

**West  
Yorkshire**  
Combined  
Authority

**Creative Space**<sup>CSM</sup>  
Management

MEANWHILE USE

RESOURCE PACK  
2021

# How-to Guide

## How to use this Meanwhile Use Resource Pack.

### //01

Use this resource pack and the accompanying cloud-based Letting Agreements **Toolkit** to support your team to deliver creative meanwhile use projects.

### //02

Simply follow the chapter links through to the toolkit folders and/or click on the pink hyperlinks to access individual resources.

### //03

Or dive straight in and explore the West Yorkshire Meanwhile Use stories **here**.

From this resource pack you can download letting templates; save, store and share resources.

All featured resources have been collected to support you to deliver creative projects, stimulating culture and community across West Yorkshire, and are current as of September 2021.



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# Practical Resources and Information





# Letting Agreements

## Introduction

Forming letting agreements for meanwhile use from scratch requires specialist knowledge.

This section aims to provide a number of template agreements written in plain English that can be used to give both landlords and occupiers clarity on letting terms.

They should help to speed up the contract process, which can take weeks if not months to complete following the agreement of the broad terms of a deal.

There are two sources for the letting agreement templates found on the following pages.

### **Model Meanwhile Use Leases**

commissioned by UK government in 2012 to encourage occupation of empty premises by non-commercial occupiers.

### **Leases and accompanying Heads of Terms**

developed in 2012 by the Royal Institution of Chartered Surveyors (RICS) and the British Retail Consortium (BRC), specifically aimed at small retail businesses looking to take up empty units on the high street.



## Model Meanwhile Uses

Three types of standard Meanwhile Use Lease:

- [Meanwhile Use Lease](#), to be used for direct lettings by landlords.
- [Meanwhile Use Intermediary Lease](#), to be used for lettings by a landlord to an intermediary, such as a Not-For-Profit organisation.
- [Meanwhile Use Sublease](#) for lettings by an intermediary to a temporary occupier (including sub-letting space to third parties).

These model leases were developed to simplify the process of forming letting agreements and to provide appropriate reassurance for landlords. They are intended to ease efforts to activate vacant retail premises and support town centre vibrancy. They have been drafted to be as user-friendly as possible and avoid technical legal terms. They have been adopted by Meanwhile Foundation and are therefore in common usage across numerous local authorities in the South East of England.

They were commissioned by the Department for Communities and Local Government's Meanwhile Project (drafted by lawyers Denton Wilde Sapte on DCLG's behalf). They may be used freely. Local Project adaptations can be made using the areas highlighted in the documents, and explained in the guidance notes. However, you will need to satisfy yourself that they are suitable for the letting in question, taking legal advice where appropriate.



## Small Business Meanwhile Lease

These leases have been prepared by The Royal Institute of Chartered Surveyors (RICS) and are aimed at small High Street retail businesses to provide short-term contracts with no review or break clauses. They provide flexible terms and stable costs for small businesses and new ventures.

**A Heads of Terms template document (2015)** is linked below. It is intended to capture the main features of an agreement to let between Landlord & Tenant. This document sets out recommended Heads of Terms to precede and sit alongside the small business lease. [RICS Heads of Terms template](#)

There are two versions of the lease. The [first version](#) provides a lease term where the tenant has waived their right to automatic renewal of the lease at the end of their term as stated in the Landlord and Tenant Act 1954.

Excluding the renewal provision of the Landlord and Tenant Act 1954 means the landlord can regain control of their property at the end of the lease.

The [second version](#) is a lease that gives the tenant automatic renewal of the lease at the end of the term (as detailed within the Landlord and Tenant Act 1954 Part II section 24-28). This renewal provision is also known as 'security of tenure'.





## License Agreements

A license gives the occupier or 'licensee', permission to only occupy within set parameters. It sits outside the Landlord and Tenant Act 1954 and is suitable for intermediary landlords or licensor, to sublet space to end users such as art collectives, artists, workshop users and community groups.

A plain English example of a licence agreement between an intermediary landlord and a studio holder can be found [here](#).

## Contracting Out

The letting agreements above are either within the Landlord and Tenant Act 1954 or are 'contracted out'.

As background, "Contracting Out" is shorthand for the procedure to exclude a tenant's security of tenure i.e. the tenants right to renew its commercial lease at the end of the term.

Unless a commercial lease is contracted out, the 1954 Act will automatically give a tenant security of tenure, which protects the tenant's right to remain in occupation of the premises and its right to the grant of a new lease following the expiry of the existing lease.



When contracting out, the parties can agree that this protection is waived provided the lease grants a fixed term and these three steps are taken before the lease is granted:

1. The landlord serves a warning notice on the tenant, with specified content, explaining that the tenant's rights are being waived.
2. The tenant makes either a simple or a statutory declaration (witnessed by a solicitor) to acknowledge that it understands the consequences of contracting out. A simple declaration can only be made if the tenant has received the warning notice at least 14 days before the grant of the lease.
3. The lease includes an endorsement referring to the landlord's notice and the tenant's declaration and the parties' agreement that the relevant provisions of the 1954 Act are to be excluded from the lease.

# Insurance



# Insurance

## Introduction

Damage to stock; having to close for repairs; a customer slipping over on your premises – anything that impacts on your business can be costly. Insurance cover can help to make sure your meanwhile business is protected.

This section explains the different types of insurance policy that may apply to your temporary project and provides contacts to insurance suppliers that specialise in meanwhile use.

## Types of Insurance

### **Business premises insurance**

Usually the landlords insurance will cover the building fabric, but it's important for a tenant to check this beforehand. Otherwise, if no cover is in place, the tenant could end up liable for any damage that occurs while they're occupying the space.

### **Business contents insurance**

While business contents insurance isn't a legal requirement, it can protect the contents and fixtures of your pop-up, as well as any stock you have. Protecting your stock is essential with any retail venture, and no less so with a pop-up or meanwhile use business.



### **Employers' liability insurance**

Employers' liability is a form of business insurance that's compulsory for firms that have one or more staff, so if you're planning on staffing your meanwhile operation, you'll need it. Employers' liability insurance helps you protect the interest of your employees and complements your business' health and safety procedures.

### **Public liability insurance**

Public liability cover isn't a legal requirement but is a sensible precaution if your business involves contact with any third party - a person or entity that isn't an employee of your business. Otherwise, you could find yourself facing expensive legal action if anyone's injured within your pop-up. Public liability insurance is likely to be a condition imposed by any landlord for renting you space on a short-term basis. It covers a business / event / building – for costs from legal action if they are found liable for death or injury, loss or damage of property or loss of earnings resulting from negligence.



## Insurance Suppliers

Most mainstream insurance policies are only available for 12-month minimum periods but there are some specialists that provide short-term cover that is designed specifically for meanwhile occupiers.

[Popupspace](#) is a specialist insurance for meanwhile use and is especially created to insure short term temporary pop-ups such as eateries, shops or other events. It covers all the business insurance needs and is underwritten by Aviva. Insurance quotes can be obtained through the website.

[Hencilla Canworth](#) is an intermediary insurance company with a specialism in the arts. Founded in 1981 it has a long history of bespoke insurance solutions for artists and the arts. To apply or be eligible for cover as a creative with Hencilla Canworth an applicant must be a member of [A-N Artist Information Company](#).

Hencilla Canworth's [Showtime Performing Arts Insurance](#) is a bespoke insurance policy designed with practitioners of performance arts in mind. The policy has been created in conjunction with Hiscox Insurance. Cover is available to individual performers or acts all the way up to large scale production companies working in theatre, dance, music, and circus.

[Events Insurance](#) provides one off insurance for events that last up to 4 days. They have four key areas that they cover: Public Liability, Employers Liability, Event Equipment Insurance and Event Cancellation Insurance. For public liability the cover is £10million and for employers' liability cover is £5million.

# Business Rates Mitigation



# Business Rates Mitigation

## Introduction

Business rates are one of the key drivers for meanwhile use around the country. In most cases, unlet empty properties (referred to as voids) attract business rates costs for property owners.

Agents that specialise in rates mitigation through meanwhile use have become more common in recent years, supporting landlords who are struggling with voids or planning longer-term redevelopment of their property.

Typically, agents that manage meanwhile lettings broker agreements between not-for-profit organisations and landlords to reduce business rates costs and share the savings between the landlord, the agent and the meanwhile occupier. This drives opportunities for short-term creative or charitable use of empty property.

Under current legislation ([The Non-Domestic Rating Unoccupied Property, England, Regulations 2008](#)) a commercial property can be unoccupied for three months before the landlord is liable to pay rates. For an industrial property, such as a warehouse, this period extends to six months. For listed properties, business rates are not payable for voids so the incentives for these landlords to make a property available for meanwhile use are limited.

Temporary use of commercial property for a minimum of six weeks is sufficient for the landlord to have three months without paying business rates once that occupation ceases so even relatively short lettings can generate significant savings for landlords.





## Types of Rates Mitigation

There are four main types of temporary or meanwhile occupation for rates mitigation that are employed by landlords and specialist agents:

### **Property guardians**

This approach provides occupation, protection and management of empty properties such as offices and shops. The guardians are selected through strict criteria and are often professionals. This form of temporary, licensed occupation saves the landlord 100% security costs and mitigation of business rates.

### **Intermittent occupation**

This can involve minimum use and non-invasive use of the property temporarily such as storage or some other short-term use.

### **Exhibitions by charities**

Savings of up to 95% per year on business rates can be made if exhibitions are held by arts charities through the year. Arts and creative organisations can make good use of this as a meanwhile use.

### **Charitable organisations**

Leasing a commercial property to charitable organisation is advantageous to a landlord as a charity is entitled to 80% - 100% business relief. Landlords can also lower their costs through decreased insurance and security costs.



## Calculation of Business Rates

Paid each month, business rates generally cost around 50% of the Rateable Value of a space. The Rateable Value is intended to be broadly equivalent to commercial rental value.

All commercial tenants pay business rates to the Government based on a local assessment of the space, so get in touch with the area's local authority to clarify what you can expect to pay in business rates.

Any property with a rateable value (RV) of £12,000 or less is exempt from business rates, while properties with an RV of between £12,001 and £15,000 benefit from a sliding relief rate.

For instance, if the rateable value is £13,500, your business rate bill is halved, while a property with a £14,000 rateable value sees business rates reduced by 33%.

Even if you obtain a second property, you can continue to enjoy business rate relief on your first property as long as none of your other properties have a rateable value above £2,899 and the total rateable value of all your properties is less than £20,000 (or £28,000 in London).

# Licences and Permits



# Licences and Permits

## Introduction


In the UK, licences and permits are required for various types of business or activities carried out by individuals, community or art organisations, particularly around health and safety issues. Licences are issued by local councils and many are industry specific. For example if a pop up shop wants to play music in public it will need TheMusicLicense available from PPL PRS. If an event involves outside seating in a public space, a license for 'tables and chairs on the pavement' can be applied for from the local authority.

Other examples of licences relevant to meanwhile use:

[Street trading licence \(England and Wales\)](#)

[Permission to distribute leaflets \(England and Wales\)](#)

A search tool is available to identify all the types of licence that you may need for your meanwhile activity. To avoid incurring fines, go to [Licence Finder](#) on the government website and begin by describing your intended business activity e.g. 'retail'.



## Temporary Events Notice (TEN) – Licensable activities

A TEN is for ad-hoc licensable events on unlicensed premises in England or Wales. A temporary event notice (TEN) application must be in place no later than ten clear working days before the event (not including the day notice is received or the day of the event).

If the premises where the event is to be held is in an area governed by two or more local authorities' applications must be made to each authority. A copy of the notice must be given to the police no later than ten working days before the event. Applicants must be 18 years or older to give a TEN and can give a maximum of five TENS per year. If the applicant is a personal licence holder, you can give a maximum of 50 TENS per year. The event must involve no more than 499 people at any one time and last no more than 96 hours with a minimum of 24 hours between events. Premises can have no more than 12 events per calendar year.

See [Temporary Events Notice \(England and Wales\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/temporary-events-notice-england-and-wales) for more information on temporary 'licensable activities'.

# Absent Landlords



# Absent Landlords

## Introduction

There are commercial properties that will be sitting empty and neglected in town centres that have potential for meanwhile use. A property may be tenanted but the leasehold for the land may need renewal or extension by the freeholder.

Sometimes finding the freeholder for some of these properties can present a challenge.

An absentee landlord can be a company/local authority or corporate body, or an individual that owns or rents out real estate but is not an owner occupier. The call for a national register for all UK landlords in the private sector, was rejected by the government in 2019.

Attempts by local authorities to collaborate with an absent property owner whose building is prime for

meanwhile use or sits within a designated zone for regeneration, can delay future plans for that area.

Involving private and local authority property asset managers is an essential component in place making programmes.

The types of entities that typically own commercial properties are private individuals, or small to large property companies. Types of ownership has changed from mainly large pension funds and financial institutions owning these property assets; however, it is true to say that private ownership is mixed.

Most commercial properties are managed by property agents who are often the first port of call but may not have all the answers needed.



## Steps to find an absent landlord

### Land Registry

[HM Land Registry](#) is a simple and low-cost place to look for property ownership. With an address, and post code, the freehold maybe easy to identify through obtaining an official copy of the register. At times both the freehold and the leasehold information may be available. The cost of an online a copy of the register is £3 per request. A title register is £7.

As well as the owners name and address, the information on the register may contain any charges or mortgages linked to the property.

### Real estate agents and property managers

Most commercial properties will be managed by a property agent or property manager. These agents are employed to manage the asset, lettings, leases, rent collection and to reduce rental voids for the owners. Engaging with the agent is a very useful route to their client when needing to get responses about the property.

Some agents may be reluctant to give out information about their client which can depend on their contracted relationship with the freeholder, so it is wise to be clear about the purpose of the request for information. It might be that you ask the agent to pass a letter or email to the client to avoid any possible breaches of data protection. Please seek legal advice on this issue.





## **Companies House**

Looking for owners via [Companies House website](#) is another way to find absent landlords. If the name of the business is a limited company, director names and addresses can be found on the register.

## **Local authority planning department**

Information about an address and property owner is likely to be stored within the Local Planning Authority (LPA) records. Planning applications for changes in property use or building adjustments that have been approved or denied will be documented with the LPA. The owner or the applicant and an address will be listed and should give the information needed. Records go back a number of years so older long held properties will be on the website.

## **Commercial property databases**

There are a small number of good quality online property databases that can often provide details about a property. CoStar is one such provider that monitors the market and provides property professionals with property data and insights. This includes purchase costs, floorplans and often the name of the freeholder. Another commercial database is Nimbus Maps analysing both residential and commercial properties. Both databases require online sign ups with the option to pay a subscription for full access to the services on offer.

# Meanwhile Use Case Studies

# Meanwhile Stories

Explore a [collection of stories](#) featuring creative meanwhile use projects that build community, animate place and re-purpose space.



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