

PREMISES

No matter what the size of your business may be, you'll need to consider where to operate from, both initially and in the long term. Sorting out your work space is a key consideration for a growing business, as it can impact on your start up costs and ongoing cash flow. You also need to ensure that your chosen work space is flexible enough to adapt to your future plans for the business without restricting its growth.

There are many options to consider for a growing business looking to acquire a work space – such as whether it would be best to license, lease or buy commercial property, and what sort of space you require. Does your business need office space, warehouse storage, a customer facing area or laboratory offering, or a combination of all of these? The type of space that will work best for your business depends very much on your individual company's needs, so it is important to factor these considerations into your growing business's future plans.

Once you have an idea of the sort of work space you need, it's just as essential to get the terms of acquiring this right. You need to know that you can carry out the kinds of activity you intend at the premises, in a non-restricted way. Similarly, you need to be sure that the acquisition is done in such a way that you know what your outgoings are going to be and if they are likely to increase. Business plans can change and so it's key to ensure any documentation also includes the rights your business requires should you wish to get out of a lease or sell a property.

So which way of acquiring premises works best for you?

The most common options available for growing companies are to **lease, license or buy premises**. Each has advantages and disadvantages and you should consider the best fit for your business's plans.

If you have the funds and choose to buy commercial property, for use both as premises and an investment, thought needs to be given about how future-proof the property is. Is this something you could easily sell on, and could it work with your future plans for the company? In the science industry a business's property strategy also needs to be forward thinking and able to adapt quickly to changes in technology.

Buying is often the most costly way of acquiring work space. As you would own the property, you'd also take on the risks and liabilities which come with it, which could be unattractive for a growing business.

A common option for developing businesses is occupying the work space as a tenant by taking a lease. This is a commercial contract between your business and the landlord which should clearly set out the terms of the letting, namely the obligations of each party, the property to be occupied, the sums payable and the rights of each. They normally also specify a set period of time, which can be anything from a couple of months to hundreds of years.

Some companies (particularly those in the early stages of acquiring work space) favour taking a licence of property. This arrangement is similar to a lease but can offer greater flexibility if you don't want to commit to specific lease term. They tend to be for short terms (typically starting at 6 to 12 months) but tenants are not afforded as many rights due to the brief nature of the arrangement. Licences are most commonly used for temporarily occupying office space, so may not be suitable for all growing companies, particular those working within the science sector.

When looking to enter into a lease or a licence of work space, it's important to put a legally sound written agreement in place. The terms you agree to at the outset of a tenancy can impact the finances and options of your business years down the line. For instance, the contract should cover liability for repairs; who is responsible for these throughout your occupation and at the end of the term? The longer the tenancy is, the more likely it is that repairs may amount to more than a bit of simple DIY, which can prove costly. Another point for consideration is whether you will have the right to sublet or assign the lease (or part of the premises) if the needs of your business change. The terms of such consent are often a heavily negotiated part of a lease.

Attention will also need to be paid to how existing laws which are not specified in the written contract of the lease affect your premises; for example, the protection given to tenants under the Landlord and Tenant Act 1954. This act provides commercial tenants with the right to renew the lease at the end of the original contractual term. It's a powerful right for tenants to remain in occupation, and it applies to most commercial leases unless a formal agreement is made with the landlord to disapply this.

Similarly, it's a legal requirement that Stamp Duty Land Tax (SDLT) is payable on either the grant, lease or purchase of a property over certain prices.

A solicitor can help you negotiate the terms of your premises acquisition, be that as tenant or otherwise, to make sure your business has the right protection. We can also help make you aware of how legislation affects your occupation and what you can do to minimise risk, both financial and otherwise. We would be happy to guide you through the process of acquiring the property for you – from carrying out appropriate property searches and investigating the landlord's capacity to grant the lease (or the seller's ability to sell) through to dealing with post completion formalities, such as the submission of any SDLT return and necessary registrations.

The acquisition of an appropriate work space is a very personal thing to any business. If done correctly it can be an asset of your business, used to attract employees, deliver operations efficiently and support the business's growth.

Collaboration in Action

We have helped a range of companies acquire property that works best for them as part of their business strategy. We recently assisted a fast growing retailer in acquiring a new work space in order to grow their business. The company was particularly concerned about being able to use the property in the manner they wanted, as although the location and size fit with their business plan, the property didn't have the correct planning use rights. We were able to construct a deal which allowed them to buy the property at a time which fit in with their timescales, but included an 'option' to return the property to the seller if the correct planning use couldn't be obtained. This allowed the growing business to acquire space which could be an important asset to the company whilst retaining the flexibility to protect themselves. At the other end of the scale, we recently acted for large consortium on the purchase of a key property in the north-west of England; a strategic move which strengthened the company's position in the north as a centre of science and technology excellence.

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