

# 10 top tips for occupiers





## The Protocol of Dilapidations

The Protocol of Dilapidations sets out the steps that the court expect prospective parties to follow at the end of their lease and prior to the commencement of proceedings.

This establishes a reasonable process and a timetable for the exchange of information that is relevant to any dispute. It will also set the standards for the content and quality of Schedules of Dilapidations and quantified demands as well as the conduct of pre-action negotiations. The ultimate aim of the court is to enable the tenant and the landlord to avoid litigation and agree a settlement.

## Common Areas of Dispute

Unless a tenant has completed repairs and other work that is required under their lease obligations, the landlord will issue a Schedule of Dilapidations that outline the work required to be completed at lease end. A landlord can also issue a Schedule of Dilapidations after lease end and claim damages in lieu.

Disputes can arise over:

- Whether terms identify whether items identified by the landlord's surveyor are actually a breach of the lease covenants
- What repairs and work needs to be undertaken
- What constitutes as an appropriate repair
- What is the appropriate response time for a tenant in repairing/ renewing the elements that were in disrepair at the start of a lease
- Whether any of the tenants alterations will have to be reinstated
- What needs to be redecorated or cleaned
- What works are required for an Interim Schedule of Dilapidations and what relief is possible until lease end
- The circumstances that a tenant can exercise a break clause
- The landlord's estimate of the cost of works
- The value by which the property has been reduced due to it being in disrepair
- The impact of future development on the tenant's dilapidations liabilities