

Key Considerations in a Dilapidations Claim

Reviewing the lease, evidence and future plans for the property at an early stage can help landlords and tenants assess the strength and likely value of a claim.



The Lease Obligations

The starting point is the wording of the lease and any related licences or supplemental documents. The works required will depend on the specific repairing, decorating, alteration and reinstatement obligations agreed between the parties.



The Schedule of Condition

A schedule of condition may limit the tenant's repairing obligations by recording the state of the premises when the lease began. Its effect will depend on how it has been incorporated into the lease.



The Condition of the Property

Contemporaneous photographs, inspection reports, maintenance records and correspondence can provide important evidence of the property's condition and the works carried out during the tenancy.



Timing Before Lease Expiry

Tenants should consider their potential liability well before the lease ends. This provides time to obtain advice, assess whether works should be undertaken and budget for any remaining claim.



Schedules and Quantified Demands

The landlord's schedule should identify the alleged breaches, remedial works and relevant costs. Under the Dilapidations Protocol, a terminal schedule and quantified demand should generally be sent within 56 days after the tenancy ends.

The Landlord's Intentions

The landlord's plans for the premises can affect the claim. Items may not be recoverable where the proposed repair works would be superseded by redevelopment, refurbishment or other intended works.

Section 18(1)

Damages for breach of a repairing covenant may be limited by the reduction in the value of the landlord's interest caused by the disrepair. A landlord may therefore recover less than the estimated cost of completing every item of work.

Break Conditions

Where a tenant intends to exercise a break option, repairing, decoration or yielding-up obligations should be reviewed carefully. The precise wording of the break clause will determine whether compliance affects the effectiveness of the break.

Evidence of Loss

A landlord's claim should reflect its likely loss rather than automatically equalling the total cost of the works. Costs and other losses should be properly quantified and supported by estimates, invoices or valuation evidence.



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