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Lease Dilapidations - Despite an updated Protocol and proposed shake up of practices, Tenants still need to fight their corner.

**Many tenants look forward to the end of their lease term with trepidation, expecting to have to fight with their landlord over the dilapidations report. In recent years the procedure where Landlord's make a claim for lease-end or break clause dilapidations has become more formalised and transparent. This should be good news to tenants, but as Adrian Goulding of Altus Andrews explains tenants are still going to have to fight their corner.**

In 2002 a draft 'Pre Legal-Action Protocol' on how dilapidations claims should be made and negotiated was issued by the Property Litigation Association. This was updated in 2006 and has been updated again in May 2008. Whilst this document has never been adopted formally by the Courts (so isn't a requirement in terms of preparation for legal disputes) it has largely been adopted by Landlords and the property litigation industry as 'best practice' and now provides a fairly streamlined procedure for dealing with dilapidations matters.

Notwithstanding the earlier versions of the 'Protocol' we still find a good number of Landlord's adopting aggressive tactics and in some cases still submitting unreasonable and even 'spurious' dilapidation claims. The latest version of the Protocol attempts to eliminate or at least reduce such situations and the Royal Institution of Chartered Surveyors (RICS) has issued a new Guidance Note on Dilapidations, which will require surveyors to sign a declaration that the claim they have prepared is fair and accurate. It is hoped that this will result in Landlord's surveyors issuing dilapidation claims that are in the first instance more reasonable and more accurate.

It probably isn't time for Tenants to start rejoicing just yet however. It can't be forgotten that these claims are usually for 'damages' which have many different elements, so Landlords will probably argue there isn't necessarily any single right answer. We also suspect Landlords will continue to see dilapidation claims as entirely 'negotiable' matters so even with this Guidance Note confirmed, it's likely some will continue to act aggressively and issue high claims, believing them to be 'fair and accurate' from the Landlord's point of view.

The proposed RICS Guidance Note and the revised 2008 Protocol are both very positive steps in trying to level the playing field in dilapidation disputes. However, until they're fully complied with, Tenants will still need to fight their corner!

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