

Which Legal Firm to Appoint?

Introduction

Many of the “How To Guides” in this series strongly suggest that you should get specialist legal advice and support. Especially when it comes to lease negotiations and arbitration. But how do you know what law firm to appoint? In this guide we will explain:

- What questions to ask when choosing a law firm to advise you on lease negotiations or arbitration
- Top Tips for searching and selecting the correct law firm for your needs
- What you can expect to pay by way of legal fees
- What knowledge or experience the law firm should have in these matters?
- What to do if the law firm is unhelpful or unresponsive?

What questions to ask when choosing a law firm to advise you on lease negotiations or arbitration

Work that involves transactions and deals, like lease negotiation, or conveyancing (buying and selling property) is often called “non-contentious”. Anything involving a dispute (such as arbitration) is referred to as “contentious”, or as “litigation”. Most individual lawyers specialize in either non-contentious (transactions) or contentious work (litigation). Almost all law firms however will do both types of work.

First of all, we need to know exactly what we mean when we are talking about a “law firm” or “legal firm”. This How To Guide assumes that you are looking for a firm of solicitors, and is written on that basis. When you choose a firm of solicitors to represent you, technically this is called “instructing” them. When you tell them what to do, those are also called “instructions”.

Please note however that there are many other different kinds of providers of legal services in the market nowadays. However, these providers of legal services are generally not regulated in the same way or subject to the same rules regarding (for example) client service or client money as solicitors. So, the very first question you might want to ask the law firm is:

- **Are you a firm of solicitors who is regulated by the Solicitors Regulation Authority?**
This is very important. You can check this on the Law Society and SRA websites. If a firm is regulated by the SRA then it will follow various rules designed to protect you as a client, including the code of conduct set out in the SRA Standards and Regulations. These rules deal with rules of conduct, client care, professional indemnity insurance, how client’s money is held, and your rights to challenge solicitors’ bills. See also “What to do if the law firm is unhelpful or unresponsive,” below.

Other important questions to ask are:

- **What will you charge?**
For lease negotiations, law firms may charge on an hourly basis, or alternatively they may agree a percentage fee based on the size of the transaction. It is important to agree the estimate of fees or even a fixed fee beforehand.

For rent review arbitrations, solicitors are not usually allowed to charge on a percentage basis, or on any kind of conditional basis (sometimes called “no win no fee” agreements). Charges will therefore usually be on an

hourly rate. This does not prevent you from agreeing estimates or fees for each stage of the arbitration. Fixed fees are generally not practical in arbitrations, but by all means discuss it.

- **What costs advice can you give me?**

An important factor is if they consider with you, at an early stage, how economic it will be for them to deal with the case, or whether you should consider any other options for paying, such as insurance policies for example.

- **Who will deal with my case?**

It is important to know the named individual who is dealing with your case. You should find out their status, their level of experience, and who their supervisor is. If they are part of a team, find out who is in the team and who will be dealing with your case if they are unavailable for some reason.

Lawyers in solicitors' firms are generally referred to as "fee earners". The more senior lawyers at a solicitors' firm are the partners. Your lawyer might be a legal executive or a solicitor. They will work in a particular team and be responsible to a more senior lawyer, usually a partner of the firm. As you might expect, the more senior the person, the more you can expect to be charged for their work.

- **What will I have to pay if the lease negotiation falls through?**

This is sometimes called an "abortive" fee. Find out what this is and agree it beforehand.

- **Are you approved by my mortgage lender?**

If you have a commercial mortgage lender, in your lease negotiations, they may need to approve your choice of lawyer, so that they are happy that the lease is being dealt with properly

- **Who recommended them?**

If your solicitor has paid a referral fee to an agent or anyone to get your work, then you should find that out.

- **What is your complaints procedure?**

In your initial client care letter, you should be provided with details of the complaints procedure. If you instruct the firm but cannot find a copy of it, you are entitled to ask for another copy.

Top Tips for searching and selecting the correct law firm for your needs

- As above, your first option is probably to check the Law Society's website under "Find a Solicitor". This will tell you the local area that they practice in, their level of seniority, and their areas of expertise, and also some other useful information such as what languages they speak.
- Until recently, law firms did not tend to have many published reviews. A lot of this is down to client confidentiality. Nowadays more law firms are encouraging clients to publish testimonials and reviews. Usually you will find these on the firm's website.
- You should also look for the following indications of quality and expertise:
- Check if the firm has Lexcel accreditation. This is the Law Society's legal practice quality mark for practice management and client care.
- Check which professional bodies the firm and the lawyer are a member of. Two that are relevant are the Commercial Real Estate Legal Association, a specialist group of non-contentious commercial real estate lawyers, and the Property Litigation Association, a specialist group of contentious property lawyers.

- You can also check online to see what the Legal 500 and the Chambers and Partners directory say about the firm and the individual lawyer. These directories tend to feature the bigger firms, but you may still find them useful.
- You can also check out their profile on LinkedIn. After all, it is basically an advert.
- Individual lawyers might be accredited Mediators or Arbitrators (or they might even be Judges!) which is useful to know. If your lawyer does have a high level of expertise, then you would normally expect them to charge a higher fee.

What you can expect to pay by way of legal fees?

How firms charge – and how much they charge – differs greatly. In lease negotiations it will depend to an extent on the value of the lease contract, the number and complexity of the required documents and the timeframe. The lawyer will then propose a fee that they think is reasonable. In an arbitration, it will depend on the size and complexity of the matter. Rent review arbitrations are mostly led by the client's surveyor and so the solicitor may not be required to carry out a lot of work, which will reduce the likely solicitors' fees involved.

Do consider the lawyer's hourly rate. This should reflect their seniority, experience, and skills. The rates also differ depending on geographical location. Central London or West London will tend to be a lot more expensive than Outer London, for example. You can get a rough idea of what the rates are for litigation from the government's published hourly guideline rates. These are used to guide the Courts when they are making decisions about costs. Bear in mind however that these rates are some years out of date.

Lease negotiations and arbitrations are not subject to the SRA's regulations on fee transparency, so it is difficult to find figures for comparison.

Be aware that there are likely to be charges called "disbursements". These are expenses and third party fees that you would probably incur even if you were doing the legal work yourself. For transactions like lease negotiations this will include Land Registry Fees and Search Fees, Stamp Duty Land Tax (if applicable). For arbitration this will include surveyors' or other experts' fees, arbitrators' fees (including the fee for their appointment), and possibly barristers' fees if a very unusual issue arises.

For all matters you can expect other minor fees for anti-money laundering checks, fees for telegraphic transfer of funds, photocopying, and potentially courier charges or other postage fees if this is required.

Solicitors firms will charge VAT on their fees.

What knowledge or experience should the law firm have in these matters?

- Find out if the law firm and the lawyer have dealt with many similar cases, and if so, how many. Try to find out if they have a good reputation for the type of work, and if they are known in the local area. Local knowledge can be very useful. One way to check this out is in the Legal 500 or Chambers and Partners Directory, as above.
- Check the specifics. Is their legal knowledge up to date? Ask what the "leading cases" (most important cases) are for your type of case. Or ask what the rules are. For lease negotiation, ask about the Landlord & Tenant Act 1954, for example. For arbitration, ask about the Arbitration Act 1996.
- Are they interested in the type of work? Get them talking about it. If they are interested and enthusiastic, you may have trouble getting them to shut up again! Ask about similar cases or deals they have dealt with in the past. Some of these details may be on their firm's website.

- A junior lawyer should have studied and trained with someone more senior who showed them the ropes. One guide is to see how many years “Post Qualification Experience” (or “PQE” for short) the lawyer has. This is how many years they have practiced law since qualifying. You can find this out from the Law Society’s website, or just ask. This is however only an indication. Some lawyers are simply better than others – like any walk of life.
- Some lawyers also give lectures or write articles, blogs or even books about their area of law. Is your lawyer considered to be an expert in their field? Do they provide training to other lawyers, or to surveyors? Can you see any of the lecture notes or articles they have written? Again, those details may be on their website or personal profile.

What to do if the law firm is unhelpful or unresponsive?

If the law firm is unhelpful or unresponsive, then:

- First of all, speak to the fee earner who is dealing with your case, and see if you can resolve the issue between you. It may be that you need to provide some additional information or instructions, or that there is another simple explanation.
- If this does not resolve the issue, consider speaking to the supervising partner, or even making a formal complaint. In your initial client care letter you should be provided with details of the complaints procedure. If you have lost that or cannot find it, you are entitled to ask for another copy.
- If your complaint does not resolve the issue, you may consider:
- Making a complaint to the LSO (Legal Services Ombudsman): the LSO tends to deal with “consumer” type complaints, such as not replying to emails, letters or calls, losing documents or giving unclear advice, charging amounts that you are not happy with, or not explaining issues properly.
- Alternatively, if the issue is very serious, consider:
- Reporting a solicitor or firm to the SRA (Solicitors Regulation Authority): the SRA tends to deal with more serious issues involving dishonesty or other behaviour about which you have serious concerns, such as shutting down a law firm without telling you, dishonest or deliberate overcharging, taking or losing your money, treating you unfairly because of your age, a disability, or other characteristic.

Further support

The London Growth Hub has published this series of ‘how-to’ guides to help businesses rent or buy commercial property. [This flowchart](#) will help you identify the most relevant ‘how-to’ guides for your business.



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