



GREENE KING
PUB PARTNERS

GUIDE TO BUYING & SELLING A LEASE



**YOUR RESPONSIBILITIES
THROUGHOUT THE AGREEMENT**

CONTENTS

PART 1: PURCHASING A LEASE

1	Purchasing a Lease	5
1.1	Your relationship with Greene King	5
1.2	The information we provide you and the Seller	5
1.3	The information you should receive from the Seller	6
1.4	Property inspection	6
1.5	Independent advice	7
1.6	Instruct a Solicitor	7
1.7	Information you must provide us	8
1.8	The Lease information you should receive	8
1.9	Buying the Inventory	8
1.10	Other legal documentation	8
1.11	Business Rates & Council Tax	9
1.12	Gaming machines	9
1.13	Training	9
1.14	Working together	9

PART 2: SELLING A LEASE

2	Selling a Lease	11
2.1	Preparing to sell	11
2.2	Employing a selling Agent	11
2.3	Greene King's approval to assign	11
2.4	Instruct a Solicitor	12
2.5	Information you'll need to have ready	12
2.6	Property information	13
2.7	Inventory	13
2.8	Personal Licence and a Designated Premises Supervisor (England & Wales) /Designated Premises Manager (Scotland)	13
2.9	Rent and trade accounts	13

ADDITIONAL INFORMATION

3	Rent reviews	14
4	Summary of Costs	14
4.1	Buyer	14
4.2	Seller	14
5	Meeting Prior to Completion	15
6	Statutory Compliance Certification and Testing Guide	15
6.1	Important notes	15
6.2	Gas safety tests	16
6.3	Electrical tests	16
6.4	Emergency light test	16
6.5	Fire alarm test	16
6.6	Fire risk assessment	16
6.7	Asbestos report	17
6.8	Duct and extract system cleaning	17
6.9	Lifts and hoists	17
6.10	F-gas (fluorinated gases)	17
6.11	Play equipment	17
6.12	Energy Performance Certificate (EPC)	17
7	Application To Assign checklist	18
8	Useful Contact Details	19

INTRODUCTION

This guide sets out points that you should consider when buying or selling a Lease for a pub business with Greene King, and refers to pubs in England, Wales and Scotland. It is set out in two parts. Part One refers to purchasing a lease, and Part Two refers to selling a Lease.

The process of buying or selling a Lease is known as an Assignment in England and Wales or an Assignation in Scotland.

This document should be read in conjunction with the Pubs Code etc Regulations 2016 and our Running a Pub Information Guide, which can be found online at **www.GreeneKingPubs.co.uk**

PLEASE NOTE

The information contained in this document is for guidance only. It does not form terms of your Agreement and it is not intended to have legal effect. You must seek the services and advice of independent specialist advisers who have the necessary licensed trade experience before entering into a legally binding commitment.

PART 1:
**PURCHASING
A LEASE**

1: PURCHASING A LEASE

1.1: YOUR RELATIONSHIP WITH GREENE KING

If you are considering buying a lease your negotiations will be with the Seller (the existing Lessee or Assignor), and not with Greene King.

As the Buyer (Assignee) you will take over all the existing Lessee's responsibilities that are stated in the terms of the original Lease, including the rental terms and repairing liabilities.

Greene King will become involved in the process when the Seller notifies us that terms for the assignment/ assignment have been agreed with you.

We will need to meet you to help decide whether to give our consent to the proposed assignment/assignment. At this meeting we will assess your business plan, business experience, competence and credit worthiness.

Our formal approval will be provided by way of a Licence to Assign in England and Wales or a Letter of Consent to Assignment in Scotland, which will be issued by our Solicitor following our instructions.

Please note:

Acceptance of you by Greene King as a Buyer of a Lease Assignment or Assignment does not mean that we have guaranteed that your business will succeed. Success depends upon your own research, professional advice and ability to run the business.

1.2: THE INFORMATION WE PROVIDE YOU AND THE SELLER

To support your decision making process to purchase the business and to prepare your business plan, we will provide you with the following information:

1. A summary of trade volumes for products purchased from Greene King over the past three years, where available. If these details are not available then we will explain why. It should be noted that historic trading data is not a guarantee of future trading performance.

2. Information relating to any fees payable by you to us in respect of the Assignment/ Assignment.

You may have to pay Stamp Duty Land Tax (SDLT) on completion of your Agreement. You should check this with HM Revenue & Customs or your legal advisor.

3. A full description of the pub including:

- Details of the superior landlord, where applicable, with name and address.
- Full details of the Premises Licence and licence conditions.

The Premises Licence is held by Greene King. The annual cost of this licence with the local authority is re-charged to you. Any costs associated with any subsequent reviews or variations will also be re-charged to you. For more information, please refer to our Guide to Charges.

- Details of any enforcement action taken by any public authority during the previous 2 years, where known.
- Details of any foreseeable material changes to the commercial conditions in the pub's local area, where known, to include details of any planned capital developments at Greene King pubs within the vicinity, where statutory planning consent has been received and details are in the public domain.
- Details of any restrictions on the use of the pub, such as planning constraints, access to the premises etc.
- Details of any specific problems in the pub.

4. A Schedule of Condition, that will describe the current condition of the property, where one hasn't previously been provided by us.

The Schedule of Condition is issued for information purposes only and will not limit the repairing liabilities set out in your Agreement.

5. A Schedule of Dilapidations that we have served on the Seller (Assignor).

6. Gaming machines information (see section 7.6 of our Running a Pub Information Guide).

7. Our Guide to Insurance which provides details of our Buildings Insurance.

8. A copy of the Lease Agreement and any other associated agreement documentation, such as a Deed of Variation.

9. A copy of the Investment Agreement, if one exists.

10. Demographic information relating to the pub.

Additional information and guides:

- a) The Pubs Code etc. Regulations 2016 (the Pubs Code).
- b) A copy of our information guide – Running a pub with Greene King.
- c) A Greene King Price List.
- d) A Guide to Charges.
- e) A guide to our Training services.
- f) Industry benchmarking reports such as:-
 - The British Beer & Pub Association - Guide to costs for tied tenants and lessees.
 - The Association of Licensed Multiple Retailers – Benchmarking Report
- g) RICS* Guidance - The current edition of 'The Capital and Rental Valuation of Public Houses, Bars, Restaurants and Nightclubs in England and Wales'.
- h) Business planning templates, including business plan, profit and loss, cash-flow and sensitivity analysis available on our website www.greenekingpubs.co.uk under Business Planning.

If you request any further information we shall supply it subject to it being available. If we are unable to provide the information we will explain why.

1.3: THE INFORMATION YOU SHOULD RECEIVE FROM THE SELLER

Your seller should provide you with the following information. Before agreeing to the assignment, we will check to ensure you have received this information.

- **Trading accounts** – a minimum of 3 years management profit and loss accounts.
- **VAT returns** – it is suggested that a minimum of the past 8 quarters VAT returns are seen.
- **Stock reports** – ideally covering the most recent 12 month trading period for both wet and dry sales should be provided.
- **Contracts for the supply and hire of goods and services** – ask for copies of all contracts. These should include checking fixtures and fittings items that may be subject to lease/hire purchase (eg. catering/kitchen equipment) or rental (eg. amusement machines, sanitary equipment in WCs, linen).
- **Statutory service providers** – ask for details including name and account number and confirmation that all accounts are paid up to date. Check that contract terms can be changed for a new operator.
- **Bookings, reservations and deposits** – ask for details eg. names, addresses, phone numbers and amounts collected/charged.
- **Website and intellectual property rights** – ensure that the website domain name, email addresses and membership of any bookings and reservations websites are declared and included in the business purchase.
- **Statutory Notices and claims made against the business** – confirm whether there are any outstanding Statutory Notices or claims made against the business (eg insurance, public liability, environmental health, planning breaches and fire officer) and whether these will continue after purchase.
- **Claims made by the business** – check whether there are any outstanding claims made by the business (eg. insurance) and whether these will continue after purchase and you will receive the benefit.
- **Statutory compliance certification** – Your solicitor should check statutory compliance matters and request up to date copies of the following:
 - Electrical Installation Condition Report (both residential and commercial).
 - Gas Safety Certification (both residential accommodation and commercial catering kitchen).
 - Fire Alarm and Emergency Lighting Test Certificates.
 - PAT (Portable Appliance Testing) Certificates.
 - Asbestos Management Action Plan.
 - Fire Safety Risk Assessment (NB thatched properties may require additional action).
 - Health and Safety Risk Assessment Policy.
 - Disability Discrimination Act Audit.
 - Energy Performance Certificate (EPC).
 - Service and inspection records for:
 - fire extinguishers
 - security system
 - duct cleaning
 - chimney sweeping
 - tills
 - outside play equipment
 - sewage treatment plant (if not on mains drainage)
 - any other specialist equipment.
 - Licensing Due Diligence information.
- **Test Certification and Service Records** – these documents should cover appliances (eg cooking appliances, freezers), plant (eg boilers, refrigeration and cooling units, air conditioning and extract systems and sewage treatment plants), and equipment (eg beer raising equipment including ‘python’ systems, lifts, dumb waiters and hoists). They should be prepared by suitably qualified or approved persons/contractors, be in date and clearly describe what has been tested or serviced and state whether it meets statutory or manufacturer’s requirements.
- **Employees’ details** – TUPE (Transfer of Undertakings Protection of Employment) Regulations 2006 will apply. You will have a responsibility to obtain information about the staff employed by the business and the outgoing lessee has a responsibility to provide you with all details and contracts of staff employed by the business including; name, address, date of birth, hours worked per week, rate of pay, National Insurance number, employment commencement date, holiday pay, details of staff on maternity/ paternity/ sick leave.

We strongly recommend you seek specialist employment advice to ensure you fully understand your obligations under TUPE.

1.4: PROPERTY INSPECTION

You must ensure you have fully inspected the whole premises before you buy the Lease. Do not allow the Seller to either rush or restrict access to you. We also suggest that you visit the pub at different times to assess trading patterns (without prior notification to the Seller) to see how the business is operated.

Most of our Lease Agreements are fully repairing and include ‘Put and Keep’ repairing obligations. This means that no matter what the condition of the property is at the start of the Lease Assignment/ Assignment, you must repair the property and put it into a good condition and keep it in that condition at all times. This means that even if repair work is needed at the start of the Assignment/ Assignment, it is your responsibility to carry out the repair. Your obligation to repair the property means repairs to all of the property. For further information, please refer to your Lease Agreement.

We will provide a Schedule of Condition that will describe the current condition of the property where one hasn’t previously been provided by us.

This is issued for information purposes only and will not limit your repairing liabilities set out in the Agreement.

To ensure that you understand your repairing obligations under your Lease Agreement, you should arrange for your own full structural survey of the property to be carried out by a suitably qualified person. In addition you should arrange for any supplemental specialist reports as recommended by your surveyor. These are anticipated to include obtaining an Energy Performance Certificate, an electrical installation survey, gas installation survey, mechanical survey and associated testing and a video drainage survey. Before completing the Lease Assignment/ Assignment we will require evidence that you have undertaken this.

We will ask the Seller to provide copies of statutory certification and test reports to ensure the pub is safe and that the Seller has complied with their obligations under the lease. Any checking of the documents is for our own internal purposes and is not for the benefit of the Seller or Buyer (Assignee)

of the agreement and no reliance should be placed by the Buyer or the Seller on this process.

You should also speak to the Police, Local Licensing Authority and Environmental Health Officer to establish whether there are any current issues.

Different Types of Property Inspections

A Structural Survey will record the current state of repair of the property and advise on future repair, maintenance and statutory compliance issues.

A Schedule of Dilapidations will record wants of repair that are outstanding at

the date of inspection that are the Assignor's responsibility

(the Seller's in this case) under the Terms and Conditions of the Lease. For example, a Structural Survey will refer to a flat roof that is likely to require recovering in 5 years time, whereas a Schedule of Dilapidations will not make reference to it if the roof is not in need of repair at the date of inspection.

A Schedule of Condition provided by us will describe the current condition of the property regardless of who is responsible for undertaking repairs.

1.5: INDEPENDENT ADVICE

You must take independent professional advice, such as, legal, financial, property and valuation advice from an RICS qualified surveyor. They can help you prepare your business plan and advise you before entering into an Agreement and, during the term of your Agreement where required. We will require evidence that you have taken such advice by way of letters of engagement.

* The Royal Institution of Chartered Surveyors (RICS) - RICS is the one of the world's leading professional bodies for qualifications and standards in land, property and construction. Visit their website at www.rics.org.

1.6: INSTRUCT A SOLICITOR

You should instruct a solicitor familiar with commercial property conveyancing and business purchase – ideally with experience of the pub sector, to act on your behalf.

When you instruct your solicitor, ask for confirmation of a realistic timetable to complete the sale. This is likely to be 6-8 weeks depending on the terms of the sale and your funding arrangements. It is good practice to agree a target Completion Date with the Seller.

Your solicitor will seek to negotiate terms to protect your position. The solicitor will deal with:

- **Purchase Documentation** – agree purchase legal documentation with the Seller's solicitors. When you instruct your solicitor it is important that you confirm how you will operate the Lease – i.e. as a private individual, partnership, limited liability partnership or private limited company. This should be consistent with your business plan. A change of mind later in the process could increase fees and cause delay. If you decide to operate as a private limited company or a limited liability partnership we will require two personal guarantors.
- **Enquiries** – carry out all pre-contract enquiries and due diligence.
- **Landlord's Consent** – this is Greene King's consent to you buying the lease, which is provided by way of a Licence to Assign in England and Wales, or Letter of Consent in Scotland. We will instruct our own solicitor to issue this. Where there is a superior landlord, we will also require their consent to assign the lease.
- **Licensing** – support is offered through our licensing partner TLT solicitors, who will handle the change of Designated Premises

Supervisor/ Manager (DPS/DPM). However, your solicitor should be in a position to advise you on licensing matters. In particular, the solicitor should check the terms and conditions of the Premises Licence and confirm restrictions and obligations (eg. permitted hours, door security, CCTV).

- **Gaming Machines** – request confirmation from the Seller that notification has been made to the Local Licensing Authority for all machines that require notification. Where the Lease is subject to a machine supply arrangement with us, the machine supplier will be able to provide this. Where the Lease does not include a machine supply arrangement, the Seller will need to provide this information. Gaming Machines are defined under the Gambling Act 2005.
- **PRS (Performing Rights Society), PPL (Phonographic Performance Limited) and Sky TV and other subscription based TV and internet services** - the solicitor will check that certification and payments are up to date.
- **Other Consents** – confirm whether any other consents are needed to operate the business eg. Highways Act Licence in England and Wales or the Planning or Roads Scotland Act provision for location of tables and chairs on a public thoroughfare, or drainage discharge consent if not on mains drainage.
- **Sub-Letting** – most leases do not allow sub-letting. Your solicitor will need to confirm this information to you.
- **Loan Documentation** – if you are planning to fund the purchase by way of a loan your solicitor will deal with loan documentation including any charge against the business or other assets.

1.7: INFORMATION YOU MUST PROVIDE US

You must provide us with the following information in order that the Lease Assignment/Assignment can be completed:

1. Confirmation that you have completed our online Application Form detailing your background and any relevant experience.

2. A copy of your “sustainable business plan”. (See section 3.1 of our Running a Pub Information Guide).

A “sustainable business plan” is a business plan which:

- Has been prepared in consideration of independent professional advice, such as legal, financial, property and rental valuation advice.
- Includes financial forecasts for a minimum of five years including:
 - i. Estimates of income and expenditure
 - ii. A sensitivity analysis
 - iii. The impact of any indexation on the rent
- Contains a forecast of the income and net profit for a minimum of five years.

3. Evidence that you have obtained proper independent professional advice before making any commitment.

4. A BII Pre-Entry Awareness Training (PEAT) certificate (unless you meet the conditions as set out in section 3.3, of the Running a Pub Information Guide).

5. Details of your Personal Licence, or evidence of the Designated Premises Supervisor/ Manager (DPS/DPM) who holds a Personal Licence.

If you are an individual you must hold a Personal Licence to run a pub. If you are a company or limited liability partnership then the person who will be running the company or managing the pub will need a suitable qualification to obtain this. In England and Wales the qualification is the Level 2 Award for Personal Licence Holders (APLH), or in Scotland the Scottish Certificate for Personal Licence Holders (SCPLH) - which we can help you with. If the person proposed is not eligible for a Personal Licence, we will need to know why and you should appoint an alternative Designated Premises Supervisor/ Manager (DPS/ DPM), who must hold a Personal Licence.

6. Proof of identification.

7. Proof of funding.

8. Details of any loan for buying the Lease including any formal loan letter.

9. Credit check consent.

If you are planning to operate as a private limited company or a limited liability partnership we will require two personal guarantors.

1.8: THE LEASE INFORMATION YOU SHOULD RECEIVE

You must make sure that the originals of all current legal documentation relating to the Lease are provided to and checked by your solicitor. These should include:

- The Lease.
- Deeds of Variation.
- Landlord’s Consent Documents eg. Licence to Alter or Licence for works.
- Rent Review Memorandum confirming current rent payable.
- Concession letters.
- Statutory Approvals – eg copies of planning consents, licensing approvals.
- Sub-letting details and consents – if allowed under the terms of the lease.

It is important that you know the terms and conditions of the Lease and that you understand your responsibilities. In particular, you should check the current rent payable, when it is next due for review, your product purchasing obligations from us and your repairing obligations.

1.9: BUYING THE INVENTORY

It is good practice to request that an inventory is prepared and agreed for inclusion in the Contract of Sale. Only those items that are owned by the Seller (i.e. not leased or hired from third parties) should be included in the sale. The contract of purchase should state that the Seller owns those items listed in the inventory and that they are not subject to any restrictions on sale.

Where an inventory has not been prepared, make sure you know what items are included in the purchase and what will be left at the pub on Completion Day.

You should consider instructing a Licensed Property Valuer to act on your behalf to check the inventory and relevant certification and service records.

1.10: OTHER LEGAL DOCUMENTATION

Your solicitor will check the proposed purchase documentation and agree the legal drafting with the Seller’s solicitor. You should consider the inclusion of the following in the contract of purchase. The extent to which the Seller’s solicitor will go along with these provisions is likely to be dependent on the circumstances of the sale and market conditions.

- **Restricted Covenant Provision** – usually a limit on the Seller starting a similar business within an agreed distance and time period. It is worth attempting to include something. Your solicitor should be able to advise you on what is reasonable for the circumstances of the purchase.
- **Seller’s Warranty of Accounts** – copies of accounts should be attached to the contract of sale and confirmed by the Seller as being complete and accurate.
- **Inventory of Fixtures and Fittings** – agree an Inventory of Fixtures and Fittings included in the sale and attach this to the Contract of Sale. Ideally the contract should include a “Deficiencies Provision” where the purchase price is reduced in respect of any missing, damaged or non-compliant items found on Completion Day.
- **Seller’s Indemnity for Claims** – the contract should include a warranty (a guarantee) given by the Seller to the Buyer in respect of any undisclosed claims. This will include employee claims/disputes and third party claims/disputes.

1.11: BUSINESS RATES & COUNCIL TAX

You should obtain confirmation of the rateable value and the Uniform Business Rate (UBR) currently applicable for the pub. This can be obtained from the Valuation Office website: www.voa.gov.uk for England and Wales, or the Scottish Assessors website: www.saa.gov.uk.

It should be noted that where there is a change of Rateable Value after a new Rating List takes effect the actual amount of rates payable will be subject to transitional relief. The Seller's previous rates demand may not confirm how much you will pay. We suggest that you contact the Local Billing Authority to discuss the circumstances of your proposed business purchase so that they may confirm how much you will pay.

In England and Wales, you may appeal the Rates payable by you at any time, where a material change in circumstances has occurred. However in Scotland, as a new tenant of the premises you can within the first six months, and in certain other circumstances, appeal the Rates payable by you. We provide a business rates advisory service through a national ratings specialist company, who will act on your behalf to ensure that your rates are kept as low as possible. Please refer to your Business Development Manager for more information.

Council Tax is payable for residential elements under the Lease and in addition to rates. You should check the Council Tax banding and amount payable with the Local Billing Authority.

1.12: GAMING MACHINES

You will be required to hold a Gaming Permit. Our Machine Suppliers will organise this for you where you have a machines service agreement with us.

You will also be required to register for Machines Games Duty with HMRC if you have dutiable machine games. You should register 14 days

before you start trading. However if this is not possible you should register as soon as you have completed the purchase of the Lease. The simplest, quickest and most secure way to register is online at www.hmrc.gov.uk/machinegamesduty. Please note that failure to register may result in a penalty by HMRC.

1.13: TRAINING

We provide award-winning and industry-leading training to help you get the best possible start and ensure you're qualified to run your pub. Before entering your pub, you must attend and/or complete our mandatory and induction training.

For more information, please see section 3.3 of our Running a Pub Information Guide.

1.14: WORKING TOGETHER

Your Business Development Manager (BDM) is your personal business consultant, advising you on everything from pub investment plans to the latest initiatives and ideas. BDMs have the ability to draw on the knowledge of other experts at Greene King Pub Partners when discussing your needs and are your main point of contact with us. Part of their role is also to ensure that you are complying with the obligations under your Lease Agreement.

Your BDM will tailor the support you require. During the beginning of your Agreement and subject to your experience, your BDM will visit you more frequently to support you in your new business. We would usually expect a minimum of four structured meetings per year.

Please refer to section 7 in our Running a Pub Information Guide for more information around the role of a BDM and how we will work together.

PART 2:
**SELLING
A LEASE**

2: SELLING A LEASE

Depending on the type of agreement you have you may have the right to sell the Lease to a third party. If your Lease Agreement has this right you will be required to complete a minimum of two years following the granting of a new Lease before you can assign your Lease.

Older Agreements may vary therefore you must refer to your Agreement for details. You will not be permitted to assign your Lease for the two years following a Greene King Pub Partners capital development or Capital Buyback scheme. Please refer to section 5.5 of our Running a Pub Information Guide for more details related to property investments.

2.1: PREPARING TO SELL

As with selling most things, the better condition the pub, with its fixtures and fittings, the better chance you will have of achieving your desired sale terms. Make sure the property is clean, tidy and well decorated. Remember, any prospective Buyer should undertake their own surveys of the property, so make sure that any areas of disrepair are rectified and the property is in good condition throughout. As well as arranging a formal viewing, prospective Buyers are likely to make several visits as customers to see how well the business is being run and presented.

2.2: EMPLOYING A SELLING AGENT

Unless you have already found a Buyer, you may need to appoint an agent or broker to handle the assignment and to act on your behalf. They will value your business for you and deal with its marketing.

Before you agree to appoint an agent or broker to act for you, make sure they have confirmed their terms and conditions to you in writing and that you understand them. You should be clear what their fees and expenses are and when these payments will become due. You should also check how you can terminate your contract with them and when an obligation to pay a fee ends.

In particular, you should check whether you are being asked to agree to a "sole selling rights" agreement. Under this type of arrangement you will be obliged to pay a fee during the contract period whether or not the agent negotiates a sale on your behalf. If you are not clear about the terms and conditions that you are being asked to agree to, seek legal advice.

Much of the value of your business may depend upon the trading certified performance of the pub, so make sure that approved or audited trading accounts are available. It is suggested that accounts for the most recent three years be provided, as they will confirm both current performance and the trend of the business.

2.3: GREENE KING'S APPROVAL TO ASSIGN

We require that your application to assign is approved before we instruct Solicitors to issue the Licence to Assign/ Letter of Consent and we require that the application is submitted in writing. Your lease agreement will state the requirements needed for a valid application, and your application should include the following information in relation to the Buyer:

- A sustainable business plan – as detailed in section 1.7, including confirmation of how the Buyer will operate the business i.e. as a private individual, partnership or private limited company.
- Source and application of funds statement including proof and source of funding. Your Buyer's accountant will need to show where their funds come from under the Money Laundering legislation.
- Confirmation that an online Application Form has been completed.
- Details of their Personal Licence.
- Reference and credit check details.
- Details of any loan for the Lease purchase eg. principal, term and repayments. This is best confirmed by reference to a loan offer letter.
- Confirmation that the Buyer has completed the online BII Pre Entry Awareness Training (PEAT).
- Details of the dates to attend Greene King's induction training.

We will confirm our consent in writing to you and provide you with the information you need for any prospective Buyer, as detailed in section 1.2, which you must provide to your prospective Buyer when one has been found.

We will arrange to meet your Buyer to discuss their application and review their business plan, following receipt of their information as detailed in section 1.7.

2.4: INSTRUCT A SOLICITOR

After approval has been given by us to allow you to sell your assignable lease you should, if you have not already done so, instruct a Solicitor to act on your behalf. You should instruct a Solicitor familiar with commercial property conveyancing and business purchase – ideally with experience of the pub sector.

When you instruct your solicitor, ask for confirmation of a realistic timetable to complete the sale. This is likely to be 6-8 weeks depending on the terms of sale and the Buyer's funding arrangements. It is good practice to agree a target Completion Date with the Buyer.

Your solicitor will agree the sale documentation with the Buyer's solicitor and deal with enquiries before the contract is completed. This process can be managed to run more smoothly if you are able to provide your Solicitor with the originals of your Lease documentation and all the information about your business we highlight in this guide before a sale is agreed.

Copies of Lease documentation can be obtained from us however we reserve the right to make a charge.

The Buyer's solicitor may seek to negotiate terms to protect his client's position. Your solicitor will advise what is reasonable dependent on the circumstances of the sale and market conditions.

Your solicitor will normally prepare the Deed of Assignment (England and Wales) or Lease Assignment (Scotland). This is the document that sets out the terms of the contract between yourself and your purchaser. The solicitor will deal with:

- **Sale Documentation** – agreeing sale legal documentation with the Buyer's solicitors.
- **Enquiries** – answering pre-contract enquiries and due diligence.
- **Landlord's Consent** – deal with the permission necessary for you to assign your Lease issued by Greene King which is called a Landlord's Licence to Assign in England and Wales, or a Letter of Consent in Scotland. If we approve the assignment/ assignment, we will instruct our own Solicitor to issue a Licence to Assign/ Letter of Consent. Greene King's legal fees are detailed in the Guide to Charges and these will be paid by you.

- **Licensing** – our licensing partners, TLT Solicitors, will deal with the change of Designated Premises Supervisor/ Manager. However, the Buyer's solicitor is likely to want to check the terms and conditions of the Premises Licence and confirm restrictions and obligations (eg. permitted hours, door security, CCTV).

- **Gaming Machines** – provide confirmation that notification has been made to the Local Licensing Authority for all machines that require notification. Where your Lease is subject to a machine service agreement with us, the machine supplier will be able to provide this. Where your Lease does not include a machine service agreement, you will need to provide this information. Gaming Machines are defined under the Gambling Act 2005.

- **PRS (Performing Rights Society), PPL (Phonographic Performance Limited) and Sky TV and other subscription based TV and internet services** – providing certification and proof that payments are up to date.

- **Other Consents** – confirm whether any other consents are needed to operate the business eg. Highways Act Licence in England and Wales or the Planning or Roads Scotland Act provision for location of tables and chairs on a public thoroughfare, or drainage discharge consent, if not on mains drainage.

- **Legal documentation** – make sure that your solicitor has the originals of all current legal documentation. The Buyer's solicitors will request this. Lost or missing documents can cause delay. These should include:

- The Lease.
- Deeds of Variation.
- Landlord's Consent Documents eg. Licence to Alter/ Licence for Works.
- Rent Review Memorandum confirming current rent payable.
- Statutory Approvals – eg copies of planning consents, licensing approvals.
- Loan documentation where the business is subject to a loan/charge.
- Copy of the Premises Licence stating all conditions.

2.5: INFORMATION YOU'LL NEED TO HAVE READY

Your selling Agent and any Buyer are likely to want to know other information, so be prepared to provide the following:

- A copy of the Lease and associated documents eg. Deeds of Variation and side letters.
- Rent Review Memorandum confirming the current rent payable.
- Details of any third party rights viz rights of way, access or wayleaves.
- Inventory and valuation – your agent may be able to advise. If not, you may need to arrange for a fixtures and fittings valuer to provide this.
- Liabilities, rental agreements, leased equipment.
- Staff details under TUPE – names, personal details and contractual obligations.
- Health and safety certificates or notices.
- Statutory compliance certification, see section 6 for guidance.
- Premises Licence. Energy Performance Certificate (EPC).

See section 1.3 for more detailed information that may be requested by a Buyer and/ or their Solicitor.

2.6: PROPERTY INFORMATION

Before you leave, a Chartered Surveyor will inspect your pub to prepare a Schedule of Dilapidations that will confirm the repairs you need to complete and the certification you will need to provide before you leave.

In addition the surveyor will prepare a Schedule of Condition that will be provided to the Buyer. For details on the different types of property inspections and reports, see section 1.4.

We usually arrange for our surveyor to carry out an inspection shortly after we have received your notification that you wish to assign your lease and we will send the Schedule of Dilapidations to you. This will give you sufficient time to carry out the work and arrange the certification. A copy of the dilapidations schedule will be shared with the Buyer, as explained in section 1.4.

In some circumstances the Seller may agree with the Buyer that they will undertake some or all of the work. Should this be agreed we shall require that the Buyer commits to completing the work within a pre-agreed time period and pays a deposit equivalent to our surveyor's estimate for the cost of the work. The deposit will be refunded to the Buyer on completion of the work.

We shall require that you provide copies of valid testing, servicing and statutory certification before completion of the assignment. These documents are required because in some circumstances Greene King can hold the liability and so we need to ensure that the pub is safe and you are complying with your obligations under the lease. Any checking of the documents is for our own internal purposes and not for your benefit or for any prospective Buyer (Assignee) of your agreement. No reliance should be placed by you or them on this process. Your Buyer is also likely to request this information from you and carry out their own checks, as detailed in section 1.3.

If you do not provide satisfactory certification prior to completion, we will retain a sum of money from your deposit or this will be deducted from your trade account, to cover the cost of Greene King obtaining these on your behalf.

Please see section 6 of this guide for more detailed guidance on statutory certification and testing.

2.7: INVENTORY

It may be helpful to arrange for an inventory to be prepared and agreed for inclusion in the contract of sale. Only those items that are owned by you (i.e. not leased or rented from a third party) should be included in the sale. The contract of purchase should state that you own those items listed in the inventory and that they are not subject

to any restrictions on sale. You must provide copies of up to date service test reports and certificates. Clean, neat and working inventory may be worth significantly more if you have maintained it to a good standard.

Failure to provide satisfactory certification will reduce the value of your inventory and the potential sale price for your business.

2.8: PERSONAL LICENCE AND A DESIGNATED PREMISES SUPERVISOR (ENGLAND & WALES)

DESIGNATED PREMISES MANAGER (SCOTLAND)

You should check that the Buyer holds a Personal Licence. If not, the Buyer should undertake the appropriate training and obtain the necessary qualification so that they may acquire this before the proposed Completion Day. Usually we require that the Buyer is the Designated Premises Supervisor/ Manager (DPS/ DPM).

Should the Buyer intend to purchase the lease in the capacity of a private limited company or limited liability partnership they should nominate a senior member of their management team who will be present at the pub on a daily basis to stand as DPS/ DPM. Our licensing partners, TLT Solicitors, will assist with the transfer of the DPS/ DPM.

2.9: RENT AND TRADE ACCOUNTS

All sums due to us must be paid on or before completion. A draft Completion Statement will be issued approximately seven days before completion that will confirm the anticipated amount owed to us on completion day. An undertaking will be required from your solicitors that this amount will be paid to us from sale proceeds on completion. Completion will not be authorised unless this undertaking is given.

A final Completion Statement will be issued on the Completion Day via our solicitors. Please note that any rent paid in advance will be reimbursed to you by Greene King in your final account and does not need to be collected from your Buyer.

After completion we will release any monies owing after 28 days once all debts, charges and fees due to us have been paid. The payment will be made to the persons on the Agreement and cannot be made to a third party or only one person in a partnership.

Please note that the training fund is non-refundable.

3: RENT REVIEWS

We would expect all outstanding rent reviews be completed prior to an assignment/ assignation. It is advisable that any rent review due within 12 months of a sale are settled prior to the sale. This enables any prospective Buyer to be clear on their future responsibilities in their business plan. The negotiations to agree the rent review will be between us and the Seller.

For more rent review information, please see our Running a Pub Information Guide, section 4.5.

4: SUMMARY OF COSTS

4.1: BUYER

You should make sure that all costs of purchase have been identified, assessed and funds made available. Costs are likely to include:

- **Lease purchase price.**
- **VAT.**
- **Stamp Duty** – dependent on the purchase price.
- **Legal Fees** – a condition of purchase may include a requirement to pay both the Seller's and Greene King's legal fees. Our Guide to Charges sets out our fees.
- **Professional Fees** – surveyor to carry out a structural survey, fixtures and fittings valuer, stocktaker, accountancy, taxation and financial advice etc.
- **Deposit** – we will require a deposit. This is usually 25% of the annual rent.
- **Rent** – the amount of the first periodic rent payment should be set aside. This is usually 1 month's rent for most leases. Remember to include VAT at the standard rate. This is charged on 90% of the rent where the pub includes living accommodation.
- **Dilapidations or Repairs Fund Payments** – some Leases require a periodic payment to be made into either a Dilapidations or Repairs Fund. Allowance should be made for the first instalment.
- **Working capital.**
- **Repairs and maintenance.**
- **Cash float** – for tills and weekly paid employees.

4.2: SELLER

There will be a wide variety of costs you will be required to pay when assigning your Lease. Please refer to our up to date Guide to Charges to find out what you will be required to pay Greene King. Make sure that all costs of the sale have been confirmed as you will be required to pay them to complete the assignment. These are likely to include:

- **Greene King Fees** – see our Guide to Charges.
- **Legal fees** – both your legal fees and our legal fees detailed in our Guide to Charges.
- **Selling Agent/Broker Fees.**
- **Professional fees** – fixtures and fittings valuer, stocktaker etc.
- **Dilapidations Inspection Fees** – payable to Greene King and detailed in our Guide to Charges.
- **Statutory testing and certification costs.**

5: MEETINGS PRIOR TO COMPLETION

Prior to the Completion Day, our Business Development Manager will arrange a meeting with the Seller and Buyer of the Lease. The purpose of the meeting is to ensure that all the key activities involved in the transfer of the business, such as licensing, employment law and placing the first beer order are in hand and nothing important is overlooked.

A separate meeting with the Buyer will also be arranged by our Business Development Manager.

6: STATUTORY COMPLIANCE CERTIFICATION AND TESTING GUIDE

6.1: IMPORTANT NOTES

Independent Professional Advice and Further Guidance

This checklist is issued for guidance only. It is not intended to be a definitive guide about liability or required statutory certification. The links for further guidance are suggested places where you can obtain more information. They are not intended to be a comprehensive list.

This checklist confirms the minimum amount of testing, servicing and certification that Greene King will need to receive when dealing with an application for landlord's consent to an assignment of an agreement or an agreement renewal, where statutory compliance is the tenant's responsibility under the terms of the agreement. These documents are required because in certain circumstances we can have liability for the safety of customers and so we need to ensure that the pub is safe and you are complying with your obligations under your lease. Any checking of the documents is for our own internal purposes and not for your benefit or for any prospective assignee of the agreement and no reliance should be placed by you or them on this process.

You should obtain independent professional advice from suitably qualified advisors to confirm what your statutory obligations are, what you need to do to comply and that the documentation is sufficient and correct.

The Difference between Statutory Certification and Guarantees and Warranties

Do not assume that a statutory test certificate or report will provide a guarantee or warranty. To understand what the statutory test covers and the extent of the manufacturer's or installer's guarantee or warranty you should carefully check:-

- The scope of a test report and certification and its period of validity. It may not guarantee or provide a warranty that the installation, plant, machinery or equipment being tested will operate satisfactorily for a given period of time.
- The manufacturer's or installer's warranty and user instruction guidance for information about guarantees and warranties.
- The service and maintenance records and the scope of work undertaken by service contractors and specialists to obtain information about the life expectancy of the item being certified and tested.

6.2: GAS SAFETY TESTS

What Should be Tested

Testing and certification is required for both the installation and appliances throughout the whole property. It will comprise of two separate test reports where there is both residential accommodation and a commercial catering kitchen. Where there is only one element such as residential accommodation (no catering kitchen) or a catering kitchen (pub operated as a lock-up) only the relevant testing and certification is required. statutory certification and testing.

- **Residential Part of the Pub** – the certification for the residential part is known as a Landlords Gas Safety Record (formerly known as a CPI2 Gas Safety Certificate). Testing should include the testing of all gas (mains, Calor and LPG) heating appliances such as boilers, water heaters and fires. This should also cover the testing of gas meter housing and any residential gas cooking appliances. NB The domestic heating appliances may not necessarily be located within the demise of the accommodation areas. The domestic appliances may also heat other areas including that of the retail areas and retail WC areas for example. There may also be more than one heating appliance within the building
- **Commercial Catering Kitchen** – the certification format is different for the commercial catering kitchen and is known as a Commercial Catering Inspection Record (formerly known as a CP42 Gas Safety Inspection Certificate).

Testing should include all gas (mains, Calor and PG) catering appliances, extraction/ventilation systems and pipework to the appliances.

Who Inspects

Testing must be carried out by a Gas Safe registered gas engineer qualified to undertake the inspection and certification of commercial catering appliances. Such a qualification will be confirmed in the engineer's Commercial ID Card by the inclusion of Commercial Catering in the work categories that they are qualified to undertake. A check of the engineer's inclusion on the Gas Safe register can be verified by visiting website www.gassaferegister.co.uk

When instructing a gas engineer or firm of gas engineers, you should explain that the testing is required for a public house and state whether the property includes residential accommodation and a commercial catering kitchen. Ask them to confirm whether they are qualified to deal with Commercial Catering appliances when arranging the inspection.

Where your gas supply is from either tanked, cylinder or bottled gas you should tell the gas engineer or firm of gas engineers about this and ask them to confirm that they are qualified to deal with this type of supply.

When Testing is Required

Inspection and certification must be carried out annually.

Further Guidance

You should check the links below for further guidance.

www.hse.gov.uk/gas/domestic/faqlandlord.htm

www.hse.gov.uk/pubns/cais23.pdf

www.gassaferegister.co.uk/

www.hse.gov.uk/toolbox/gas.htm

6.3: ELECTRICAL TEST

An Electrical Installation Condition Report (formerly known as a Period Inspection Report) is required for the electrical installation. The work should be undertaken by an approved NICEIC (or equivalent) electrician to test the hard wiring. This may be undertaken either by a single test of 100% of circuits every five years or 20% per annum over a five year period which would require the issue of each of the five 20% certificates to confirm and verify 100% testing over each five year period. This should include all electrical fixed hard wiring at the pub, including outbuildings, grounds and remote signage and lighting installations and distribution boards. A 20% test and inspection (as applicable) of accessories per circuit, e.g. sockets, light fittings, etc. must also be undertaken by the electrician as part of the test. It does not include any plug in appliances, only the wiring up to and including the plug socket outlet. Testing of these items should be undertaken by a Portable Appliance Test (PAT).

Fixtures and fittings should have valid PAT (Portable Appliance Test) Certificates.

Further Guidance

You should check the links below for further guidance.

www.hse.gov.uk/toolbox/electrical.htm

www.hse.gov.uk/electricity/faq-portable-appliance-testing.htm

6.4: EMERGENCY LIGHTING TEST

To be carried out annually to test that the emergency lights are working to their full rated duration (3 hour rated duration test) and illuminated signs and non-illuminated signage are correctly displayed. Testing should be certified by an inspection report carried out within the previous 12 months.

6.5: FIRE ALARM TEST

To be carried out annually to ensure that 100% of fire alarm and detection and warning system equipment, e.g. smoke detectors, heat detectors, call points, sounders, fire alarm panel, magnetic door hold open devices, etc. is in good working order and functioning correctly. Testing should be certified by an inspection report carried out within the previous 12 months.

Fire extinguishers and other fire-fighting appliances should also be tested and certified separately.

6.6: FIRE RISK ASSESSMENT

This is required every 3 years and annually where the property includes letting rooms.

A full inspection of the entire property should be carried out, including residential and letting accommodation. This should confirm that the correct warning devices and escape routes are present. The fire risk assessment considers all fire safety matters, including but not restricted to, escape routes, installation of fire alarms, illuminated escape signage, smoke detectors, fire resistant doors/paint coatings, self-closing devices, fire safety training, fire safety procedures, etc. The fire risk assessment must be undertaken by a competent person who is trained and experienced in fire risk assessment.

Further Guidance

You should check the link below for further guidance.

www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments

Should you require assistance in completing this we can arrange for a consultant to undertake this work on your behalf, on the understanding that their fees shall be re-charged to you.

6.7: ASBESTOS REPORT

A full asbestos management survey report should be prepared by an accredited consultancy including an up to date Duty Holder's Action Plan (DHAP). See link below to the HSE website for further guidance. Documentary evidence that the action required under the DHAP has been undertaken on an annual basis will be required.

Further Guidance

You should check the link below for further guidance.

www.hse.gov.uk/Asbestos/managing/index.htm

Should you require assistance in completing this we can arrange for a consultant to undertake this work on your behalf, on the understanding that their fees shall be re-charged to you.

6.8: DUCT AND EXTRACT SYSTEM CLEANING

Catering kitchen duct and extract systems should be cleaned and serviced annually including a change of filters.

If the kitchen duct systems are not cleaned on a regular basis, the filters will become blocked. This will reduce the efficiency of the extract system and cause an increase in CO₂ levels in the kitchen. This increases the risk of carbon monoxide poisoning, which can be fatal. Regular cleaning and changing of filters will also reduce the risk of fire.

6.9: LIFTS AND HOISTS

Where lifts and hoists are in situ at the pub these items must be serviced annually. This covers any form of lifting/hoist equipment including such items as passenger lifts, dumb waiters, cellar hoists and manually operated forklifts. Documentary evidence of servicing in the previous 12 months will be required. In addition to the annual servicing a thorough examination inspection and report is also required to satisfy the Lifting Operations and Lifting Equipment Regulations. These are generally required at six month intervals or alternatively at intervals in accordance with an examination scheme, drawn up by a competent person.

6.10: F-GAS (FLUORINATED GASES)

These gases are present in large cooling such as walk in fridges/freezers/chillers and cellar cooling units. These gasses can be dangerous if not contained correctly and if gas leaks occur. Testing will also identify the presence of other types of gas that are banned. Documentary evidence of testing in the previous 12 months will be required.

Further Guidance

You should check the links below for further guidance.

www.gov.uk/guidance/f-gas-in-refrigeration-air-conditioning-and-fire-protection-systems

6.11: PLAY EQUIPMENT

Equipment located both internally and externally should be inspected annually and a risk assessment kept on site. This should cover areas of risk such as loose fittings, rot, low bark/rubber levels, sharp edges, and finger entrapment hazards. The inspection should include the immediate surrounding area such as fences, benches and electrical installation and appliances. Documentary evidence of inspections being carried out and a risk assessment undertaken in the previous 12 months will be required.

Further Guidance

You should check the link below for further guidance.

www.rospa.com/play-safety/advice/en1176-equipment-standard/

6.12: ENERGY PERFORMANCE CERTIFICATE (EPC)

This is required for sale and letting, including lease assignments. Valid for 10 years. For lease assignments it is suggested that you check whether you have a valid EPC before you offer your lease for sale. Your selling agent will usually request a copy.

For agreement renewals Greene King will provide an EPC.

7: APPLICATION TO ASSIGN CHECKLIST (SEE SECTION 2.3)

As you complete each stage, tick off in the box.

- A sustainable business plan from your Buyer – as detailed in section 1.7, including confirmation of how the Buyer will operate the business i.e. as a private individual, partnership or private limited company.



- Your Buyer's Source and application of funds statement including proof and source of funding. Your Buyer's accountant will need to show where their funds come from under the Money Laundering legislation.



- Greene King's Application Form fully completed by the Buyer.



- The Buyers Personal Licence.



- Reference and credit check details.



- Details of any loan for the Lease purchase eg. principal, term and repayments.



- A copy of the Buyer's BII Pre- Entry Awareness Training (PEAT) certificate.



- Details of the dates for the Buyer to attend Greene King's induction training.



8: USEFUL CONTACT DETAILS

Greene King Publine
0345 608 0715

Association of Licensed Multiple Retailers (ALMR)
www.almr.org.uk

Association of Valuers of Licensed Property (AVLP)
www.avlp.com

British Beer and Pub Association (BBPA)
www.beerandpub.com

British Institute of Innkeeping (BII)
www.bii.org

Federation of Licensed Victuallers Associations (FLVA)
www.flva.co.uk

Pubs Independent Rent Review Scheme (PIRRS)
www.pirrscheme.com

Royal Institution of Chartered Surveyors (RICS)
www.rics.org

THE PUBS CODE ADJUDICATOR

General enquiries

The Office of the Pubs Code Adjudicator
Lower Ground
Victoria Square House
Victoria Square
Birmingham
B2 4AJ

Website: www.gov.uk/government/organisations/pubs-code-adjudicator where an online enquiry form is available.

Telephone:
0800 528 8080

The telephone enquiry line is open:
Monday to Thursday 9:30 to 17:00
Friday 9:30 to 16:00

Referrals for arbitration

There is a difference between a general enquiry and a formal referral to the PCA for arbitration. Only tied licensees (and the pub-owning business in relation to Market Rent Only disputes), or those authorised to act on their behalf, can make a referral.

It is important to highlight that the Pubs Code has very strict deadlines connected with rights under the Code and for making formal referrals to the PCA.

JUNE 2018



GREENE KING

PUB PARTNERS

PUB PARTNERS PUBLINE

Telephone: 0345 608 0715

WEBSITE

www.GreeneKingPubs.co.uk

Greene King Pub Partners, Abbot House,
Westgate Brewery, Bury St Edmunds,
Suffolk, IP33 1QT.
Telephone: 01284 763222.
Website: www.GreeneKing.co.uk

Greene King Pub Partners is a trading division of
Greene King Brewing and Retailing Ltd and of
Greene King Retailing Ltd, both companies in the
Greene King group.

Spirit Pub Company (Leased) Limited (5699544) is
also a member of the Greene King group.