

## Business

# Dilapidations: it's as easy as pulling teeth

**Carley Jackson** breaks down dilapidations for landlords and leaseholders

Whether you are a landlord or a leaseholder of a commercial premises, you will most likely have to deal with dilapidations at some point. But what actually are they?

## Dilapidations explained

In simple terms, dilapidations relate to breaches by a tenant of their obligations or covenants in the lease relating to physical alterations and their reinstatement, redecoration and repair. A dilapidations claim can be made by the landlord against the tenant during or towards the end of a lease or after the lease has ended.

As with any other property purchase, the principle of 'buyer beware' still remains, even for leases. If you are considering taking on new commercial premises, it is important to have an inspection and survey undertaken of the property and be aware from the outset of your repair and redecoration obligations, as you will have to keep the premises in such condition and return to the landlord as the lease dictates.

A schedule of condition can be a useful way of limiting your liability, as this records the condition of the property at the start of the lease and subject to agreement, the repairs can then be limited to no better condition than evidenced in the schedule of condition.

Having this document from the start can help save

significant costs and time dealing with repairs and dilapidations issues at the end of the lease.

## Schedule of dilapidations

At any point of the lease if you have not complied with all the repair obligations required under the lease, the landlord may issue you with a schedule of dilapidations. This document outlines the work that the landlord considers is required to comply with the tenant's obligations and this work will need to be completed before the end of the lease term.

If at the end of the lease the tenant has failed to comply with these obligations, the landlord may be able to recover the costs of repair and/or issue a claim for damages. There is a limit to a tenant's liability for dilapidations under Section 18 of the Landlord and Tenant Act, 1927, and more generally by common law; however, the amount could still be substantial.

If the parties fail to agree a settlement, normally a surveyor is appointed to try and agree an appropriate settlement figure. If an agreement still cannot be reached, the matter may proceed to other forms of alternative dispute resolution such as mediation, or if this fails the matter may proceed to court.

Commercial leases are long and complex and subtle changes in the wording can significantly affect your liabilities. When you first begin looking at new premises



and discussing heads of terms, it is imperative that you think about dilapidations. You need to have a clear understanding of what obligations you are taking on and who is going to be responsible for what under the lease, and taking early professional advice may save you much headache and substantive costs in the long run. If you have any questions regarding your lease obligations or require assistance with negotiating heads of terms or lease terms, contact FTA Law and one of our commercial property experts will be able to guide you through the process. **D**



Carley is a newly qualified commercial property solicitor with many years in the legal profession prior to qualification. Carley has experience in dealing with all aspects of commercial property transactions, including freehold and leasehold sales and acquisitions, small business sales and acquisitions, and property finance.

**FOR MORE INFORMATION**, call 0113 834 3740 or contact Carley at [carley.jackson@fta-law.com](mailto:carley.jackson@fta-law.com).

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