



South Tyneside Council

**The
Tenants
Handbook
Industrial Properties**

**Asset Management
Regeneration and Resources
South Tyneside Council
Town Hall and Civic Offices
Westoe Road
South Shields
Tyne and Wear
NE33 2RL**

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Foreword

On behalf of South Tyneside Council, we are pleased to welcome you and your employees to our premises.

A handbook has been compiled to provide you with information, which we hope you find useful. We believe a key to achieving mutual success is through good channels of communication and understanding how things work with an industrial unit. We believe a handbook of this nature will help to achieve a good relationship between you and the council.

We wish you, your employees and company every success.

Introduction

The tenant's handbook is intended to be used as a source of information with regard to your occupation of the premises. It will acquaint you with details on:

- The terms of your lease/tenancy agreement
- Your responsibilities as leaseholder
- Health and Safety Issues
- Obtaining information
- Test certificates
- Landlords responsibilities

It will be part of a real and long term commitment to provide the best quality service to our tenant and it will be reviewed on a regular basis. Tenants need to ensure staff are made familiar with the contents of the handbook and any updates.

IMPORTANT NOTE: -

The information contained in this Handbook is for guidance only. No responsibility can be accepted by South Tyneside Council or external contributors for action taken as a result of the information contained in this publication. Readers should at all times seek advice from their own professional advisers when dealing with specific situations.

Section 1

1.1 Application

The contents of this Handbook will apply to all Council owned Industrial premises, which are the subject of a commercial letting.

1.2. The Council's Asset Management Team

Contact Details

Location

The Asset Management Team is situated within the Regeneration and Resources Directorate and is situated in the Town Hall & Civic Offices, Westoe Road, South Shields, NE33 2RL.

Estates Management

Mr Lee McGuigan, Senior Valuation Surveyor - Tel: (0191) 424 7237
E-mail – lee.mcguigan@southtyneside.gov.uk

Mr David F Josephs, Senior Valuation Surveyor – Tel: (0191) 424 7787
E-mail – david.josephs@southtyneside.gov.uk

Mr Neil Govett, Building Surveyor – Tel: 0191 424 7150 (Mobile – 07717 630 686)
E-mail – neil.govett.southtyneside.gov.uk

Mr Paul Quinn, Building Surveyor – Tel: 0191 424 7633 (Mobile – 07881 510 713)
E-mail – paul.quinn@southtyneside.gov.uk

Mr Michael Hicks, Asbestos Officer – Tel: 0191 424 7685 (Mobile – 07557 203 980)
E-mail – michael.hicks@southtyneside.gov.uk

Section 2

2.1. Lease Terms

Factories

Occupation of the unit will be by way of a formal Tenancy Agreement.

The main terms and conditions are as follows: -

Tenancy Agreement

Term

The length of the agreement shall be three years (unless stated otherwise).

Rent

The rent is paid monthly by standing order.

Assignment/Sub-Letting etc

No assignment or sub-letting is permitted under the terms of your occupation.

Building Insurance

The Council insures the building against the usual perils such as fire, storm and explosion and any other risks that the Council thinks appropriate. The tenant is responsible for repayment of the premium by way of an annual charge.

Use

The premises shall be used in accordance with the use authorised under the terms of the agreement.

Costs

The tenant shall be responsible for the payment of the Council's Legal and Surveyor's costs attributable to the letting.

2.2 Lessee's Responsibilities **(Tenant's Responsibilities)**

Having signed the Agreement for the unit, the tenant has legal rights and exclusive possession of the unit, and both the Council and yourself as tenant are bound to comply with the covenants in the agreement. These basically include terms binding the tenant and terms binding the Council as landlord.

Terms Binding the Tenant

Outgoings

As you have the beneficial use of the unit, the agreement makes you responsible for the payment of the rent and all other outgoings in respect of the premises. These will typically include business rates, gas, electric, water, telephone, recharged security alarm and the removal of business waste. You also have to pay the building insurance premiums to the Council who insures the premises on your behalf.

Repairs

A major Clause binding the tenant is the Covenant to Repair and to keep in repair. Once the agreement is signed, you are responsible for:

- All the internal decoration (unless stated otherwise).
- All the repairs to the interior of the unit (unless stated otherwise).
- Maintenance of all main services inside the unit.

The need to carry out repairs from the commencement date of the lease to vacation of the premises is usually activated by the serving of a Schedule of Dilapidations detailing what works are required. This may be served at any time during the term of the tenancy but is always served just prior to you leaving the premises.

Under the Electricity at Work Regulations 1989, you are responsible for ensuring that the electrical installations are inspected at regular intervals including the emergency lighting and fire alarm equipment. Any testing, inspection or work undertaken must be carried out by a National Inspection Council for Electrical Installation Contracting (NICEIC) approved contractor in accordance with the 17th Edition of the IEE Wiring Regulations (BS. 7671: 2011).

Under the Gas Safety (Installation and Use) Regulations 1998, you are responsible for ensuring all gas appliances have an annual inspection including

associated distribution pipework and flues. A Gas Safety Registered approved contractor must carry out any testing, inspection or work undertaken.

Should you have a query as to whether a repair is your responsibility or not, you may contact the Asset Management Team for assistance in this matter.

Alarm Systems

Should the premises be fitted with a Council installed security alarm system there is no obligation to use the alarm system. You are advised to check with your own insurers regarding this matter. However, should the tenant wish to utilise the system they will be responsible for all the costs of running and maintaining the installation. Full details and costs will be available on request.

Alterations

Under your Tenancy Agreement alterations must not be made by the tenant without first obtaining the approval of the Council. This helps to ensure that the requirements of the Building Act 1984 and the Building Regulations 2000 as amended and other relevant legislation are met. Examples of such works are the construction of offices and mezzanine floors in the unit and the fitting of additional security measures.

The consideration of consenting to such works normally requires submission of a plan detailing the proposal and a written request for consent. The Asset Management Team shall then consider matters and may grant consent subject to the following conditions:

- The grant of Building Regulations and/or Planning Approval.
- The reinstatement of the Unit to the original condition if requested by the Council, upon vacation.
- Payment of the Council's costs in this matter.

Again, it is suggested that you contact the Asset Management Team prior to submitting an application for some initial advice and guidance on the proposal.

User Clause

Your agreement also specifies the use allowed, normally identified by reference to the Town and Country Planning Use Classes Order. Given that the Council manages the estate as a whole, it has to take care to ensure that the uses allowed on the estate are complimentary and satisfactory.

Statutory Requirements

The Tenancy confirms that you are to comply with all Statutory Requirements. These commonly include Planning Permission, Building Regulations and Health and Safety at Work, although this list is by no means exhaustive.

General

As stated previously, the Council manages the whole estate and, in order to maintain the image of the estate and secure its proper management it, therefore, controls the use of the common areas.

Parking is to be restricted to the car parks only and no rubbish, goods or materials are to be stored outside of the unit. You are also not allowed to carry out your business on the common areas outside of the Unit.

2.3. Lessor's Responsibilities **(Landlord's Responsibilities)**

Upon entering into an Agreement the Lessor (Landlord) has a number of responsibilities to undertake.

Terms Binding on the Landlord

Insurance

The Landlord insures the property against the usual risks and recoups the appropriate premium from the tenant. The risks and perils concerned may include fire, storm and explosion or any other such risks as the Council considers appropriate, together with insurance against any loss of rent resulting from the premises being destroyed or rendered unfit for occupation. As stated before, you are responsible for the payment of the annual premiums that will have regard to the risks and perils covered as well as your use of the premises.

Repair

The Landlord is responsible for the repair and maintenance of the following (unless stated otherwise):

- Foundations (excluding floor slab).
- Roof.
- External walls.
- All structural parts.
- All drains outside the property.
- Decoration of the exterior of the premises.

Estate

The Landlord is responsible for the repair, maintenance and cleansing of the common areas of the estate which will include both Hard and Soft Landscape.

Termination

The Landlord may in accordance with the Security of Tenure provisions of Part II of the Landlord and Tenant Act 1954 determine the Agreement by giving at least six months written notice to terminate it at the end of the agreement. The notice is served before the end of the existing agreement allowing sufficient time for the Landlord to offer a new agreement at a revised rental or, to terminate the agreement due to some breach of Covenant by the Tenant.

Section 4

4.1. Health & Safety

Introduction

The purpose of this section of the handbook is to:

- Give tenants guidance on their responsibilities under health and safety Law.
- Identify some of the more important requirements of health and safety law likely to affect them.
- Alert them to the need for adequate maintenance of plant and equipment.
- Direct them towards further sources of advice and information.

Under the Health and Safety at Work etc Act 1974 (the HSW Act), you have to ensure the health and safety of yourself and others who may be affected by what you do or do not do. It applies to all work activities and premises and everyone at work has responsibilities under it, including the self-employed.

A handbook of this type cannot explain fully the law relating to health and safety and maintenance issues but this guidance is intended to point out to tenants some of the important issues, which they must take into account and to give details of where further information can be obtained. We hope that by doing this we can minimise risks to tenants, their employees and the public in general and make South Tyneside a safer place to live and work.

The information in this handbook is believed to be correct as at spring 2012.

Responsibilities for Health and Safety

The law makes all of those involved in work activities responsible for health and safety

Persons in charge of premises, employers, employees and the self-employed.

Everyone has duties towards anyone who might be affected by what they do, or don't do.

In the case of tenants this includes:

- their employees
- other tenants
- passers-by
- nearby residents
- visitors
- contractors
- delivery drivers
- even trespassers

Employers and the self-employed must carry out an assessment of the risks created by their work in order to identify whether they have sufficient precautions in place to comply with their legal duties. Further information on risk assessment is provided under the section premises and facilities

Those with five or more employees must also have a Health and Safety Policy document as required under Section 2 of the Health and Safety at Work etc Act 1974. Further Information can be obtained at <http://www.hse.gov.uk>

Information Poster

All employers must display the poster 'Health and Safety - What you should know' and give a similar leaflet to each employee. The poster for a fee can be obtained from <http://www.hse.gov.uk>.

4.2. Enforcement & Advice

In South Tyneside two bodies enforce health and safety law.

Health & Safety Executive (HSE)

Alnwick House
Benton Park View
Newcastle upon Tyne
NE98 1YX
Tel: 0191 202 6300

South Tyneside Council

Housing Strategy and Regulatory Services,
Town Hall & Civic Offices,
Westoe Rd,
South Shields
Tyne and Wear
NE33 2RL
Tel: 0191 424 1717

The enforcement authority is dependant upon the activities that your company undertakes.

If you employ someone in factory premises you must notify the HSE immediately using a form F9 – Notice of Occupation (Section 137 Factories Act 1961)

If you employ someone in an office or shop you must notify the Council immediately using a form OSR 1.

Both the HSE and Council Inspectors have considerable powers under the Health and Safety at Work etc Act 1974. These powers include the right to enter premises at any reasonable time to:

- Take measurements, photographs or recordings.
- Take samples or possession of articles or substances.
- Interview people and take statements.
- Inspect and copy books or documents.
- Issue Improvement Notices, requiring improvements within specified times.
- Issue Prohibition Notices, requiring specified activities to cease.

If you are in any doubt about whether someone really is a HSE or a Council Inspector then ask to see their official identification.

Although Inspectors have such extensive powers, they usually prefer to help employers to avoid breaking the law by providing advice. Both the HSE and South Tyneside Metropolitan Borough Council can be contacted for advice.

There are also many independent consultants who can provide advice and assistance on health and safety. The Institution of Occupational Safety and Health maintains a consultants' register. Consultants will, of course, charge for their services at hourly or fixed rates. Further Information can be obtained at <http://www.hse.gov.uk>

Tyne & Wear Fire and Rescue Service.

Tel: 0191 444 1500

The fire authority is responsible for enforcing fire safety legislation (see part 6) and for petroleum licensing (see part 7). They can also provide advice, if requested to do so, particularly in relation to fire risk assessments. Home office and other fire advisory publications can be obtained from the Fire and Rescue Service.

4.3. Insurance

Employer's Liability Insurance (ELI)

ELI provides employers with insurance against compensation claims by employees who have suffered injuries at work or occupational ill health. It is a compulsory legal requirement for all employers except for public bodies (e.g. local authorities) and the employment of close family members (e.g. spouse, parent, and child). A copy of the ELI certificate should be prominently displayed in the workplace.

Public Liability Insurance (PLI)

Although not a legal requirement, all businesses (including the self-employed) are strongly recommended to hold PLI. The attention of tenants is also drawn to paragraph 2(8) of the Tenancy Agreement. PLI provides insurance cover to meet claims resulting from injuries to customers, visitors, contractors, delivery drivers, other tenants, neighbours, passers-by and other members of the public and from damage to their property.

Other Insurances

Tenants should also consider the need for other types of insurance, dependent upon the nature of their businesses.

- Motor vehicle insurance.
- Professional indemnity insurance - relevant for those providing professional advice or services.
- Product liability insurance.
- Business interruption insurance.

Advice should be taken from competent insurance brokers on what is required.

Further information can be obtained from www.hse.gov.uk

4.4. Premises & Facilities

Workplace Conditions and Facilities

The Workplace (Health, Safety and Welfare) Regulations 1992 contain detailed requirements relating to the condition of workplaces and the provision of facilities for employees. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Risk Assessments

The Management of Health and Safety at Work Regulations 1999 require all employers to carry out an assessment of the risks to their employees and others which are associated with their activities. The risk assessment must establish whether the necessary precautions are in place to control the risks to the standards required by the law. Employers with 5 or more employees must record the results of their risk assessments. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Work Equipment

All types of work equipment - hand tools, portable equipment, fixed machines and workplace vehicles - are covered by the Provision and Use of Work Equipment Regulations 1998 (PUWER 98). These regulations contain a number of general requirements. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

There are also many detailed requirements within the regulations including those relating to dangerous parts of machinery (guarding etc.) and mobile work equipment. The Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) also contain important requirements. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Personal Protective Equipment (PPE)

The Personal Protective Equipment at Work Regulations 1992 requires all employers (and the self-employed) to carry out an assessment in order to identify the types of personal protective equipment which are necessary for their work activities and work environment. Once the necessary personal protective equipment has been identified it is the employer's duty to provide it and also to

take reasonable steps to ensure it is used as required. Employees also have a duty to use the personal protective equipment when provided. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

First Aid

The Health and Safety (First-Aid) Regulations 1981 state all “employers have a legal duty to make arrangements to ensure their employees receive immediate attention if they are injured or taken ill at work”. All employers must provide adequate first aid materials at their work premises. First aid kits in vehicles may also be necessary if your employees work away from your main base. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Reporting of Accidents

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR 95) contain legal requirements to report accidents involving the incapacity to do ‘normal duties’ for over three days. Incidents are required to be reported to the enforcing authority (the HSE or STC Environmental Health Department). Their advice should be sought in cases of doubt. Further information can be obtained from www.hse.co.uk

Fire Precautions

Tenants are now required to comply with the provisions of the Regulatory Reform (Fire Safety) Order 2005 which was introduced following the repeal of the Fire Precautions Act 1971 which withdrew the issue of Fire Certificates by the Fire and Rescue Service.

The Regulatory Reform (Fire Safety) Order 2005 came into effect October 2006 and requires the responsible person to:

- Make a suitable & sufficient assessment of the risks to which relevant persons may encounter - for the purposes of identifying the general fire precautions required to comply with the Order
- Identify significant findings of the assessment including measures which have been or will be taken to fulfill these legal obligations under the above Fire Safety Order

- Identify persons who may be especially at risk in the case of fire at or near the premises
- Provide and maintain general fire precautions to safeguard those persons who may be present
- In so far as reasonably practicable to reduce or remove the risk from any dangerous substances
- Provide information, instruction and training to relevant persons about the fire precautions
- Ensure that any equipment or facilities provided in respect of use by or protection of fire-fighters at the premises are adequately maintained and readily available for deployment as necessary

Further information can be obtained from www.communities.gov.uk/fire/

Electrical work

Work carried out on electrical systems is subject to the Electricity at Work Regulations 1989. All electrical installation must be inspected at regular intervals. Any testing, inspection or work undertaken must be carried out by a National Inspection Council for Electrical Installation Contracting (NICEIC) approved contractor in accordance with the 17th Edition of the IEE Wiring Regulations (BS. 7671: 2011). The Memorandum of guidance on the Electricity at Work Regulations 1989 can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Portable Appliances

Similarly portable electrical appliances must be maintained in a safe condition and work on them carried out by a competent electrician. Portable electrical equipment is more susceptible to damage and should be inspected more frequently than fixed equipment and in some cases tested. Guidance on maintaining portable and transportable electrical equipment can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Gas Safety

The Gas Safety (Installation & Use) Regulations 1998 place duties on gas consumers, installers, suppliers and landlords. All businesses carrying out work on gas appliances must be registered with gas safety register (the Council for Registered Gas Installers) and only a competent person can carry out work on gas appliances. Do-it-yourself work on gas appliances is illegal and dangerous and must not be done. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Water

For the benefit of the whole community it is important that nothing that tenants do in the course of their work activities is able to contaminate the water supply. All fittings must now comply with the Water Supply (Water Fittings) Regulations 1999 in order to prevent possible back flow into the water system. Ensure that any fittings you use comply with the regulations and that any contractors you use are aware of them. Certain types of work on water systems must be notified to water companies. Further information can be obtained from www.nwl.co.uk

Hazardous Substances

Work with hazardous substances is regulated by the Control of Substances Hazardous to Health Regulations 1999 (COSHH). Packaged hazardous substances should be easily recognised by the orange and black warning symbols, which are required by the Chemicals (Hazard Information and Packaging for Supply) Regulations 1999 (CHIP 1999). However, there are other materials, which may come within the definition of 'hazardous substances' including process intermediates, waste products or even general contamination such as bird droppings.

The regulations require employers to carry out an assessment of their work with hazardous substances in order to identify (and implement) the necessary precautions or control measures. In any event, use of hazardous substances should be prevented if possible. The assessment should take account not only of the properties of the hazardous substance itself but also the ways in which it is used or handled - its quantities, frequency of use, work environment etc. The approved code of practice can be purchased from HSE books for a fee or downloaded free from www.hse.gov.uk.

Asbestos

Duty to manage asbestos in non-domestic premises

The tenancy agreement with South Tyneside Council places responsibility on the Tenant to comply with the Control of Asbestos Regulations 2012.

Regulation 4 of the Control of Asbestos Regulations 2012 explains the duties of building owners, tenants and any other parties who have any legal responsibility for the premises. It also sets out what is required of people who have a duty to co-operate with the main duty holder to enable them to comply with the regulation.

These documents and supporting information can be downloaded free from the HSE web site below

<http://www.hse.gov.uk/asbestos/>

Regulation 4 requires duty holders to:

- (a) take reasonable steps to find materials in premises likely to contain asbestos and to check their condition;
- (b) presume that materials contain asbestos unless there is strong evidence to suppose they do not;
- (c) make a written record of the location and condition of asbestos and presumed asbestos-containing materials (ACMs) and keep the record up to date;
- (d) assess the risk of the likelihood of anyone being exposed to these materials; and
- (e) prepare a plan to manage that risk and put it into effect to ensure that:

It is the responsibility of the Duty Holder to prepare the Management Plan.

South Tyneside Council is in the process of preparing a generic Management Plan to assist the Tenant in complying with this regulation.

South Tyneside Council has also surveyed a number of units within the Industrial Estate that will assist in preparing a suitable assessment to be made for inclusion within the Asbestos Management Plan.

These documents can be downloaded from the following web site.

<http://www.hse.gov.uk/asbestos/>

Flammable Liquids & Gases

Storage of highly flammable liquids (those with a 'flash point' of 32°C or less) will require a petroleum licence from Tyne & Wear Fire Brigade, which must be renewed annually. In any case storage of such liquids or LPG (propane or butane) is subject to the requirements of the Highly Flammable Liquids and LPG Regulations 1972. Only very small quantities of highly flammable liquids or LPG are allowed to be stored within buildings and, since external storage is forbidden under the Tenancy Agreement (clause 2(10)), tenants are advised to carefully control the use of such materials. Use of highly flammable liquids and LPG is also subject to the requirements of the Regulations.

Waste Disposal

Tenants must exercise care in their disposal of waste, particularly hazardous waste. Hazardous substances must not be disposed of via sinks or drains and the following types of items must not be disposed of in bins or skips as normal refuse.

- Asbestos or materials containing asbestos of any type.
- Paint, thinners or solvents.
- Other liquid waste (including mineral or vegetable oils).
- Gas cylinders.
- Lead acid or dry-cell batteries.
- Tyres or drums.
- Fluorescent light tubes.
- Hazardous, special or clinical waste or medicines.
- Large quantities of food waste.

The attention of tenants is drawn to clause 2(9) of the Tenancy Agreement that prohibits the forming of rubbish or scrap heaps and the external storage of goods or materials. Permission must be sought from the Council before any skip is placed on the highway. Care must be taken not to leave any hazardous waste outside your premises so that passers-by or even trespassers may be harmed by it.

Useful Telephone Numbers

Emergency Services

Police, Fire, Ambulance, Rescue and Coastguard - **999**

Northumbria Police – **03456 043 043**

Tyne and Wear Fire and Rescue HQ, Newcastle upon Tyne – **(0191) 444 1500**

Environment Agency – **08708 506 506**

Highways Agency – **0300 123 5000**

Utilities

Transco Gas emergencies – **(0800) 111 999**

NEDL Electric emergencies – **(0800) 668 877**

Northumbrian Water Ltd emergencies - **(0800) 393 084**

Other Numbers

South Tyneside Council Customer Contact centre telephone no. **(0191) 427 7000**

Health & Safety Executive – **0845 345 0055**