

Sub-letting commercial premises in Guernsey – potential pitfalls for tenants

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We have been in our premises for a while now and have some spare space that we aren't going to need. Can we rent it out to someone else?

The lease will almost certainly contain provisions that deal with what is called "alienation" – which could be an assignment of the lease or where the tenant allows someone else to use some or all of the property. Where the tenant allows a third party to use some of the premises on payment of rent it will be sub-letting that part.

If there is no written lease, or the lease is silent on the point, the tenant can sub-let a part of the property to a third party without involving the landlord. It is more usual to find that the tenant would be in breach of the terms of the lease if it sub-let any part of the premises without the consent of the landlord. The landlord will often reserve the right to be able to refuse to give its consent if the sub-tenant is not a good covenant (is unlikely to be able to meet the financial obligations under the sub-lease) or if the sub-lease generally will affect the value of the landlord's property.

Assuming the sub-tenant will be acceptable to the landlord you may want to think about how much rent to charge, whether to include services, rates and taxes within the rent or charge them separately, security of your premises and how the sub-tenant will get to and from their part. It is also worth thinking about things you would or would not like them to do (for example where to put their recycling, or not to carry out a business similar to yours). Also, make sure that the sub-tenant's use of the premises is allowed under the planning laws and check your insurance covers your particular situation.

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