An introduction to CHP leases

A guide to agreeing a lease and understanding the benefits

At CHP we sometimes find that those who want to occupy our buildings are reluctant to complete a lease and we recognise that there may be several factors behind this. The purpose of this guide is to explain why a lease is necessary, the benefits of agreeing a lease, and to offer some guidance to make the process of agreeing a lease easier and quicker.

CHP holds the head leases for over 300 sites on behalf of the NHS and, under the terms of those head leases, is required to have underleases in place for the occupiers of its sites. This is because CHP's own landlords (often referred to as LIFTCos) are commercially-funded property owners, financed by lenders such as major banks and pension funds. As with any commercially-funded owner, the lenders want to secure their financial investment with a legally-enforceable contract – a lease.

CHP inherited the obligation for our tenants to have a valid underlease from PCTs in 2013. Yet because we are part of the wider NHS family, there is often the expectation that there's no need for us and our occupiers to comply with the requirement for a lease.

This is not the case though, and LIFTCos and their lenders still require CHP to have valid underleases with all of our tenants, and to keep those leases up to date.

KEY BENEFITS OF A LEASE

- It is a requirement of your service contract, and the CQC will audit this.
- A lease ensures you are insured in the building and limits your liability should a claim arise.
- It formally records what rooms you have exclusive or shared use of on a secure legal footing.
- The lease sets out CHP's obligations to you, including the services we will provide and the standards of maintenance to expect.
- Tenants with a lease in place have access to CHP and NHS estate improvement funding, where appropriate.
- For GP providers a lease is evidence for Rent Reimbursement under the Premises Costs Directions.
- Having a documented lease complies with IFRS16 accounting rules.

CHP knows that completing a lease can be perceived to be slow and expensive, but in practice this should not be the case. CHP can, and has, turned around leases in less than two weeks where the tenant has been engaged and had responsive, informed, legal representation.

Broadly we find that there are three reasons why leases don't complete swiftly:

Client Knowledge

For many providers, in particular smaller providers such as GPs, leases are outside their area of expertise. This can lead to delays.

Cost

The cost of instructing solicitors, and payment of SDLT.

Cultural

Some organisations do not prioritise the completion of leases and the approvals process can be lengthy.

To address these common causes of a delay, we offer the following guidance and solutions:

Client Knowledge

CHP has a list of solicitors familiar with our lease format that we can share with you. There is no catch; if you appoint a solicitor from this list they will act in your interests and will guide you through the lease process. And, as they are familiar with the terms and process, they should be able to complete the matter more quickly, reducing duplication and fees.

Costs

Appointing a solicitor familiar with our lease format should be more cost effective as they will not need to spend time and fees reviewing the standard lease clauses and will instead be able to focus on the terms that affect you in particular.

Whether you appoint a solicitor from our list our not, we strongly recommend negotiating a fixed fee wherever possible.

Cultural

We know that processes within the NHS can take time and internal governance routes to approve and execute leases is not used to the speed needed within the letting process. We are working with providers to streamline those processes wherever possible, but they can, and do, hold up progress.

Our leases work flexibly with your service contract and can be amended should your contract change.

We are transparent over our charging schedules and costs and will supply a budget statement and reconciliation to actual costs each year.

To find out more, or to progress your lease, please contact:
leasing@communityhealthpartnerships.co.uk