



Our expertise Your way



Your Property Questions Answered

Q I am taking a lease of some commercial premises and the Landlord has asked me to provide a deposit of several months' rent. Is this normal?

A Where a commercial lease is granted a rent will be payable by the Tenant to the Landlord, usually monthly or quarterly in advance. Additionally, if the Landlord is uncertain of the financial standing of the Tenant, for example where the Tenant has not been in business for long or is a private company with limited assets, he may ask the Tenant for a rent deposit. This is a sum of money lodged with the Landlord at the outset of the lease to be held in case there is non-payment of rent or other breaches of the lease. It is usually 3 or 6 months' rent which can be a significant upfront outlay for the Tenant and which will not be returned until the end of the lease or on a lawful transfer of the lease to a new tenant (where the new tenant will pay to you an amount equal to the rent deposit which the Landlord will continue to hold – effectively replacing your money with the new tenant's).

The Tenant will be required to enter into a rent deposit deed at the same time as the lease documenting the terms on which the deposit is to be held. This will include a term allowing the Landlord to deduct sums from the deposit during or at the end of the lease to compensate for outstanding rent or breaches of the lease, like outstanding repairs. It will also provide for the Tenant to 'top up' the deposit after such deductions to restore it to its previous level.

Although it is held by the Landlord the deposit belongs to the Tenant (subject to any lawful deductions) and any interest earned on it also belongs to the Tenant. However, in these times of low interest rates you should be careful that the Landlord does not try, through clever legal drafting, to pocket the interest. Advice from an experienced commercial property solicitor is vital to explain the effect of the legal documents to you.

With a wealth of experience in this area please do not hesitate in contacting our Property team on **01934 623501** or e-mail **bfan@powellslaw.com**

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