



E-Bulletin

Entering into leases with NHS Property Services

Where your practice occupies a building owned by NHS Property Services (NHS PS) you will almost certainly be asked to take a formal lease, even if you have been in occupation without one for decades.

You should always take specialist advice from a solicitor on the proposed terms of any such lease before committing yourself to proceed.

Why is NHS PS doing this?

NHS PS has been tasked with regularising its estate, and ensuring that all occupiers have proper leases or licences in place.

This is quite different to the approach taken by the old Primary Care Trusts, and is more akin to the approach that an institutional landlord would take.

Often – but not always – it may be in the interests of both parties to enter into a proper lease that clearly sets out the parties' respective responsibilities, but it is essential that this fairly takes into account your existing arrangements.

What is the existing basis of your practice's occupation?

If your practice is in occupation without a formal lease (or where a previous lease has expired), then you are likely to have acquired statutory rights of occupation under the Landlord and Tenant Act 1954.

As a minimum, the existence of any such rights are likely to enhance your practice's negotiating position when it comes to agreeing your new lease. This must be properly taken into account during negotiations.

What terms should be included in the lease?

If you decide to proceed with a new lease then the lease terms must be acceptable from your perspective. In particular:

- The lease must be in **BMA approved form**, and any property specific drafting must not change the key terms
- The **rent** must not exceed your rent reimbursement
- **Service charges** must be proportionate and only relate to services that the practice will actually benefit from
- **Assignment** provisions must be flexible to allow for changes in your partnership
- Sufficiently flexible **break rights** should always be carefully considered

For further information relating to this update, please contact:



Sam Hopkins
Partner and Head of GP
Legal Support
Real Estate
London
020 8780 4776
sam.hopkins@capsticks.com



Lisa Geary
Partner
Real Estate
Leeds
0113 322 5561
lisa.geary@capsticks.com

How can we help?

Capsticks is a full service national law firm that specialises in acting for GP practices on property matters. In recognition of our specialist expertise we were delighted to win *Legal Team of the Year* at the *General Practice Awards* in 2015 and 2016.

We are assisting many GP practices nationally in taking or negotiating leases with NHS PS and offer competitive packages which provide excellent value for money.

[Find out more about our GP services on our website](#)



Henry Matveieff
Associate
Real Estate
Birmingham
0121 262 6568
henry.matveieff@capsticks.com

Capsticks Solicitors LLP www.capsticks.com

| | | | |
|--|---|---|---|
| London Office 1 St George's Road, London, SW19 4DR T +44 (0)20 8780 2211 F +44 (0)20 8780 1141 DX 300118 - Wimbledon Central | Birmingham Office 35 Newhall Street, Birmingham, B3 3PU T +44 (0)121 230 1500 F +44 (0)121 230 1515 DX 13003 - Birmingham | Leeds Office Toronto Square, Toronto Street, Leeds, LS1 2HJ T +44 (0)113 322 5560 F +44 (0)113 242 2722 DX 713112 - Leeds Park Square | Winchester Office Staple House, Staple Gardens, Winchester, SO23 8SR T +44 (0)1962 678 300 F +44 (0)1962 678 311 DX 2532 - Winchester |
|--|---|---|---|

[Manage My Subscriptions](#)