

Commercial Tenant's Handbook

A guide for tenants who lease commercial premises from
Milton Keynes Council

January 2020



milton keynes council



Welcome

Welcome to your business premises and thank you for choosing Milton Keynes Council. We are one of the leading and most flexible commercial landlords in Milton Keynes, and are committed to supporting local businesses.

Whether you are an established business or this is your first venture, we will help you with your property needs and signpost you to other support available to you.

Good luck and please do not hesitate to contact us if you require our assistance.

About this handbook

This handbook has been produced to give general guidance for both existing and new tenants who hold a lease in respect of commercial premises owned by Milton Keynes Council. We are aware that some of the applications we receive are from people starting a new business or who have little experience of leasing business premises. We have therefore designed this handbook to help answer the questions that are most frequently asked and to clarify the role and responsibilities of both yourself as the tenant and the Council as landlord. This information refers to a number of common features that you are likely to find in our lease agreements.

However, it is important for you to appreciate that the terms of your own lease apply to you and although you can use this handbook as a general guide, it does not override the terms of your own lease.

This handbook should not be considered in any way to be a substitute for independent professional advice and we strongly recommend that you obtain appropriate independent legal advice so you can fully understand the implications of your lease.

The Council aims to be a flexible and understanding landlord and welcomes suggestions as to how its services can be improved (see Feedback, page 33).

Property and Facilities
Milton Keynes Council

Important information

Landlord's Consent

Please note that where Landlord's Consent is required under the terms of your lease this is in addition to other consents such as licencing and planning consent which may also be needed, albeit that these other consents may also be required from Milton Keynes Council as the local authority. Milton Keynes Council has various statutory functions; for example, the Council's role as the planning authority is entirely distinct from that of it acting in its capacity as a landowner.

When should I get professional advice?

We recommend that you seek independent legal advice on the following occasions:

- When first considering taking on a lease from the Council
- When nearing the end of your lease
- When you want to assign or sublet your lease
- For any other matters relevant to the lease e.g. alterations, change of use etc.

Details of local lawyers can be obtained from the Law Society, Chartered Institute of Legal Executives (CILEX) or Council for Licensed Conveyancers.

We also recommend that you appoint a chartered surveyor to act for you during rent reviews, lease renewal and when discussing your repairing and maintenance liabilities.

Accuracy

Whilst every care has been taken in the preparation of this guide, the accuracy cannot be guaranteed. Property law can and does change so the printed version of this handbook may become out of date.

We recommend that you obtain professional advice when dealing with all matters regarding your lease to satisfy yourself of your obligations, and do not rely on this guide as your sole source of information.

The most up to date version of this handbook can be found on the Council's website:

www.milton-keynes.gov.uk/property

It is your responsibility as the tenant to ensure you have identified and obtained all necessary consents required for your occupation and use.

Your Contact Details

Why do you need my information?

As your landlord we need to have correct contact details so we can keep you informed about your tenancy and the property you occupy.

Please let us know if you change your telephone number, preferred postal address or email address. The information you provide will be used for the likes of:

- Invoicing
- Arranging or notification of maintenance and repairs (where applicable)
- Providing you with updates

Who will control my data?

The Data Controller for all the information you provide us is:

Milton Keynes Council,
Civic Offices, 1 Saxon Gate East,
Milton Keynes, MK9 3EJ

Data Protection Registration Number:
Z4870969

✉ data.protection@milton-keynes.gov.uk

☎ 01908 254900

www.milton-keynes.gov.uk/property/privacy-notice-property-services

Who else will you share my information with?

We will only use this information in conjunction with your occupation of the premises you lease from Milton Keynes Council. Your data will be held within Milton Keynes Council's secure network

and premises and will not be processed outside of the UK.

Access to your information will only be made to authorised members of staff in relation to managing your lease and to any contractors who maintain the same levels of security that we do which are set out in the contract we have with them.

How long will you keep my information for?

Six years after the date your lease ends.

Your Data Rights

Your personal information belongs to you and you have the right to:

- Be informed of how we will process it
- Request a copy of what we hold about you. If you provided this to us electronically for automated processing, we will return it in the same way
- Have it amended if it's incorrect or incomplete
- Restrict how we process it
- Object to us using it for marketing or research purposes;
- Object to us using it in relation to a legal task or in the exercise of an official authority
- Request that a person reviews an automated decision

How do I exercise these rights?

If you would like to access any of the information we hold about you or have concerns regarding the way we have processed your information, please contact the Council's Data Protection Officer.

Moving in

We aim to make your move into one of our properties as easy as possible.

We will provide you with keys to your property along with a copy of this handbook and all applicable compliance documentation when your lease commences.

In addition to keeping these safe you should be aware of the following:

As the occupier of a commercial property, you have a responsibility to comply with a number of legal and health and safety requirements. We have set out some of those and indicated where you can find more information (See 'Health and safety requirements' page 18).

This information is provided as a guide only and you are responsible for ensuring you are adhering to all applicable legal and health and safety requirements.

Schedule of condition

Prior to your tenancy commencing, the Council may arrange for a photographic Schedule of Condition to be prepared.

The Schedule of Condition evidences the state of repair of the property when you take occupation, and the standard to which you have to maintain and repair the property, or improve on depending on the terms of your lease, during the course of your occupation.

Insurance

Do I need to insure the building?

The terms of your lease will determine the responsibility for buildings insurance.

If your lease requires you to insure the building and/or common parts a copy of the policy should be sent to Property & Facilities annually:

✉ property.services@milton-keynes.gov.uk

What other insurance do I need?

You are responsible for ensuring that you have adequate insurance cover for the following:

- Glass breakage (if applicable)
- Loss or damage to the property caused by theft or attempted theft
- Contents (these are the items brought into the premises by you)
- Any improvements you make to the property, e.g. the addition of internal offices
- Public Liability Insurance
- Employers' Liability Insurance (if applicable)

You should ensure that you have appropriate insurance cover in place when you move in to the property. You must also be prepared to confirm that appropriate cover is in place, at any time, by showing us details when we ask.

If the Council is responsible for insuring the building, what is covered?

Where it is the Council's responsibility to insure the building and any common parts, the main insured perils are:

- Fire
- Lightning
- Aircraft
- Explosion
- Escape of water from any tank apparatus or pipe
- Earthquake
- Storm or flood
- Malicious persons (vandalism)
- Impact by any road vehicle
- Subsidence

The Council recovers the building insurance premium as per the frequency set out in your lease. You do not need to purchase additional building insurance.

In the case of substantial damage to the property, which means that you can no longer occupy it, the lease may be terminated.

It is your responsibility as the tenant to make suitable arrangement for business continuity. The Council is not liable for arranging this for you (See 'Business continuity planning' page 31 for further information).

It is your responsibility under the Lease to not take any action which will invalidate Milton Keynes Council's insurance. The Council has the right to inspect your property to ensure compliance with this responsibility.

How do I claim against the Council's insurance?

Please complete a claim form which can be downloaded from the Council's website:

www.milton-keynes.gov.uk/insurance

And email it to the council's insurance team and Property & Facilities:

✉ insurance@northamptonshire.gov.uk

✉ property.services@milton-keynes.gov.uk

Utilities

You should arrange for the gas, electricity and water meters to be read on the first day of your tenancy, even if you are not moving in until later. The Council will notify the utility companies about the change of occupier.

On moving into the property please take the time to identify the position of:

- The water stopcock;
- The mains electricity switch;
- The fuse box;
- The gas isolator valve (if applicable)

You are responsible for the direct payment of charges for all water, gas, electricity, telephone and similar services consumed on the premises, including any standing charges unless an alternative arrangement is expressly set out in your lease.

Utility charges for common parts will be paid by the Council, and recovered as part of your service charge/maintenance rent (if applicable).

Business Rates

Business Rates (also known as National Non-Domestic Rates) are the means by which businesses and others who occupy non-domestic property make a contribution to the cost of local services. It is your responsibility to ensure the rates applied are correct and to pay any amounts that are due.

Further information, including whether you are eligible for Small Business Rate Relief, can be found at:

www.milton.keynes.gov.uk/business
www.gov.uk/introduction-to-business-rates

Stamp Duty Land Tax

Stamp Duty Land Tax (SDLT) is payable in respect of certain lease transactions. The amount of stamp duty payable is dependent on a number of factors.

Your lawyer will be able to advise you of the amount payable.

Further information and SDLT calculator can be found on the gov.uk website:

www.gov.uk/stamp-duty-land-tax

Land Registry

If your lease is for more than seven years then you will have to register it at the Land Registry. If you have a lawyer acting for you, they can deal with this on your behalf.

Paying your rent

You are responsible for paying your rent on time, and we are responsible for monitoring and recording all payments.

You must make sure that your rent is paid, including VAT if applicable, immediately when it becomes due.

The terms of your lease will determine the frequency and when your rent is payable. Rent is payable whether or not an invoice is received.

Should you fail to receive an invoice or have a query regarding an invoice please contact us by e-mail:

✉ property.services@milton-keynes.gov.uk

Payment options

We offer a range of payment methods for your convenience. On the back of Milton Keynes Council invoices it sets out how the rent can be paid. The various methods are summarised as follows:

Monthly Direct Debit

We do recommend wherever possible to pay by monthly Direct Debit as this is the most convenient way to ensure your rent is paid on time. Your lease will detail if payment by Direct Debit is a requirement of your occupation.

Please call or us to discuss this option:

✉ property.services@milton-keynes.gov.uk

☎ 01908 252189 or 253614

Credit/debit card

Please call and have your invoice number available and call 01908 253940

Online

Please follow the online payment link below and select the “standard invoicing” option. You will need your invoice number.

www.milton-keynes.gov.uk/pay-report-apply

BACS

A/C name: Milton Keynes Council

A/C number: 37171542

Sort code: 60 -14-55

Ref: [insert invoice number and first line of leased property address]

PayPoint

Bar coded invoices can be paid at all shops displaying the PayPoint logo or at any Post Office. Take your invoice with you when making this payment.

By post

Make cheques, postal/money orders payable to Milton Keynes Council. Write your invoice number on the back and send to: Civic Offices1 Saxon Gate East, Milton Keynes, MK9 3EJ

VAT

The Council charges VAT in respect of certain asset types and estates. At the time of agreeing terms you will have been advised if VAT is applicable. If VAT is currently not applicable you will be notified if this changes.

Problems paying

If you are having difficulty paying your rent you should contact Estates immediately:

✉ property.services@milton-keynes.gov.uk

☎ 01908 252189 or 253614

“Your lease is a legally binding contract and if you fail to pay your rent it is a serious breach of contract and the council will seek to recover the rent owed.”

It is always best that you speak to us if you are having problems paying and we will discuss options with you, which could include entering into a payment plan. We reserved the right to use any of the legal remedies available to us to recover any monies owed at our discretion:

Forfeiture

Forfeiture, or “re-entry”, is our right to terminate the lease if you are in breach of any of its lease obligations, including late payment of rent.

If lease conditions have not been satisfied, we can peaceably re-enter the property and recover possession, thus terminating the lease. This is done by entering the property and changing the locks.

Issuing court proceedings

We can issue court proceedings to recover any debts owed by you. If the court agrees with us, it will make a legal Order for the repayment of all rent arrears and costs incurred.

Enforcement Agents

Commercial rent arrears recovery (CRAR) allows us to instruct an enforcement agent to take control of your goods and sell them in order to recover the value of the rent arrears. The enforcement agent must serve notices on you setting out specific information at various stages at which the procedure is used.

Drawing down on a rent deposit

If you paid a rent deposit we have the right to draw down from it, if you are in arrears of rent. We will notify you that the draw-down is being made, and that you will be required to put additional funds into the rent deposit account to replace those funds which have been drawn down.

Serving a statutory demand

A statutory demand is a written demand for payment which complies with certain statutory requirements, and which is served on you. If you do not make payment of the amount demanded within three weeks, we can issue a petition to wind up your business.

Surrender

In exceptional cases you can ask us about surrendering your lease. We will assess your financial circumstances and the efforts you have made to ease the situation (for example trying to assign the lease, see page 14). However, we do not have to let you surrender the lease and will consider each case individually. Please do not assume that you can surrender your lease simply by returning the keys or abandoning the property. Your lease is a legally binding contract and will continue regardless of these actions.

During your lease

During the term of your lease both parties have specific obligations which you must ensure you follow

Rent reviews

Will the rent be increased during my term of occupation?

The terms of your lease will determine if and when and how your rent will increase. A rent increase occurs in the following circumstances:

- Automatically if the terms of your lease state a change in the rent payable during the period of your lease; or
- On receipt of a notice should your lease include a term that enables the rent to be reviewed during the period of your lease.

If rent is fixed during the period of the lease it cannot be changed. In these cases the rent will be reviewed at the end of the lease period as part of the negotiations for a new lease.

Repairing responsibilities

Part of my premises is in need of repair/decoration. What do I do?

The terms of your lease will determine who is responsible for repairing and maintaining both internal and external parts of the premises.

All tenants are responsible for minor works and repairs including but not limited to:

- Replacing light bulbs;
- Unblocking drains
- Arranging the replacement of broken window glass
- Replacing broken door locks
- Decorating i.e. walls professionally painted with a high quality paint in a colour preapproved by the Council
- Professionally cleaning and/or replacing carpets/floor covers (if applicable)
- Cleaning and tidying

We expect tenants to take reasonable precautions to prevent frozen and burst pipes inside their property in the event of extreme cold weather.

I think it is the Council's responsibility. What do I do?

You must let the Council know promptly when any repair for which it is responsible needs to be carried out (see 'Reporting repairs' page 12). If you are unsure who is responsible for the repair we will check the lease to confirm. If the Council is responsible, an order will be placed for a contractor to undertake the repair as soon as possible.

If I am responsible, why should I pay for repairs when I already pay rent?

This is an obligation of your lease and is standard practice for most business leases

Reporting repairs

How do I report a repair?

To report a repair that the Council is responsible for, please contact Property and Facilities:

✉ property.services@milton-keynes.gov.uk

☎ 01908 252189 or 253614

For emergency out of hour's repairs that the Council is responsible for:

☎ 01908 311773

I have reported a repair and no one has been out yet, or I'm unhappy with the repair. What do I do?

If you are unhappy with a repair please let us know so we can investigate the matter. Do not stop paying the rent as this could give the Council grounds for taking proceedings against you. Please contact us so we can investigate the matter:

Signage

Can I erect signage?

The terms of your lease will determine exactly what signage you can erect and where. As a rule of thumb, most tenants are permitted to erect and alter the signage on the property, subject to first obtaining the Council's consent and subject to obtaining any necessary statutory consent, such as planning or listed building consent (if applicable).

If consent is granted it is important for you to remember that when you vacate the property you will be liable for removing the signage and making good any damage caused.

Permitted use

Your lease will state what the property can be used for. The Council tries to maintain a balance of trade across its units but it does not grant sole trading rights to any tenant.

I want to change or extend the permitted use of my business. What do I do?

If you want to extend or change the use you need to make a written request to Property & Facilities stating the changes you wish to make:

✉ property.services@milton-keynes.gov.uk

Your request will be considered and the decision dependent on several factors, including whether your lease permits the use to be changed and whether there will be a conflict with the use of adjacent occupiers. You will be liable for the Council's professional fees associated with any request whether or not matters proceed to completion.

Assignment or subletting

The lease terms will determine whether or not you are able to assign (i.e. you are permitted to transfer all rights under your lease to another party) the lease or sub-let (i.e. you retain rights but a third party occupies part or the whole of the premises). Before you do anything it is recommended that you obtain your own legal advice.

You must not allow a third party to occupy your premises without prior consent from the council.

I want to sell my business and assign my lease. How do I go about this?

If you want to sell your business and assign your lease, and your lease terms permit this, you must:

- find someone who is willing to pay the rent and take over the other obligations in the lease, and
- request and obtain formal approval from the Council.

In order to consider the request, the following information from the person/business taking over your lease (the assignee) will be required:

- Full name and address. This information will be used to carry out credit and financial checks
- Proof of identity
- New businesses/individuals must complete a Property Application Form, which can be downloaded from our website
- Written agreement to pay rent monthly in advance by direct debit along with bank details
- An appropriate rent/damage deposit to be held throughout the remaining term of the lease and any statutory continuation (if applicable)

Please note - the Council reserves the right to ask for additional information and set supplementary conditions to those referenced as a guide in this handbook. We may refuse consent to the assignment on a number of grounds such as, in the Landlord's opinion (acting reasonably) the prospective assignee, together with any guarantor, is not of sufficient financial standing to comply with the lease obligations.

If the Council agrees to the assignment it will be subject to a number of conditions such as:

- The Council's legal and surveyor costs are paid
- All rent is paid up to date including the insurance premium and service charge
- Entering into an Authorised Guarantee Agreement (AGA)
- Any identified repairs are completed
- Any outstanding rent reviews are actioned
- Valid statutory compliance certificates are provided

Subject to the receipt of satisfactory references and confirmation of the above items, the Council's legal services will be instructed to prepare a licence to assign. When we confirm our agreement to an assignment and/or the licence has been issued, this does not mean that the lease has been transferred – you must arrange this with your assignee and notify the Council.

Until legal formalities are completed you will continue to be the tenant of the premises and liable for the rent.

What if the proposed assignee cannot supply adequate references?

If satisfactory references cannot be provided the Council will not consent to the assignment unless the assignee is able to identify a guarantor who is willing to guarantee the payment of rent and compliance with the lease terms on their behalf. The guarantor will be subject to, and must pass, the same checks.

I want to allow another business to occupy part or the whole of my premises.

How do I go about it?

The lease terms will determine whether or not you are able to sub-let part or the whole of the premises or share occupation of the premises.

Before you do anything it is recommended that you obtain your own legal advice.

How do I request permission to assign or sub-let my premises?

If you consider you have the right to sub-let, assign or share occupation with a third party, you need to make a written request

Property and Facilities, Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3EJ

✉ property.services@milton-keynes.gov.uk

The proposed assignee/sub-tenant wants to use the unit for a different purpose. Is this allowed?

If the assignment/sub-letting involves a change of permitted use, this will require separate formal consent (see page 12).

Please note for any consents required you will be liable for the Council's professional fees associated with any request whether or not matters proceed to completion.

Alterations and improvements

The terms of your lease will determine whether you can carry out alterations; please refer to this in the first instance.

If you consider you are permitted to make alterations to the premises under the terms of your lease, you must seek the

Council's written consent before carrying out any alterations or improvements. You must provide all supporting evidence/documents required by us in order for your request to be considered.

If we approve the works, you will be provided with a licence to alter and a fee will be payable for any specialist advice, surveyors and legal costs in connection with this. If consent is granted, this will be in the Council's capacity as landlord only and you will still need to apply for any applicable consents including (but not limited to) planning, building control and if appropriate listed building permission.

It will be a condition of the grant of landlord's consent to the alterations that the premises are reinstated to their original condition prior to termination of the lease.

Please note – As tenant, you are fully responsible for all Health and Safety compliance once the Lease commences. This is in relation to both the property at the time of letting and in relation to any alterations or improvements made to the Property by you as tenant.

Parking

Parking is often limited and not guaranteed so please don't assume there will be somewhere for you to park when you move into your new premises. Where we have allocated you parking, it is imperative that you only park in your allocated space/s. If we have not allocated spaces, then you must only park in the designated areas, on a first come basis, and not on grassed areas or verges.

All occupiers should be able to enjoy free access to their property and we ask all our tenants to co-operate to achieve this. Access roads and other units must not be obstructed at any time.

Unless you have consent to do so the parking/storing of the likes of trailers, boats, caravans, static homes, shipping containers and vehicles that are not roadworthy etc. is strictly prohibited.

Abandoned vehicles

I think a vehicle has been abandoned. What should I do?

An abandoned vehicle is one that appears not to be in regular use and has been in the same place for a period of time, usually three weeks or more.

Consideration should also be given to the condition of the vehicle.

If you consider a vehicle to be abandoned please notify us online:

www.milton-keynes.gov.uk/waste-recycling/report-or-request-it/report-an-abandoned-vehicleKeynes.gov.uk

Neighbour nuisance

We want all our tenants to be able to carry on their business peacefully and without annoyance or disturbance from other occupiers.

Actions that are likely to cause nuisance, annoyance or disturbance include:

- Inconsiderate parking;
- Playing loud music;
- Dumping or burning rubbish;
- Using foul and abusive language.

Where the property has common areas such as common corridors, service yards and car park spaces, tenants are asked to ensure that these areas are kept neat and tidy and clear of rubbish for the benefit of all occupiers. Inspections are undertaken on a regular basis

You are required to keep the area around your property clean, tidy and free from rubbish at all times.

I wish to make a complaint about an adjacent property/tenant

It is important to be a good neighbour and show consideration to others, but if there are instances of disagreement, we would expect tenants to first discuss this between themselves and come to an amicable solution.

If you cannot resolve the matter between yourselves and the other tenant is a council tenant, please contact the Estates team who will assist you. Complaints relating to other issues should be referred to the appropriate agency e.g. environmental health, planning services.

Waste and recycling

Tenants are required to arrange their own waste and recycling collections. The Environmental Protection Act 1990 requires businesses that produce waste to dispose of it in a legal way. Businesses need to either:

- take their waste to a licensed disposal point themselves (provided they hold a waste carriers license); or
- arrange for a collection via a registered waste carrier.

Whichever method you choose you should receive a 'duty of care' (DOC) note from either your contractor or the disposal site. This DOC note proves that you have complied with the legislation and disposed of your waste in a legal manner.

Milton Keynes Council does not operate a commercial collection service, although our contractor Serco does operate a commercial service on our behalf. To discuss commercial collections in the Milton Keynes area with Serco please contact 01908 372480.

You must ensure any skips are kept within your demised area detailed in your lease.

Why do I have to arrange my own waste collections when I pay business rates?

Commercial waste collection and recycling isn't included in your business rates in the same way that residential waste is included with council tax.

Cleaning

All tenants are responsible for cleaning the areas included in their lease. The Council will only clean communal areas. If you are unsure if the area is communal, please refer to your lease or contact us.

Grounds maintenance and gritting

All tenants are responsible for maintaining areas included in their lease. The Council will only maintain communal areas, such as grass verges and shared roadways on an estate. If you are unsure if the area is communal, please refer to your lease or contact us. There is no provision for gritting of the Council's commercial estates. Should you want to grit your area

you are permitted to arrange this yourself as long as it does not cause a nuisance, annoyance or disturbance to any other tenant.

Intruder alarms and CCTV

The Council does not, by default, provide intruder alarms, although one might already be in place or have been left by a previous occupier. The provision of security measures is your responsibility, and the installation and maintenance of any additional security systems will be at your expense and subject to Landlord's prior written consent (see 'Alterations and improvements', page 16). This will allow tenants to provide the level of security appropriate to their business.

You can use CCTV to protect your property but you will need to seek the Council's consent to install this which is classed as an alteration (See page 14). You must also meet the requirements of the [Data Protection Act 2018](#). This means you must, amongst other things:

- display a sign to let people know that CCTV is being used and why
- Inform the Information Commissioner Office (ICO) why you're using the CCTV
- keep images only for as long as you need them
- be able to provide images within 40 days to anyone you have recorded
- share images with the authorities e.g. the police if they ask for them

You should seek further advice from the information Commissioners Office: <https://www.gov.uk/data-protection-your-business/using-cctv>

Service Charge

A service charge is the method by which a landlord recovers the costs incurred in providing services in communal areas (that is, the parts of the site that are shared between various tenants) at a multiple let estate/building.

What items of expenditure are included in the service charge?

The services provided vary at each estate/building. For example, multi-let offices normally have communal corridors, meeting rooms, welfare facilities and a kitchen that all the tenants can use. The provision of such services has costs associated with them, for example, cleaning, utility (i.e. electricity) charges, repairs and maintenance.

If a building does not have any internal communal areas, there are still costs which are covered by a service charge, for example grounds maintenance, clearing of gutters, maintenance of the roof etc.

In all cases, the service charge includes a management fee for administering the works. The details of the service charge and the level of your contribution is set out in your lease.

Service charge budget

As a general rule of thumb, the service charge year runs from 1 April for 12 months. We will send a budget on or around 1 April for the forthcoming year. The budget sets out our anticipated expenditure along with the apportionment you are expected to pay, as per the terms of your lease. Some costs can be fixed (e.g. if they are in a

fixed maintenance contract) whilst others will be estimates. We will let you know if we have any unexpected large items of expenditure so you can plan for the additional expense.

You will be invoiced for the service charge either monthly or quarterly, depending on the terms of your lease.

Reconciliation at year end

At the end of the service charge year, we will calculate the actual expenditure occurred and provide all tenants with a service charge statement. We will let you know whether you have monies on account, or whether we require a further contribution from you. We will do our best to ensure our actual expenditure matches the budget as closely as possible. We will issue a reconciliation invoice or credit note at the end of the service charge year.

RICS Service Charges in Commercial Property

This professional statement sets a marker for the standards of management required in commercial property and provides mandatory obligations that RICS members engaged in this area must comply with. It has been endorsed by property bodies representing all sides of the property industry and widely acknowledged as a significant step forward for the property industry. This document is effective from 1 April 2019 and whilst not compulsory for local government, we have adopted its principles where this has been possible.

Further information can be found on the RICS website: www.rics.org/uk/

Health & Safety Requirements

Milton Keynes Council is responsible for letting a property which is fully compliant with health and safety regulations, and then this responsibility passes to you as tenant when the lease commences.

The following information has been provided to assist tenants and should not be considered an exhaustive list.

You are responsible for the health and safety of, and have a duty of care for, everyone affected by your business and its activities. This includes both employees and visitors to the premises. The Council is only responsible for compliance of any Health and Safety legislation that relates to the communal parts of multi-let buildings/external areas. You are responsible for all Health and Safety legislation that relates to the area demised under your lease.

You should conduct a thorough assessment of the risks your business faces. If you employ more than five people, you must have a written policy for how you look after health and safety.

Further information can be found from the Health & Safety Executive at www.hse.gov.uk

All tenants should keep themselves updated and satisfy themselves in respect of all their health and safety responsibilities and requirements

Fire safety and fire risk assessments

The Regulatory Reform (Fire Safety) Order 2005 applies to all non-domestic premises in England and Wales. The law applies to you if you are responsible for business premises, an employer or self-employed with business premises, a charity or voluntary organisation. Under the Order, the responsible person must take steps to:

- Identify and control any fire risks
- Carry out a fire risk assessment
- Implement and maintain a fire risk management plan

As the occupier of premises, you must undertake a fire risk assessment and where appropriate, link the risk assessment into a wider assessment in respect of larger premises, which should be co-ordinated by the premises manager. A written record must be made if you employ five or more people, or a licence is in force for the premises, such as one for the sale of alcohol or providing entertainment.

If requested, you must provide a copy of your fire risk assessment to the Council within seven working days of any request.

Electrical safety

You must assess the risks of your use of electricity at work and take steps to control these risks - from ensuring electrical installations are safe and providing suitable equipment to carrying out preventative maintenance and ensuring safe systems of work.

BS 7671 (IET Wiring Regulations) / The Electricity at Work Regulations sets out that the frequency of inspections and testing of electrical installation in commercial premises. We strongly recommend you seek independent professional advice in regards to Electrical Safety as individual requirements differ depending on the type of commercial premises being occupied and your use. At the start of your lease, you will have been provided with an up to date electrical certificate. It is your responsibility to keep this updated and to ensure any identified works are carried out.

If requested, you must provide a copy of your electrical certificate to the Council within seven working days of any request.

Further information can be found on the HSE website at www.hse.gov.uk

Portable appliance testing

The law governing the testing of portable equipment is:

- Electricity at Work Regulations 1989
- Provision and Use of Work Equipment Regulations 1998

The law requires employers to assess risks and take appropriate action.

For the avoidance of doubt, Milton Keynes Council as Landlord is not responsible for PAT Testing. You as tenant are fully responsible.

Further information can be found on the HSE website at www.hse.gov.uk

Gas Appliances

In the event of your premises having any form of gas appliances and/or flues, they must be tested in accordance with the Gas Safety (Installation and Use) Regulations 1998. In commercial premises it is the tenant's responsibility to undertake the tests.

The Gas Safety (Installation and Use) Regulations 1998 require that:

- A gas boiler is serviced annually by a registered contractor;
- Gas catering equipment is serviced annually by a registered contractor;
- All gas appliances have an annual gas safety check carried out by a registered contractor
- Any works identified as necessary by the competent Gas Safe engineer must be completed within the time frame specified.
- Any orders to not use a gas appliance by a Gas Safe engineer must be followed until the necessary repairs have been done and the gas installation certified as safe to use by the Gas Safe engineer.

Gas Safe Register is the official gas registration body for the United Kingdom and operates under an agreement with the Health and Safety Executive: www.hse.gov.uk

Water supply

Employers who manage premises with hot/cold water services and/or wet cooling systems (e.g. evaporative condensers) must understand the health risks associated with legionella and how to control those risks.

Cooling Towers

There is a requirement to notify all wet cooling towers to Environmental Protection. Further information and an online notification form can be found on the Council's website:

www.milton-keynes.gov.uk (search for cooling towers)

Legionella Control

For the technical detail on how to manage and control the risks in your system you should consult the Approved Code of Practice (ACOP) and guidance. "The control of legionella bacteria in water systems" and "Legionnaires disease: A brief guide for duty holders", which are available on the HSE website at www.hse.gov.uk (search for legionella)

Milton Keynes Council is responsible for the control of Legionnaires disease for services that fall within the communal parts of multi-let buildings. You as employer are responsible for the control of Legionnaires disease that relate to the area demised under your lease.

Asbestos

Whoever is responsible for maintaining all or part of a business premises (or any building or premises that is not a private

dwelling) has a legal duty to manage any asbestos in that premises.

Depending on the terms of the lease, this could be you as the tenant or the Council as the landlord. In the event that maintenance responsibilities are not clearly specified, the legal duty rests with the party which has the greatest degree of control over the premises. In most circumstances the responsibility lies with you as the tenant.

Where you are the legal duty holder, you must comply with current legislation which includes but is not limited to:

- Take reasonable steps to determine the location and condition of materials likely to contain asbestos;
- Presume materials contain asbestos unless there is strong evidence that they do not;
- Keep an up-to-date record of the location and condition of the asbestos-containing materials (ACMs) or presumed ACMs in the premises;
- Assess the risk of the likelihood of anyone being exposed to fibres from these materials;
- Provide information on the location and condition of the materials to anyone who is liable to work on or disturb them;
- Prepare a plan setting out how the risks from the materials are to be managed;
- Take the necessary steps to put the plan into action
- Review and monitor the plan periodically.

Remember that even if you are not legally responsible for managing asbestos risks in your premises, you have a legal duty to co-operate with the party who is, this is known as the 'duty to assist'.

Tenants, for example, must allow the landlord access to the premises to conduct inspections (if applicable). If the tenant has the responsibility, a landlord must disclose relevant information to both current and new tenants.

Where the Council has undertaken an asbestos survey of the premises, this does not however infer any legal responsibility or liability. A copy of the asbestos survey will be passed to the tenant relating to the area occupied as part of the 'duty to assist'.

Anyone undertaking any work to the premises must check the asbestos survey before commencing.

At the start of your lease you will have been provided with an up-to-date Asbestos Management Plan. In accordance with statutory legislation you are responsible for arranging for the Asbestos Management Plan to be updated every 12 months (as minimum) in accordance with the Control of Asbestos Legislation Regulations 2012.

If requested, you must provide a copy of your Asbestos Management Plan within seven working days of any request.

Further information can be found on the HSE website at www.hse.gov.uk

Smoking

Smoke-free legislation was introduced in England in 2007, banning smoking in nearly all enclosed workplaces and public spaces. Businesses must:

- display 'no smoking' signs in all workplaces and vehicles;
- make sure people don't smoke in enclosed work premises or shared vehicles.

Staff smoking rooms are not allowed. All smokers must go outside. Please ensure any staff or visitors that smoke:

- Smoke outside away from any buildings;
- Do not cause a nuisance to any occupier/s or members of the public;
- Dispose of cigarettes and the like responsibly.

Please note disposing of cigarette butts and the like on the floor/grounds of the estate is strictly prohibited.

Businesses can be fined up to £2,500 if they don't stop people smoking in the workplace or up to £1,000 if they don't display 'no smoking' signs.

Further information can be found on the Smoke Free England website:

www.smokefreeengland.co.uk

The information above is included as guidance only. You should obtain your own advice about health and safety compliance and ensure you take your responsibilities seriously.

Ending your tenancy

If your lease is expiring and you want to renew the lease or vacate, we will work with you.

Lease expiry

What happens at the end of my lease?

A commercial lease usually continues until its end date unless a break clause has been included.

Your lease will either be a “protected tenancy” or “contracted out” in law. The relevant legislation is the Landlord and Tenant Act 1954. Commercial leases are protected, unless you signed a declaration at the start of the lease agreeing to it being contracted out.

Protected tenancies “hold over” after the lease expiry and you have the right to remain in the property after.

Contracted out leases expire on the lease expiry date and you have no right to remain. We will not allow occupation of our properties without a lease in place.

In either case, we will contact you in advance of the expiry date to discuss your options. We will usually grant you a renewal unless for example you have been a poor tenant (see grounds of opposition).

The service of notices is a complex legal process and you should always seek legal advice when your tenancy comes to an end.

Protected tenancies

For protected tenancies, you will continue to hold over on the existing terms even after the lease end date. You can request a renewal lease by serving us a section 25 notice. We can propose a renewal lease or propose to bring the tenancy to an end by serving a section 26 notice. If we want to end the tenancy or refuse a new one, we can only do so by one of the specific ground in section 30 of the act.

The grounds of opposition are:

- a) the tenant has obligations in relation to repair and maintenance under the current lease and the property is in disrepair
- b) there has been a persistent delay in the payment of rent;
- c) the tenant has been/is in breaches of other terms of the existing lease;
- d) the landlord is able to provide suitable alternative accommodation;
- e) the tenancy was created by a sub-letting;
- f) the landlord intends to demolish or reconstruct the property and it is not possible without the landlord recovering possession;
- g) the landlord intends to occupy the property or part of the property for the purposes of its own business or as its residence.

Break Notices

If your lease permits you to terminate before the end date, you must give the required amount of notice as specified in your lease. Notice must be given in writing as set out in your lease; a telephone call or email is not sufficient. Notice must be served on the Council at:

**Milton Keynes Council
Civic Offices, 1 Saxon Gate East,
Milton Keynes, MK9 3EJ**

Some leases also have an option for the Landlord to break the lease early. If we exercise our right to break we recommend you seek the advice of a lawyer or solicitor.

Repair, decoration and condition

Before you leave, you must provide the Council with full vacant possession and leave the premises in good condition and repair as set out in your lease. The premises must be handed back in the same layout as when you took occupation.

What do I need to do before moving out?

All your goods and fixtures and fittings, including any tenants' improvements or alterations to the property, must have been removed from the premises and any damage caused by their removal must be made good. The repair and decoration requirements under the lease must be complied with. Any additions to the standard electrical fit-out must also be removed. The property must be left clean and tidy and suitable for immediate occupation. You must also provide us with a photograph of your final utility meter readings.

You will also need to provide us with up-to-date compliance documentation, for example: electrical safety certificate, gas safety certificate, updated Asbestos Management Plan etc.

What are dilapidations?

Dilapidations are those works which, in the opinion of a landlord, are necessary to ensure a tenant has complied with their repairing decoration and maintenance obligations under the terms of the lease.

In assessing your dilapidations liability, we will have regard to the photographic schedule of condition attached to your lease (if applicable).

The Council will exercise the right to inspect the premises, prior to the expiry or termination of the lease, and will, if necessary, serve notice on you of those matters which require to be rectified to ensure compliance with your maintenance obligations. In some circumstances, the Council reserves the right to instruct a third party specialist to assist with this process.

Usually you will be notified of your dilapidations responsibility by being sent a document called a 'Schedule of Dilapidations'. If you do not undertake the work within a specified time, the Council reserves the right to arrange for the work to be undertaken and to recover the costs from you. The Council may also seek to claim loss of rental income on the grounds of failure to comply with the lease obligations, if this has delayed the letting of the property to another tenant.

Clearing the Property

As well as carrying out any repairs we consider necessary, you must make sure that all your goods and equipment are removed from the property and it is left clear, clean and tidy. If you leave any items in the property we will give you notice that they must be removed. If you do not remove the items once asked, we reserve the right to sell or dispose of anything you have left. You will be responsible for any costs we incur, and we will use the proceeds of any sale towards any outstanding payments due to us. If we have to clear the building, we will not accept responsibility for loss caused as a result of the removal of any item from the property.

On the day that you leave

On the date you leave you will need to:

- Read all utility meters and provide us with a photograph of the reading that also includes the serial number of the meter
- Notify utility suppliers of your departure
- Provide us with evidence that any gas and electrical appliances have been regularly serviced and maintained under a service agreement
- Provide up-to-date and valid compliance certifications such as electrical/gas/asbestos certificates and confirmation that any identified faults have been rectified. In the absence of this, the Council will commission such certificates and we reserve the right to

recover the cost of the report and the cost of rectifying the defects

- Secure the property and return all keys to the Council's estates team. Please note that returning the keys before the agreed vacation date will not terminate your liability unless previously agreed in writing by the Council
- Provide a forwarding address.

Failure to comply with the above conditions and those set out in 'Repair, decoration and condition', and 'Clearing the property' (see pages 12-16) may result in your deposit being withheld.

Your deposit

If you paid a deposit at the start of your lease you will have entered into a Rent/Damage Deposit Deed detailing the holding of your deposit, what the deposit is for and any circumstances regarding the return of the deposit.

Before returning the deposit, checks will be carried out to ensure compliance with the terms of your lease. The deposit can be used against any outstanding rent, fees or monies owed. It can also be used to rectify any disrepair to the premises you are deemed responsible for. Please refer to your Deposit Deed for additional information.

When you leave, you must provide the Council with full vacant possession and leave the premises in good condition and repair as set out in your lease.

Additional information

Set out below is some additional information which we hope you find helpful.

Energy Performance Certificate (EPC)

An Energy Performance Certificate (EPC) is required on the sale, rental or construction of most commercial buildings.

This will include the assignment or sub-letting of premises. In these circumstances, the responsibility for obtaining the certificate rests with the tenant, as you will be selling your interest in the premises. Before arranging an EPC you must obtain the Council's prior written consent to do so.

The certificate is valid for ten years, providing there have been no material changes.

An EPC is required for buildings that have a roof and walls and use energy to condition the indoor climate (i.e. heating system, air conditioning or mechanical ventilation).

Further information can be found on the gov.uk website: www.gov.uk (search for energy performance certificates)

Equality Act

Equality law affects everyone responsible for running a business or who might do

something on its behalf, including staff if you have them.

Further information can be found on the Equality and Human Rights Commission website:

www.equalityhumanrights.com

Business continuity planning

Business Continuity Planning is the means by which organisations plan to maintain their business in the event of adverse impact to critical elements of that business. It is the process of planning for the unexpected.

An effective plan will provide you with procedures to minimise the effects of unexpected disruptions. The plan should enable your business to recover quickly and efficiently, with the minimum disruption to your day-to-day activities

It is your responsibility as the tenant to make suitable arrangement for business continuity. The Council is not liable for arranging this for you. Please note it is not covered by the Council's building insurance policy.

Further information can be found on the council's website:

www.milton-keynes.gov.uk/business/business-continuity-risk-and-resilience

Feedback

Your feedback is important to us and we welcome all comments

Your views

If you have any comments or suggestions about this guide please e-mail:

✉ property.services@milton-keynes.gov.uk

We aim to deliver our services efficiently, fairly and politely. If you are not satisfied with our work regarding property management issues please contact the Estates Lead by email:

✉ Peter.Beer@milton-keynes.gov.uk

Equality and diversity

Equality, Diversity and Cohesion lies at the very heart of everything we do in employing people, providing services to people and in shaping the place they live and work. This is encapsulated in the Council's Equality Vision:

'Improve the way we engage, think, plan and act to deliver equality and accessibility for everyone, every day'

Further information can be found at www.milton-keynes.gov.uk/equalities

Complaints and compliments

You can complain if you think we have:

- Done something wrong
- Behaved unfairly or not politely
- Not carried out a service to an agreed standard
- Not responded to your request for a service within our stated timescale.

What is not an official complaint?

- A request for information or a service
- An explanation of the policy or practice
- A request under the Freedom of Information (FOI) or Data Protection (DPA) acts

How do I make a complaint?

Complaints, comments or compliments all help us to improve the way we do things, you can tell us about a complaint, provide positive and constructive feedback or make a comment using our online form – www.milton-keynes.gov.uk/complaints

This will immediately log your complaint or comment onto our system. You will receive confirmation and a unique reference number and password which will enable you to track the progress of your complaint or comment online. Alternatively, you can call our complaints line on 01908 253817.

You have the right to tell us if something is wrong and we need to know.

Useful contacts

Property and Facilities

The Property and Facilities team is the managing agent of the Council's commercial premises.

- For help with your lease agreement
- Rent payments and arrears
- Giving notice
- Rent reviews
- Renewing the lease
- Repairs and maintenance (if the council is responsible)

✉ property.services@milton-keynes.gov.uk

☎ 01908 252189 or 253614

For emergency out of hour's repairs that the Council is responsible for:

☎ 01908 311773

Planning and Building Control

- Planning and Building Control
- Land Charges

✉ customerservices@milton-keynes.gov.uk

☎ 01908 691691

Environmental Health and Trading Standards

- Licensing
- Environmental Health
- Trading Standards

✉ customerservices@milton-keynes.gov.uk

☎ 01908 252398

Business rates

For help with your business rates

✉ nndr@milton-keynes.gov.uk

☎ 01908 253794

Invest Milton Keynes

For business support and advice

investmiltonkeynes@milton-keynes.gov.uk

☎ 01908 200800

Other useful contacts (not MKC)

Buckinghamshire Fire and Rescue

www.bucksfire.gov.uk/contact-us

☎ 01908 236413

Thames Valley Police

☎ 101 (call 999 in an emergency only)

www.thamesvalley.police.uk

Gas Emergencies

Cadnet / National Grid

☎ 0800 111 999

Electricity Emergencies

Western Power Distribution

☎ 105

Property and Facilities

Milton Keynes Council

Civic Offices | 1 Saxon Gate East | Milton Keynes | MK9 3EJ

property.services@milton-keynes.gov.uk

www.milton-keynes.gov.uk/property



Available in audio, large print,
Braille and other languages