

GREATER LONDON AUTHORITY

REQUEST FOR ASSISTANT DIRECTOR DECISION – ADD2433

Title: "How to Guides" for Commercial Lease Negotiations

Executive Summary:

The London Growth Hub is in the process of delivering a range of property advice support to London based microbusinesses and Small and Medium Sized Enterprises (SMEs). This programme of activities was formulated to support businesses who are about to take on their first lease or renegotiating an existent lease. To complement the face to face business support offer, the GLA's Enterprise Team proposed to commission "How to Guides" and refresh existing guides, that will be accessible to any business through the London Growth Hub portal, to support their ability to negotiate commercial leases.

Decision:

That the Interim Head of Economic Development approves:

Expenditure of £15,000 to review and develop a range of 'How to' guides for commercial lease negotiations'.

AUTHORISING ASSISTANT DIRECTOR/HEAD OF UNIT

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: Luke Bruce

Position: Interim Head of Economic Development

Signature:



Date:

03/03/20

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

The London Growth Hub

- 1.1 Growth Hubs are funded by central government via the Department of Business, Energy and Industrial Strategy (BEIS) and delivered as regional public/private sector partnerships led by Local Enterprise Partnerships (LEPs) with the purpose of joining up national and local business support to make it easier for businesses to find the help they need. There are 38 hubs, one for each LEP region. In addition to providing a co-ordination function, each regional Growth Hub provides a different type of support, tailored to the needs of businesses in its region.
- 1.2 Launched in November 2016, the London Growth Hub is managed by the London LEP, the London Economic Action Partnership (LEAP). It is a combination of an online signposting tool and five physical hubs that help connect London's entrepreneurs, microbusiness and Small and Medium Enterprises (SMEs) with the support that is available to help them grow their business.

Small businesses and lease negotiations

- 1.3 Many established small businesses face being displaced from their existing premises due to rent and business rates increases and are having to find new premises in other parts of London that may meet their needs.
- 1.4 Small businesses are often at a disadvantage and can lack the knowledge of commercial leases to enable them to negotiate reasonable deals with either their existing landlords or with new landlords when they relocate. These challenges are often exacerbated by a lack of access to effective and appropriate property advice, as most commercial estate agents and surveyors also work on behalf of the landlord and are not incentivised to help micro and small business owners.
- 1.5 Similarly, commercial property law is a fairly specialist field and most small business lawyers may not be familiar with all aspects. Existing business support services often focus advice on matters of employment law, company law, intellectual property, and taxation, and do not provide comprehensive coverage of property law. The consequence of this is that businesses may sign leases which they don't fully understand and incur significant liabilities which may be difficult to withdraw from, leading to serious financial problems and in many cases, business closure.
- 1.6 In response to these issues, the London Growth Hub commissioned a pilot programme of free face-to-face business support called the Property Advice Service (PAS 1). Delivered between December 2017 and December 2018, 200 of London's SMEs were provided with free masterclasses, one-to-one support, and online resources on the topic of negotiating new leases or renegotiating existing ones. The project was well received, with 88% of participants experiencing an improvement in their understanding of commercial leases and how to negotiate.
- 1.7 PAS 1 supported over 200 enterprises and entrepreneurs through events and one to one support. The entrepreneurs and enterprises accessing the project included:
 - those considering taking on a new lease;
 - SMEs having problems with existing leases; and
 - entrepreneurs faced with unexpected costs and needing advice.
- 1.8 About 33% of the beneficiaries were already in a commercial lease, 25% were working from home, and 9% were in a co-working space. Other situations included freeholders, rented desks, and outdoor pop-up spaces. The businesses accessing the project were from a wide range of sectors across the capital, with the majority in food, drink and catering, or fashion and jewellery.
- 1.9 After accessing the service, beneficiaries went on to:

- start a search for a commercial premise;
- stay in their current situation;
- move into a new commercially leased property;
- continue negotiations with an existing landlord; and
- move to a different option such as co-working or shared space.

1.10 As part of PAS 1 a range of factsheets, articles and blogs written by industry experts were drafted and uploaded in the Growth Hub portal. These documents provide tips, recommendations, insights and answers to key issues of commercial lease. The list of documents currently in existence are:

- How to find the right property
- Costs to expect when renting a business premises
- Commercial lease overview of the terms covered by a lease agreement
- Lease length, break clauses and rent reviews
- Assignment and subletting
- Dilapidation
- The landlord and tenant relationship
- Legal responsibilities of tenants
- Dealing with end of lease issues
- Negotiation
- Choosing commercial premises
- A guide to commercial mortgages
- A guide to renting business premises

1.11 Feedback received from micro and small businesses using the above documents have requested that additional documents are developed to complement the existing advice.

1.12 The “How to Guides” will be funded from 2019/2020 Growth Hub funds that needs to be committed within the financial year.

2. Objectives and expected outcomes

2.1 The objective of this project is:

- a) to review the documents mentioned in section 1.10 and update them
- b) draft new documents as requested by small businesses that will complement existing guidance.

2.2. There are three additional documents that will be required to be drafted by the consultants, these are:

- **Introduction, flow chart, Q&A:** Most common questions asked by micro and small businesses before signing a new (or renewing) lease. This document should be used as an introduction to all the existing guidance mentioned in section 1.10. The document will be an -easy reading, plain English document that will act as introduction to small business that are considering signing a lease. The document will be designed in a flow-chart/questions and answer format and will sign post to the other relevant documents in the Growth Hub.
- **Arbitration:** is becoming increasingly the method by which to resolve landlord/tenant disputes. This method is used to help parties resolve issues related to contract disputes, rent reviews, and other lease disputes. The guide will aim to explain to the tenant a) what is arbitration b) procedures for arbitration c) benefits and downsides of arbitration d) what to do if the landlord refuses to go to arbitration and e) the financial costs involved in taking the arbitration route.
- **Which legal firm to appoint?** This document will highlight what SMEs should be looking at and what questions to ask when searching to contract a legal firm to support and advise in lease

negotiations or arbitration. The document will include: a) 'top tips' for searching and selecting the correct legal firm for your needs, b) what are the expected legal fees c) what knowledge/experience the legal firm should have in these matters d) what to do if the legal firm is unhelpful or unresponsive.

Expected outputs:

2.3 The project expected outputs include:

- revision of the 13 existing written documents;
- drafting of Introduction document on negotiating a lease;
- drafting of guidance on arbitration between landlord and tenant on commercial properties; and
- drafting of a document that will provide tips to micro and small business on how to find the right legal firm for their needs.

Expected outcomes:

2.4 Better understanding by SMEs of their rights and the processes involved when negotiating leases or starting and arbitration process.

3. Equality comments

- 3.1. Under Section 149 of the Equality Act 2010, in making decision "due regard" must be had to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who have relevant protected characteristic and those who do not. Protected characteristics include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation (and marriage or civil partnership status for the purpose of the duty to eliminate unlawful discrimination only)
- 3.2. The proposal outlined in this ADD does not pose any impact on individuals with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation). We have considered the GLA's duties in this area and will ensure that delivery of the training is done in a way that proactively supports those groups with protected characteristics. The project will particularly target and support diverse entrepreneurs that are starting or growing their business in London. These entrepreneurs will be reached via Black, Asian and Minority Ethnic (BAME) and disabled SME networks through the outreach work carried out by the London Growth Hub business advisers. The project will also adapt training sessions, whenever possible, to specific diverse entrepreneur's requirements.
- 3.3. The project has also taken into consideration the need to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not.
- 3.4. The activity outlined in this ADD focuses on support for SMEs and entrepreneurs that may not have the financial or social capital to progress their business, many of whom are likely to share protected characteristics. The issues this report seeks to address (e.g. affordability of workspace and access to free, impartial property advice and business rates) have been identified as key areas of concern for women, BAME and disabled entrepreneurs that we have engaged with through LEAP's work to support and promote diverse entrepreneurs.

4. Other considerations

- 4.1. The Mayor also has an Economic Development Strategy (EDS) that establishes the Mayor's objectives for the sustainable economic development of London. The London Growth Hub is cited throughout the EDS as a key tool in delivering the Mayor's priorities for enterprise and entrepreneurship and

delivers against the commitment to provide business support programmes, triage and signposting, online tools and multimedia business support resources through the London Growth Hub.

Key risks:

Risk	Level	Mitigation
Delay in tendering the project and making first payment before end of financial year	Medium	This tender requires approaching minimum of three quotes which will speed the process. The project manager is familiar with several firms that have expertise in these legal matters and can be invited to quote.
Not finding the correct delivery organisation for the allocated budget.	Medium	The invitation to quote will be sent to a minimum of 6 firms that specialise in these topics. This should ensure we get good quality responses.

- 4.2 There are no conflicts of interest to declare for the officers involved in the drafting or clearance of this decision form.

5. Financial comments

- 5.1 Approval is being sought for the expenditure of £15,000 on providing commercial leasing advice to microbusinesses and SME's in London.
- 5.2 The funds will be spent in 2019/20 and go towards producing content for these guides in which experts and lawyers in the leasing industry will be consulted. Any activities carried out in 2020/21 such as revisions or publications will be contained within the £15,000 therefore no additional costs are required.
- 5.3 This will be funded from the LEAP Growth Hub budget provided by HM Government.

6. Planned delivery approach and next steps

Activity	Timeline
Sending the document to minimum of 6 organisations to get quotes	February 2020
Signature of contract	March 2020
Inception meeting	March 2020
Revision of existing guidance	April-June 2020
Drafting of arbitration document	June- July 2020
Publication of all guidance in London Growth Hub	August 2020
Delivery End Date	September 2020
Project Closure	September 2020

Appendices and supporting papers:

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Maria Diaz has drafted this report in accordance with GLA procedures.

✓

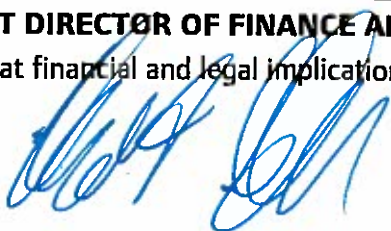
Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 2 March 2020.

ASSISTANT DIRECTOR OF FINANCE AND GOVERNANCE:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature



Date

2/3/20