

# Landlord's Guide to Understanding the Legal Aspects of Managing an Estate



**James Clewlow**  
**Managing Partner**  
**Head of Real Estate**  
01403 831 229  
[jclewlow@pdt.co.uk](mailto:jclewlow@pdt.co.uk)



**Craig Burton**  
**Partner**  
**Real Estate**  
01403 831 259  
[cburton@pdt.co.uk](mailto:cburton@pdt.co.uk)



**Mark Gugenheim**  
**Senior Associate**  
**Real Estate**  
01403 831 203  
[mgugenheim@pdt.co.uk](mailto:mgugenheim@pdt.co.uk)

“

I have known Craig Burton of PDT Solicitors for the past eleven years and have always utilised their services managing all our legal real estate needs. During this time, Craig and the team has managed to gain a comprehensive understanding of our business, its culture and our strategic goals. I believe it is this formula that has enabled PDT to work well within our business and advise the Company accordingly on all its legal property requirements. I can confirm that PDT operate with great integrity, are extremely dedicated and have always found them to be entirely honest and considerate. Furthermore, PDT has demonstrated a huge level of intelligence, leadership and judgement and I would highly recommend their services. ”

Russell Maddock, Chief Executive, Creative Foods Europe

# Landlord's Guide to Understanding the Legal Aspects of Managing an Estate

Running an estate or a portfolio of properties can be difficult. Whilst the instruction of a professional managing agent may relieve the pressure of the day to day running, it is often the legal considerations and tenant applications which cause landlords the greatest headaches.

This guide aims to highlight the most common scenarios that landlords either need to carefully consider the legal effect of decisions made or would benefit from legal input:

## 1) Application for consent to a proposed assignment of the lease or a proposed sub-letting of the whole or part of the premises.

Whilst at face value this appears fairly straightforward, and perhaps something a landlord is able to form a view on without legal input in terms of an initial analysis of a prospective assignees or undertenants financial standing from copy accounts and/or references, as the lease will require the consent of the landlord to be documented by way of a formal deed it is important (for both parties) that a formal licence to assign or licence to underlet is put in place for every proposed assignment and/or underletting.

This will ensure the identity of the current tenant or sub-tenant(s) can be identified at any time (particularly important where there are perhaps multiple sublettings of different areas for example). It is also important both for the investment value of the estate (should a landlord be looking to sell or source investment) and also to ensuring no rights are unintentionally granted to or acquired by parties who take occupation without such authority.

A licence to assign and/or licence to underlet will, in short, identify the proposed assignee and/or undertenant, impose requirements on them to provide confirmation of the date of the assignment or sub-lease (which of course the landlord will not be party to) and to provide details on to whom and where invoices should be sent. A licence to assign will often also include confirmatory provisions where additional security is required from a proposed assignee (i.e. by way of a rent deposit or similar). In addition, a licence to underlet will often include additional provisions as regards the terms of the proposed sub-lease to ensure consent only applies where terms are consistent with the head lease and the proposal does not detrimentally impact on the landlord's investment value in the estate or portfolio.

## 2) Application for consent to the charging of the lease (usually in favour of a high street lender but sometimes for more bespoke funding arrangements).

Whilst something fairly commonly dealt with outside of lawyers' hands, as the lease will more often than not require the consent of the landlord to any proposed charge (again, usually to be documented by way of a formal licence), it is important this is correctly dealt with to ensure there is evidence of exactly what has been consented to during the course of the lease.

It may, for example, be that an initial charge has been consented to and then subsequent charges have been layered on top without the consent of the landlord. As any legal charge granted will give lenders a right and interest in the property under the terms of the charge, it is important for a landlord to be aware of and comfortable with the number of charges being given and the identity of the relevant charge holders.





### 3) Applications for consent to alterations to the premises (usually prior to the works being undertaken but sometimes retrospective).

Whilst the detail of the alterations will largely be dealt with by the managing agent (where applicable), again, as the lease will more often than not provide that the consent of the landlord is obtained prior to any alterations taking place and that this is documented by way of a formal licence, it is important this is correctly dealt with.

The benefit of any such consent being documented under formal licence is that the document can expressly identify the works which are consented to so no additional or supplemental works can be “bolted on” by the tenant under an otherwise perhaps vague or non-specific consent. The licence will also include provisions regarding any measures the tenant may need to address prior to commencement of the works (e.g. obtaining planning permission / building regulations approval or obtaining the consent of the insurers), and will include provisions on how the works are undertaken (e.g. in accordance with best practice, in line with all applicable statutory requirements and using good quality and appropriate materials). The benefit of this is that where the works are not correctly undertaken this gives the landlord the ability to bring a claim to rectify the breach and ensure the works meet all applicable standards and requirements.

Importantly, the document will also then deal with reinstatement of any permitted works on expiry of the lease. It may, for example, be that the landlord is happy that the alterations are improvements to the premises and that these can (and indeed should) remain and be left by the tenant on expiry (for example, installation of air conditioning). However, where works are specific to an individual tenant’s needs or preferences (and would not benefit the landlord if these were to remain), the licence can specifically provide for reinstatement of the whole (or specific parts) of the works to ensure on expiry the premises are returned to the landlord in the best possible state for reletting.

### 4) Renewals of existing leases.

Whilst a managing agent will be better placed to negotiate the headline terms (namely the commercial rent, agreed deviations on practical issues such as rights required across the estate or otherwise and the length of term/ break dates required etc), it is always advisable to engage a solicitor to prepare and negotiate the lease document. If not done correctly this could not only jeopardise the landlord’s position with the tenant renewing but may also create issues with other tenants across an estate as a whole and/or result in additional rights or interests being unintentionally created or acquired by a tenant (including the introduction of the statutory right to renew the lease under the Landlord and Tenant Act 1954).

### 5) Granting of new leases.

Whilst managing agents and/or letting agents (as the case may be) are better placed to negotiate and agree the headline terms, the actual lease documentation should always be prepared and negotiated by solicitors for the reasons stated above as regards lease renewals. In the context of estate premises and portfolio transactions, the added benefit of this is that any new leases will be updated to ensure these cater for any advances or movement in legislation and are granted on up-to-date terms and will be consistent (where possible) across the estate and/or portfolio. This will then ensure ease of management, maximise investment value and should assist in reducing negotiation delays.

### 6) Leasehold disputes and termination.

The law surrounding recovery of rent arrears and enforcement of lease covenants is complex, with certain processes and procedures needing to be adhered to and/or pre-action protocols needing to be complied with. While some disputes will be dealt with by simple agreement between the landlord and the tenant, where this does not prove successful or a landlord or managing agent is not comfortable undertaking these discussions, a strong and commercially astute litigation team offers significant value in terms of the effective and full recovery of sums due, timely rectification of breaches and/or termination of the lease and recovery of the premises.

### 7) Side letters.

In light of the continuing Covid-19 crisis, landlords are increasingly being asked to agree short term rent holidays, deferments, payment plans for arrears and alike. Whilst if documented correctly these can be beneficial to both landlord and tenant (i.e. assisting the tenant with cashflow pressures and ensuring the landlord is better placed to ultimately see payments continue), from a landlord’s perspective it is obviously important to ensure the terms of any such agreements are clear and properly documented to avoid confusion or argument down the line and also to avoid any unintentional variations to the terms of leases agreed. For this reason, the preference is always for such agreements to be documented by way of a side letter, signed by both parties, which clearly sets out the agreed terms and confirming the same as a concession only and not a variation to the terms of the existing lease (which remain in full force and effect). Another factor for landlords to consider when being approached for such concessions is consistency

of approach across the estate (i.e. ensuring, where possible, that concessions agreed are consistent to avoid ill feeling between tenants or arguments where one party is given “more” than another for example). If correctly documented and short term in nature, the grant of such concessions should not materially impact on the investment value of an estate or portfolio.

### What is cost of legal support?

In terms of fees for the above (often the elephant in the room), as it is common practice for commercial leases to impose obligations on the tenant to meet all landlord fees in connection with any applications for consent and/or fees incurred in enforcing tenant covenants. As such, the costs will usually be met by the tenants at the estate (although generally on new leases and renewals the accepted position is that each party bears their own costs).

### How can PDT Solicitors help?

PDT have extensive knowledge and experience in assisting clients with the management of their property portfolios and multi-let estates, and established relationships with local managing agents and letting agents across the south-east.

If you own or are looking to acquire an estate or property portfolio, we can assist both in terms of any initial acquisition and/or in connection with the continued management of the estate.

“

**Working with the property team at PDT was a real pleasure and we look forward to embarking on further projects with them moving forward. Craig was approachable and responsive throughout and his extensive legal knowledge and commercial application were invaluable in negotiating some complex and involved issues and to getting the deal to completion. We couldn’t have been happier with the service we received and would recommend PDT without hesitation.**

”

Amar Bahra, Managing Director  
MIG Holdings Limited



# Trusted Advisors

We have a loyal base of repeat clients who come back time and again, year on year.

Our understanding of what matters in the sector gives our clients a competitive edge, and we adopt a collaborative, inclusive approach when working with you, recognising that this pragmatic style helps deliver results for our clients and gives them the support and care in getting the job done. We have a reputation for offering and providing our clients with commercial, practical and timely advice on all aspects of transactions.



We advise on all aspects of commercial property, construction and planning law and have a solid history of helping clients structure, negotiate and complete commercial real estate transactions.

## Commercial Real Estate

- Investment acquisitions and disposals
- Commercial acquisitions and disposals (both with vacant possession or subject to leases)
- Easements (deeds of easement and deeds of covenant)
- Licences

## Finance & Security

- Secured lending
- Refinancing

## Landlord & Tenant

- Negotiation and completion of new leases (acting for both Landlord and Tenant)
- Lease renewals, assignments and underletting (acting for both Landlord and Tenant)
- Leasehold management (including licences to assign, licences for alterations, deeds of variation and side letters for rent concessions and deferments for example)
- Lease extensions and collective enfranchisement
- Licence to occupy
- Insolvency transactions (disclaimers, surrenders, assignments)

## Property Dispute Resolution

- Disputes over the use or occupation of property, including contentious business lease renewals
- Repair and dilapidation claims
- Recovery of possession
- Claims for forfeiture (and relief from forfeiture)
- Rent and service charge recovery
- Disputes over breaches of covenant or requests for consent
- Adverse possession claims, boundary disputes, contested rights of way



We look forward to hearing from you.

If you want to discuss anything in this guide in more detail please contact Craig Burton or Elise Sherwell to see how we can help you.



**Craig Burton**  
**Partner**  
**Real Estate**  
01403 831 259  
cburton@pdt.co.uk



**Mark Gugenheim**  
**Senior Associate**  
**Real Estate**  
01403 831 203  
mgugenheim@pdt.co.uk



### We listen. We care. We support.

Our aim is to look after you and provide confident, conscientious advice.



### We have a strong eye for business

We look to advise not just on legal aspects but also on the commercial factors that impact your business.



### We act swiftly, without fuss

We provide speedy, practical, no fuss services within a sensible structured fee proposal.



### We select our lawyers carefully

We work hard at developing and supporting all our lawyers to help them develop confidence in the services they provide.



### We are experienced and considered

We consistently work on high quality, complex work and deliver measured, clear and relevant solutions.



### We are there when you need us

We work with you to get the transaction done and to support you in your business objectives.

Corporate Law & Deals Investment Shares Mergers & Acquisitions Buy-ins  
 Buy-outs International Business Corporate Restructuring Corporate  
 Finance Debt Refinancing Strategic Advisory Work Commercial Services  
 Terms of Business Commercial Documentation Commercial Agreements  
 Research & Development Agreements Data Protection & GDPR Intellectual  
 Property Commercial Real Estate Acquisitions & Disposals Development &  
 Regeneration Planning & Construction Property Investment Secured Finance  
 Insolvency & Corporate Restructuring Insolvency Investigations Administra-  
 tion & Receiverships Individual Insolvency & IVA S Liquidation & CVA S Directors  
 Disqualification Debt Collection Corporate & Commercial Disputes Contract  
 Disputes Partnership Disputes Property & Land Disputes Employment Law  
 Monthly Support & Advice Packages Management and Health & Safety  
 Training Employment Dispute Resolution Documentation Contracts Settlements  
 Corporate Law & Deals Investment Shares Mergers & Acquisitions Buy-ins



Contact us to discuss how we can help your business.

01403 262 333 | [www.pdt.co.uk](http://www.pdt.co.uk) | [law@pdt.co.uk](mailto:law@pdt.co.uk)

Authorised and regulated by the Solicitors Regulation Authority

“

PDT are a knowledgeable, approachable and efficient firm who offer easy access to their senior legal team. They are excellent at providing clear, practical and useful advice on complex matters and situations.

The Legal 500

”

PDT Solicitors hold a [Leading Firm Ranking 2022](#) for Commercial Real Estate, Corporate & Commercial, Healthcare, Commercial Dispute Resolution, Insolvency & Corporate Recovery, Debt Recovery and Banking & Finance.

