have control over its removal and almost certainly could not arrange for its removal within a short notice period (see *"Existing wayleaves"* below).

A tenant must, therefore, consider at the earliest opportunity whether the break conditions are capable of being complied with. If the break is not validly exercised, the tenant will remain bound by the lease until the end of the term, in the absence of any further break dates or agreement with the landlord.

### Reclaiming rent

Depending on when the final rent payment date falls in relation to the break date, the tenant should also check whether or not the lease provides that it is able to reclaim an apportioned sum of rent from its final payment. A well-drafted lease will provide for this but, if the lease does not, the likelihood is that the tenant will have to pay the full quarter's rent up front and will not receive any repayment in respect of the days that it is no longer occupying the premises.

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## CONSOLIDATING OFFICES

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If a business has a number of offices in different locations, it may decide to consolidate them into one headquarter location. There are any number of reasons for doing this, including a reduction in overheads, such as rents and utilities, corporate consistency and identity, convenience, or client needs.

### Protected and unprotected leases

The first step is for the business to ascertain whether it is a protected tenant under the Landlord and Tenant Act 1954 (1954 Act) or an unprotected tenant.

To be a protected tenant, the following must apply:

- The tenant must have exclusive possession.
- The tenant must occupy for business use only and pay a rent.
- The lease must be granted for a fixed term.

If the tenant has a protected lease, the tenancy continues at the expiration of the contractual term, known as holding over, on the terms of the expired lease until either the landlord or the tenant serves notice to bring it to an end. For a tenant, this notice period is three months, unless it is still within the contractual term, in which case it can just vacate at the end of the term. However, as has been mentioned, this is not quite as simple as it sounds (see *"Conditions"* above). While this holding over may not be important to all tenants, to a relocating tenant it may buy vital overlap time to ensure that the business can continue to operate as the new headquarters are being fitted out. It may help the tenant avoid the need to take temporary overlap space or pay for items to go into storage.

However, more often than not, leases are contracted out of the 1954 Act because landlords want more control over their assets and to ensure that they can recover them or renegotiate the terms when the lease expires. The tenant in this situation is therefore an unprotected tenant and does not have the right to remain at the end of the lease, nor to demand a new one.

### Fit-out period

Whether the tenant holds over, agrees a short lease extension or takes some temporary space, it is likely to need some premises during the fit-out period for the new headquarters. The pandemic has taught businesses how to be more agile and to work remotely, so this issue may be less acute nowadays. However, the tenant is likely to still need physical premises for some core staff, including IT staff, and to house servers and other key operational equipment. Depending

on the nature of the business, client meeting space may also be essential.

### Exit strategy

A good project manager, whether internal or an external consultant, will be worth their weight in gold. The tenant's lawyers will also be able to analyse the existing tenancies and create an exit strategy. The likelihood is that there will be different landlords across the business's different locations and, unless the tenant has had the foresight to plan for this consolidation exercise years in advance, its leases will have different expiration dates.

However, depending on the lead time for the new headquarters, there may still be an opportunity for the tenant to align its leases. Some of this may be in its control, for example if it has a tenant break right (see *"Break rights"* above). If not, the tenant will need to engage with its landlord to discuss its options. The most common ways of exiting office premises are by:

- Lease surrender (see *"Lease surrenders"* below).
- Subletting and assignment (see *"Sublets and assignments"* below).
- Licence to occupy. This is similar to a subletting but, instead of creating a formal tenancy, a licence to occupy is created. These are more common among group companies or business associates working on projects together, but they can be a quick, inexpensive and effective short-term solution to bring in revenue (through a licence fee payable by the licensee) while relocating.

Each individual tenant's solution may involve a combination of the above methods and different landlords will hold different positions, so the earlier the tenant starts to map out its way forwards, the better.

### Reinstatement

Tenants must factor in both the time and cost implications of their reinstatement obligations across their offices. Most leases, other than very short ones, or those that have a limited repairing obligation, will require a tenant to leave the premises more or less as it found them or, sometimes, in a better condition. This reinstatement obligation often leads to the landlord bringing a dilapidations claim as a result of the tenant having failed to comply with these lease covenants to repair,

redecorate and reinstate (see “Dilapidations” below).

### Supplier contracts

There may be a number of supplier contracts to terminate, vary or transfer to the new premises. Some contracts may have fixed terms and so require an early exit payment. Others may be vital to the operation of the business and so will be transferred to the new premises. Either way, considering each one and getting organised will help.

### Existing wayleaves

Most commonly, wayleave agreements deal with the provision of fibre services to a tenant’s premises. They are governed by the Telecoms Code, which heavily favours operators, providing them with rights for their equipment to remain in situ even after the subscribing tenant has vacated. These agreements are often not addressed early enough in the process and can lead to some fraught negotiations or ongoing liabilities. It is, therefore, essential to plan ahead. If the tenant has already contracted to take its new headquarters, it may be able to negotiate with the operator to bring the current wayleave agreement to an end in exchange for signing up to a new one.

### Stocktaking

The business needs to work out what equipment and furniture is coming with it and what will no longer be needed. To do this, it needs to know what it has by conducting a stocktake. Being organised will help when it comes to packing up and disposing of surplus equipment, but also in the new premises. Colour-coding and clear labelling is essential.

## SUBLETS AND ASSIGNMENTS

Most leases, other than very short leases, permit assignment and subletting (also known as underletting) with the consent of the landlord and subject to certain conditions (see box “Assignment”). The key limitation of both approaches is that the lease will remain a liability on the tenant’s accounts. Neither option will give the tenant a clean break from its obligations under the lease.

### Subletting

A sublease is when a tenant grants a lease to a subtenant out of its own lease. It is also sometimes referred to as an underlease. This enables the subtenant to occupy the tenant’s space and take on some of the responsibility

## Assignment

Assigning a lease essentially transfers the lease to another business that takes on the role of tenant in the place of the original tenant for the balance of the lease’s term. If the landlord consents to the tenant assigning the lease, it will usually require the tenant to enter into an authorised guarantee agreement whereby the tenant guarantees the performance of the incoming tenant’s obligations until it subsequently assigns the lease to another party or the lease ends.

for it (see box “Reasons to sublet”). A sublease may be of the whole premises or just part of it.

A sublease is a separate agreement to the original lease. The original lease between the landlord and the tenant remains in place, subject to the sublease, with the tenant becoming the landlord of the subtenant under the sublease. A tenant remains liable to its landlord under the terms of the original lease, including for the payment of rent if the subtenant is in arrears under the sublease (see box “Downsides to subletting”). However, it will generally pass on those obligations and liabilities, in whole or in part, depending on the nature of the subletting, to the subtenant under the sublease. If the office space is particularly valuable, the tenant may be able to charge a higher rent than it pays under its lease.

### Agreeing terms

Reaching an agreement on subletting terms is a balancing exercise between the competing interests of a tenant’s desire to be flexible and a landlord’s need to retain some control in order to ensure that there is no impact on the value of its investment. Another reason why landlords will always require a significant amount of control of the subletting terms is because a subtenant could inadvertently become a direct tenant of the landlord if the lease is forfeited, disclaimed or surrendered, or if the sublease is granted within the security of tenure provisions of the 1954 Act, which would entitle the subtenant to a new lease at the end of the sublease term.

The subletting terms agreed can have a material impact on the ability to sublet. It is therefore key for tenants to ensure that subletting rights are negotiated at the heads of terms stage and that legal advice is obtained when negotiating the subletting provisions in the lease. This will help to ensure that the provisions are not too onerous so as to prevent or impede the ability to sublet and that balanced terms are agreed which all parties are comfortable with.

### Ability to sublet

Whether the tenant can grant a sublease will be governed by the terms of its lease and should be agreed as part of the heads of terms.

If the need to sublet arises during the term of the lease, the subletting provisions in the lease would need to be analysed to check what is permitted and what conditions would need to be satisfied in order to sublet. If a lease is silent on subletting, the consent of the landlord may not be required; however, this is rare in practice.

The lease may allow a tenant to sublet the whole of the space or it may allow greater flexibility by permitting a sublet of part. Whether a premises is suitable for a sublet of that part will depend on a number of factors, such as whether the premises allows for subdivision. Landlords will often want to retain a high level of control over this by identifying in the lease what will constitute a permitted part and will restrict the number of subtenants in occupation at any one time.

### Consent

If subletting is permitted, it is usually subject to the landlord’s approval and, possibly, the consent of any superior landlord that there may be. A tenant would therefore need to market the premises, find a suitable subtenant and then submit an application for consent to the landlord. The application for consent should be made strictly in accordance with the terms of the lease in order to avoid any delays with the approval process.

On receipt of an application for consent, the landlord may raise some enquiries regarding the proposed subletting. Having considered the covenant strength of the subtenant, if there are concerns over the subtenant’s ability to perform under the sublease, the lease may allow the landlord to require a guarantor for the subtenant or that the subtenant pay a rent deposit. The lease may also contain other

restrictions or conditions that a landlord may require to be satisfied before it will provide its approval: for example, rent reviews equivalent to the superior lease, a prohibition on the subtenant either assigning or further subletting and a covenant to comply with the superior lease (save for the payment of that lease's rent). If the landlord is, in principle, happy to proceed, it will usually instruct its solicitor to prepare and issue a draft licence to sublet. This will be entered into between the landlord, the tenant, the subtenant and possibly a superior landlord, where applicable. It will need to be completed before the sublease is granted.

### Sublease terms

The term of the sublease must expire before the lease term expires. This is a key point because if the sublease term is equal to or greater than the lease term, this may result in the unintended assignment of the lease to the subtenant, which could have detrimental consequences for all.

The term of the sublease should also allow sufficient time for the tenant to re-occupy and comply within any reinstatement obligations in its lease if the tenant is vacating at the end of the term (see *"Reinstatement" and "Conditions" above*). This will therefore need to be factored in, although the sublease should impose reinstatement obligations on the subtenant. Nevertheless, it is still an added complexity and requires forethought.

While the terms of the sublease will be subject to negotiation between the tenant and subtenant, they are often prescribed by the terms of the lease. These will therefore need to be checked carefully. Common subletting provisions include:

- A restriction on what rent a subtenant can be charged. The lease may require an open market sublease rent or require that it is no less than the passing rent payable under the lease. However, tenants should always resist the latter when negotiating the heads of terms as it could restrict the ability to sublet in a falling market.
- A requirement that the sublease rent be reviewed in accordance with any rent review provisions in the lease and for any reviewed rent to be approved by the landlord.

## Reasons to sublet

There are numerous reasons why a tenant may wish to sublet, including that:

- A business may need to downsize and no longer require all or part of the space. Alternatively, the tenant may have experienced growth and need to relocate to a larger space. Subletting allows a tenant to recover some of the lease costs from the subtenant, thereby helping with cash flow.
- A tenant may want to dispose of its premises purely on a temporary basis but retain it for occupation at a later date, particularly if there is a statutory right to renew the lease at the end of the term under the Landlord and Tenant Act 1954 (see *"Protected and unprotected leases" in the main text*).
- Compared to assigning the lease, the tenant has more control over the subtenant than it would over an assignee as it can impose covenants in the sublease and has a direct course of action against the subtenant if it is in breach (see box *"Assignment"*). Assigning part of the space is also likely to be prohibited under the lease, whereas a sublet of part is more likely to be permitted.
- In a falling rent market, it may be difficult to find an assignee as the rent payable under the lease is likely to be higher than the open market rent. It is becoming common practice that leases should enable tenants to sublet at the market rent, rather than the passing rent payable under the lease, therefore allowing a tenant to mitigate some of its financial liabilities.

- Whether a rent-free period or other concession, such as reduced rent periods, may be granted to the subtenant.
  - A prohibition on paying any premium or a reverse premium for the sublease (see *"Reverse premiums" below*).
  - Restrictions on whether the subtenant can assign its sublease, further sublet or share occupation of the premises. This is because the landlord will want to avoid creating an unduly complex title and management structure.
  - A requirement that the sublease is excluded from the protected lease provisions in the 1954 Act.
  - A prohibition on the sublease being varied or surrendered without the landlord's consent.
  - A requirement that the landlord approves the form of the sublease.
- clause in the lease will therefore need to be checked to ensure that any proposed alterations are permitted under the lease. There may be a requirement to obtain the landlord's consent to the works, which is usually done through a licence for alterations, which should be obtained at the same time as the licence to sublet.

### Break options

If the tenant has granted a sublease, it can be more complicated for the tenant to exercise a tenant break clause or negotiate a surrender with its landlord at a later date because there will be sitting subtenants. In these circumstances, any sublease should:

- Be contracted out of the security of tenure provisions of the 1954 Act.
- Contain a landlord's break right with a notice period shorter than that contained in the superior lease.

This enables the tenant to break its own superior lease effectively as it will have the ability to require its subtenant to have vacated before that break date and so be able to comply with its own obligation to have vacated the premises and left behind no continuing subleases.

### Alterations

If the tenant is subletting part of the premises, works may be required to sub-divide the premises. The subtenant may also want to carry out its own fit-out works. The alterations



## LEASE SURRENDERS

If the lease does not contain a tenant break right or it is too late to serve notice, an alternative may be to negotiate a surrender with the landlord. This brings the lease to an end by the tenant “surrendering up” its tenancy to the landlord. Unlike an assignment or subletting, a surrender typically brings the tenant’s liability to an end, as the lease no longer subsists. Surrenders can be entered into at any time, unlike break rights which are often fixed to a specific break date or dates, and so they can be a useful way for a tenant to move on. However, whether or not a surrender is possible is entirely at the landlord’s discretion.

### Bargaining strength

The first thing for a tenant to consider when contemplating approaching a landlord to ask for a surrender is the strength of its bargaining position. There are numerous considerations to factor into this assessment, including external market forces, which a good property agent will be able to advise on. The main issues are:

- Whether the property is under-rented. If this is the case, a landlord may be eager to take the premises back and re-let it at market price.
- The landlord’s plans for the building, such as whether it has plans to redevelop the building or to use it for its own purposes. The local authority’s planning portal will indicate whether applications have been made or permissions granted, but the tenant may also want to scour the local area for public notices posted on lampposts and the like, or check whether any public consultations have been, or are to be, held.
- The remaining duration of the term. Reverse premiums are likely to be lower towards the end of a lease (see “Reverse premiums” below).
- Any interested parties waiting in the wings. There may be interest from a marquee tenant, that is, a strong brand or anchor tenant that attracts other tenants to the building, development or centre, that the landlord is keen not to lose.

### Timing

If the tenant is trying to dovetail the exit from its current space with the occupation of new premises, it might look to enter into an

## Downsides to subletting

For a tenant that is considering subletting, there are two main disadvantages to weigh up.

**Loss of control.** The tenant will lose a degree of control over how the space is used and occupied. If the subtenant does something that puts the tenant in breach of its lease, the tenant remains liable to its landlord. While the tenant may have a remedy against the subtenant under the sublease and a landlord would also usually require a direct covenant to comply with the sublease from the subtenant in the licence to sublet, if the subtenant cannot remedy a breach, for example, it has gone insolvent, the landlord will still have recourse against the tenant.

It is therefore important that a tenant satisfies itself as much as it can through its own due diligence that a proposed subtenant is likely to be able to comply with the sublease and, if there are any doubts, to consider what additional security it may want from the subtenant.

**Costs.** The landlord will require its legal and other professional costs to be covered although it cannot charge a premium as a condition of giving its consent unless dealings are absolutely prohibited in the lease. These costs could include legal fees for preparing and agreeing the licence to sublet and a licence for alterations if the tenant or subtenant need to carry out works and, possibly, the fees of a surveyor and managing agent. These costs could reach fairly significant sums.

agreement for surrender to bring the parties under contract and fix a surrender date, or even to peg the exit to the date on which the new lease is completed. A landlord is unlikely to agree to an open-ended completion without having a backstop date by which the completion must take place. This will be a matter for negotiation.

### Balancing payments

An agreement may be needed, or be desirable, for dealing with any balancing payments due or owed under the lease. If the surrender date is to take place midway through a quarter, for example, the tenant is likely to have paid the full quarter’s rent and service charge, and so will be anxious to ensure that this is reimbursed as part of the overall settlement. There may also be a rent deposit due back on, or shortly after, completion. If a surrender premium is payable by the tenant to the landlord, the parties may wish to net the payments off against one another for cash flow purposes.

### Reverse premiums

The tenant may be required to pay a reverse premium to the landlord as an inducement to accept the surrender. Reverse premiums are payments made the other way than what would normally be expected, in this case, a payment to a landlord to allow the tenant to

give up its lease. The tenant may have to pay a reverse premium unless there is particular value in the lease, or the landlord is very keen to take the premises back; for example, it may want to use the premises itself, have a high-value tenant waiting in the wings, or want to redevelop the building.

The amount of reverse premium that the tenants pays, if any, will be determined by commercial negotiation with the landlord. The amounts will vary depending on the term remaining, the rent payable and the bargaining strength of the parties, among other things. If the property is a valuable asset, the landlord may be more willing to accept a surrender and the tenant may be able to negotiate a lower reverse premium, as the landlord may be able to relet the premises at a higher rent.

Conversely, if the landlord requests a surrender, the tenant may be able to negotiate a surrender premium from the landlord.

### Dilapidations

A typical full repairing and insuring lease requires the tenant to repair and reinstate the premises to the condition that is described in the lease, sometimes by reference to a schedule of condition, during and at the end of the term (see “Reinstatement” above).

Broadly, the tenant has two options:

- To do the reinstatement work itself.
- To negotiate a dilapidations settlement with the landlord; that is, an estimate of the cost of repairing and reinstating the premises based on their condition at the date of the surrender, to be paid in lieu of having to carry out the work.

Approximately six to nine months in advance of the lease expiry, depending on the type of property, the tenant should proactively assess how long the works may take to carry out and obtain costings. This enables the tenant to make the best choice in the circumstances. In practice, it is common to pay a dilapidations settlement. It is often not practical or desirable for a tenant to carry out the reinstatement works itself, as the tenant is unlikely to be able to continue in occupation during any works period and, unless the surrender is guaranteed, there may be wasted costs if it fails to complete for any reason.

As dilapidations can be costly, the tenant should set aside sufficient money for the work at the earliest possible stage, so that it is not left struggling to find the necessary funds later.

**Dilapidations surveyor.** Whichever route is taken, the tenant should consider engaging a specialist dilapidations surveyor to analyse the lease, licences for alterations and other relevant documents, such as side letters. The surveyor will then cost the different items of repair in a report, known as a dilapidations schedule, and advise where savings could be made. The dilapidations schedule can be used to negotiate the settlement sum with the landlord in an effort to minimise the tenant's cost exposure. A landlord's reinstatement estimate is likely to be higher than a tenant's, so a compromise position should be sought.

**Diminution in value.** Dilapidations payments are calculated by reference to the diminution in value of the landlord's interest in the property, meaning the amount by which the failure to carry out the reinstatement works has lowered the value of the space. The landlord's intentions are therefore key. If the landlord has a clear and fixed intention to knock the building down or to gut and refurbish the premises, there may be little, or no, dilapidations payable as there is no loss to speak of. Indicators of the

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landlord's intentions in this regard might be a planning application having been made, or the landlord having left other floors of a building vacant. This is a highly specialised and complex area, so expert advice should be sought. The same point applies at lease expiration.

#### Taxation

The reverse premium and dilapidations payments should be made separately as they are treated differently for tax purposes and the tenant should seek advice on the tax implications of each payment. VAT may be payable depending on who is making the premium payment. If the tenant is paying dilapidations payments to the landlord, HM Revenue & Customs has confirmed that these are outside of the scope of VAT; instead, these amounts are treated as damages. However, if the landlord has carried out the reinstatement works and incurred VAT on them, the VAT element may be recoverable from the tenant under the lease terms.

Capital allowances may be available to either landlord or tenant, depending on the situation. The figures could be significant on either part, so close attention should be

given to the position and guidance sought from solicitors and accountants.

#### Indemnities

If the tenant is an assignee and has given an indemnity to its assignor when it took over the lease, the deed of surrender should make it

absolutely clear that it releases not only the current tenant, but also previous tenants. The implication of failing to do so is that, after the surrender, the landlord may otherwise be able to pursue the previous tenant for any breaches, with that previous tenant then claiming under the indemnity against the current tenant.

#### Service charges

The figures for service charges may not be ascertainable until some months after the surrender. Typically, service charges are reconciled after the end of the service charge year, once the final figures are known. Any overpayment or underpayment should then be reimbursed by the landlord or paid by the tenant respectively, and the surrender deed should account for this reconciliation process. Rent and insurance rent should be ascertainable on completion, however,

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and so should form part of the completion statement.

### **Subleases and mortgages**

Both subleases and mortgages will survive the surrender and become a landlord's liability, as lessor and mortgagor, respectively. The landlord is likely, therefore, to raise enquiries on this point and require the sublease to be determined and the mortgage redeemed on or before the surrender. However, there may be reasons for the subtenant to remain, for example, it may be a strong covenant. If so, this will become part of the settlement and surrender process and further discussions around dilapidations should be held.

### **Guarantors**

If the lease is guaranteed, the guarantor should ordinarily be a party to the surrender deed and release wording should be included to release the guarantor from its liabilities under the guarantee.

### **Telecoms**

As mentioned, wayleave operators have wide-ranging statutory powers and so equipment on site can prove tricky to remove (see "Existing wayleaves" above). The tenant should take care not to agree to any requests from its landlord to take actions that they cannot comply with.

### **Inspections and surveys**

The tenant should keep a record of the state and condition of the premises before the exchange and surrender dates to make sure that there is no disagreement as to repairing liability. This should also flush out any unauthorised occupiers in the property, especially if it has been vacated before surrender.

### **Handover**

It will not just be the tenant that carries out the inspection. The landlord will look to assess the condition of the property and also address what the tenant needs to hand over. The tenant's replies to standard enquiries on form CPSE5 will ordinarily supply the information and documents that the landlord will need on taking back the premises. A well-prepared tenant should collate as much of this in advance to avoid delay, including the health and safety file with up-to-date fire risk assessments, energy performance certificates, asbestos reports, original deeds, operating manuals and warranties of any kit remaining in situ, and keys, fobs and passes.

### **Utilities**

The tenant should take meter readings and close accounts on the surrender date. It is much harder to deal with any outstanding liabilities or payments without physical access to the property.

### **Landlord status**

The tenant should make sure that the landlord remains the right entity to take the surrender and that it has not, for example, transferred its reversion to a group company, or granted an intermediate lease to a third party. The tenant should check the landlord's title to the property and Companies House to make sure that it has not gone into liquidation or administration.

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### **THINKING AHEAD**

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Despite the recent changes in working patterns, physical premises remain integral for many businesses. When exiting midway through a lease, a tenant can only work within the terms of its current lease. However, when a tenant is seeking to agree new lease terms with a landlord, flexible terms are crucial. Therefore, the tenant should ensure that a new lease provides it with the flexibility that it will require for the future; for example, by agreeing a shorter lease term or the right to exercise a break clause, or to sublet, assign or surrender the lease.

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