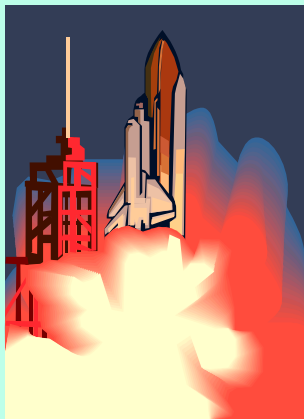
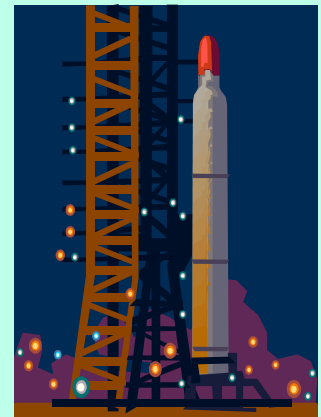


Final Count Down

Last three weeks



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Review?

- **Week 1 – Exam Review**
- **Week 2 - Exam Review**
- **Week 3 – Exam Review**



Today - Now

First Part

What's in the exam and what you need to know

Second Part

Guest Speaker

Last Hour

More exam stuff

Last ten minutes

Hot exam tips



Learning Aims

1/ Understand whats in the exam

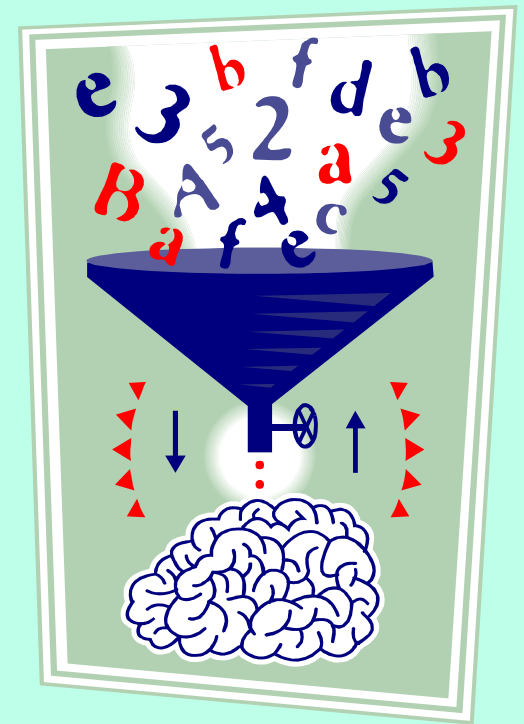
2/ Understand the Dilaps GM

3/ Systems to help you



What Learning's about

1. **Start level – Memorising and repeating**
2. **Basic level – Understanding and repeating**
3. **Average level – Thinking and applying**



What are exams about?

1. **Start level – Memorising and repeating**
2. **Basic level – Understanding and repeating**
3. **Average level – Thinking and applying**



Exam Preparation

Know what's in the exam

- **Dilapidations**
- **Disputes - Party Walls**
- **Disputes - ADR**



Exam Dates



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Test and Measure Yourself

- Have a plan of revision
- Review and amend the plan!
- Don't lose sight of your goal
- GOAL = To pass the exam –
so test yourself on exam
style questions



Resources for you - Dilapidations

Dilapidations

- **Read the RICS Dilapidations Guidance Note**
- **www.DilapsHelp.com**
Includes book reviews if you want some bed time reading



Dilapidations Process

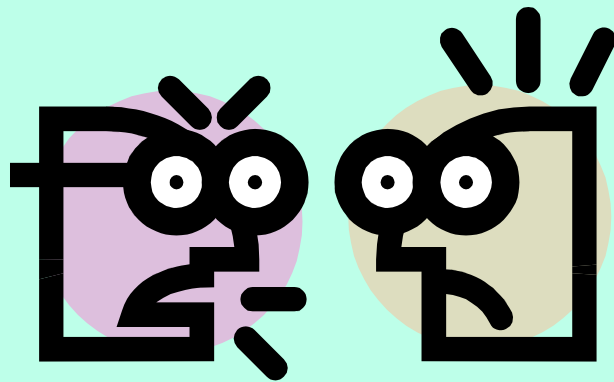
1. Client rings for advice/ quote
2. Talk to client
3. Confirm instruction and T & Cs
4. Gather available information
5. Inspect property
6. Prepare Schedule of Condition or Dilapidations report
7. Advise and agree way forward with your client
8. Meet other surveyor
9. Negotiate and agree
10. Negotiate and Disagree and ADR or go to court

Resources for you – Disputes – Party Walls

- **Disputes – Party Walls**
- **Any (every) book by**
- **John Anstey**
- **on Party Walls**
- **www.DisputesHelp.com**



Resources for you – Disputes – ADR



- Disputes – ADR
- Read the RICS Expert Witness Guidance Note
- Know the different ADR options and who does what
- www.DisputesHelp.com

Exam Preparation

Know what's in the exam

- **Dilapidations**
- **Disputes - Party Walls**
- **Disputes - ADR**



What's life about?

Acapulco tape



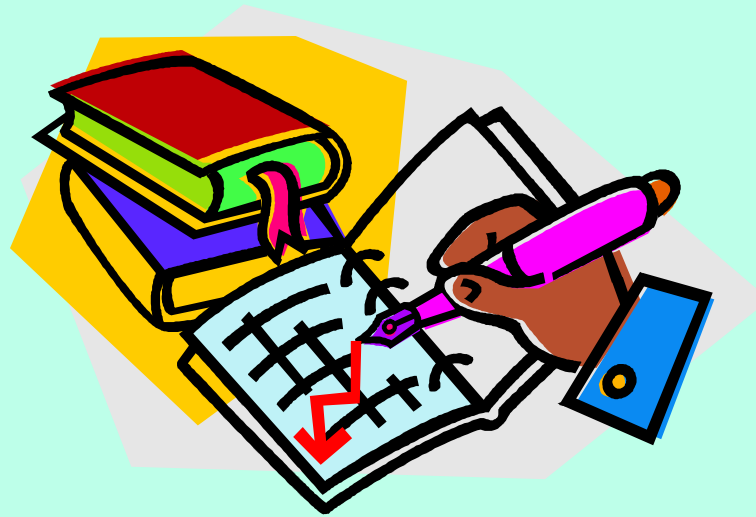
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Into Groups



- **Groups of about six**

Dilapidations Overview



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Dilapidations Process

1. **Client rings for advice/ quote**
2. **Talk to client**
3. **Confirm instruction and T & Cs**
4. **Gather available information**
5. **Inspect property**
6. **Prepare Schedule of Condition or Dilapidations report**
7. **Advise and agree way forward with your client**
8. **Meet other surveyor**
9. **Negotiate and agree**
10. **Negotiate and Disagree and ADR or go to court**

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RICS Guidance Notes

Read it!



**This is a snap shot of items
from it you should know**

And lots of Questions for you?



What you must know on Dilapidations



- **Exam style questions**
- **Working in groups**

RICS Dilapidations Guidance Notes

A guide to best practice

You need to read it!

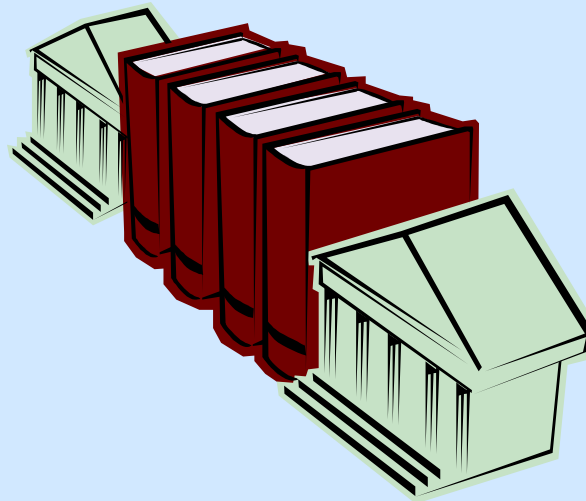
Some interesting sections



**ALL OF THEM ARE INTERESTING TO YOU
BEFORE YOUR FINAL YEAR EXAM!**

Generally on Guidance Notes

**This applies to all RICS Guidance Notes,
however some have other legislation
within them**



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RICS Guidance Notes



Guidance Notes are not compulsory

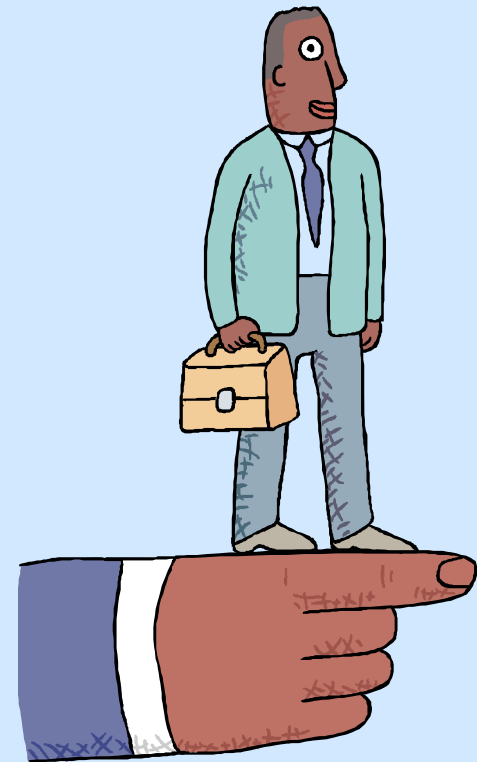
But - to quote to the Dilapidations Guidance Note:

In the opinion of the RICS a member conforming to the practices recommended in this note should have at least a partial defence to allegation of negligence by virtue of having followed those practices. However, members have the responsibility of deciding when it is inappropriate to follow the guidance

Not Necessarily

**But it does not follow the
members are negligent**

**I think you would be on the
defensive unless you had
good reason not to**



Question One



- a) **What's the difference between Guidance Note and PS?**
- b) **Why does the RICS have Guidance Notes and PSs**

Things to do:

Get a copy of the RICS Dilapidations Guidance Notes

Controllable Assets

- **Controlled by the lease laws**
- **Landlord looking for a return on capital**
- **Law of Property Act 1925 - section 146**
- **Landlord and Tenant Act 1927 - section 18**
- **Leasehold Property (Repairs) Act 1938 section 1-8**
- **Landlord and Tenant Act 1954 section 51**
(all in back of RICS Dilapidations Guidance Note)

Property Characters

- Donald Trump Billionaire Property Developer THINK BIG
- 9.8 Billion in debt in the 90s property slump and now doing ok

Peter Property Developer Front



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Peter Property Developer Back



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Start up Sue S of C



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Start up Sue S of C



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Start up Sue Rear Roof



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Dilapidations

RICS Guidance Notes

5th Edition



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Dilapidations Guidance Note – what's in it?

1. Introduction

2. Role of Surveyor

3. Taking instructions



Question Two



- a) Write a letter accepting an instruction to prepare a Schedule of Dilapidations and another letter accepting an instruction for a Schedule of Condition (who are you working for?)
- b) What information would you request / require? 10 things

Things to find out:
All 10 things

Answer – Here's 9! Information Required

- Lease
- Plans
- Licences
- Side letters
- Schedule of condition
- Inventories (who owns what)
- Schedule of fixtures and fittings
- Any notices under L & T Act 1954
- Any consents, Any agreements

Part One - Introduction



Interestingly says:

- (the surveyor) should understand the client's position fully
- Ascertain the relevant factual and legal background

Dilapidations Guidance Note – what's in it?

1. Introduction

2. Role of Surveyor

3. Taking instructions (including fees)

4. The Lease and other enquires



Question Three



a) What covenants do you need to look out for?

b) What is a yield up clause?

Things to find out:

What is the torrential form of drafting?

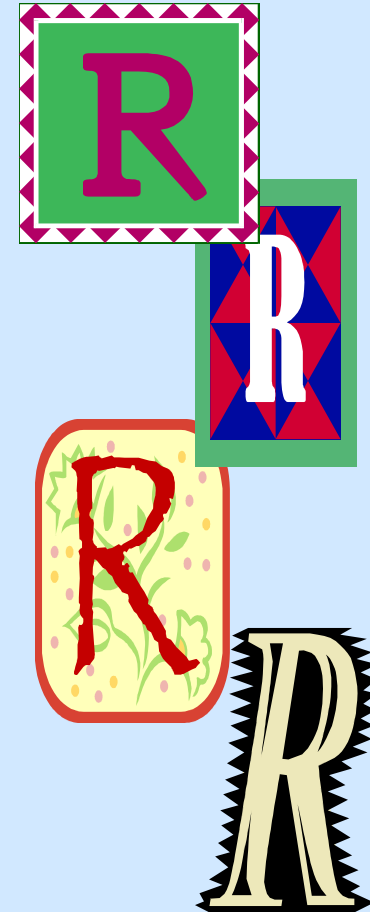
**Anything you're not 100% sure
about, get a Solicitor to check**



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Question Three Part b

- a) Name the four Rs
- b) Which one R does Section 18 limit?
- c) What are the two ways a claim is limited by a Section 18?



Getting paid

Check the lease to see if the landlord can claim your fees this should not affect your contract/payment from the landlord, but can!



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Dilapidations Guidance Note – what's in it?

1. Introduction
2. Role of Surveyor
3. Taking instructions
4. The Lease and other enquires
5. Inspection



Question Four



- a) In what order do you inspect the property?
- b) What are the type of things you are looking for in a Dilapidations Schedule?
- c) How would you price a Schedule of Dilapidations? Name three ways.
- d) What is the aim of a Schedule of Condition?

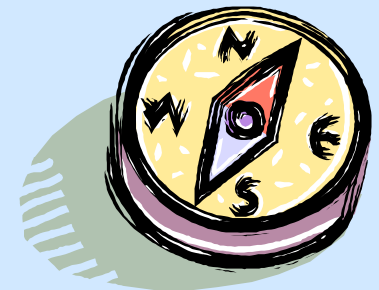
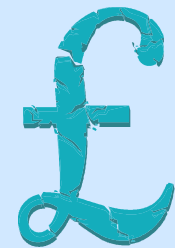
Inspection



- Note general standard of repair in locality and whether similar properties are boarded up
- Any changes in the area since the lease was granted?

Inspection

- All site notes should be retained
- “sufficiently thorough” to enable Schedule of Condition or Schedule of Dilapidations
- Think about costs ways to price
- North point or street – add some way of establishing beyond doubt what elevation you’re looking at!



Dilapidations Guidance Note – what's in it?

1. Introduction
2. Role of Surveyor
3. Taking instructions
4. The Lease and other enquiries
5. Inspection
6. The Schedule



Question Five



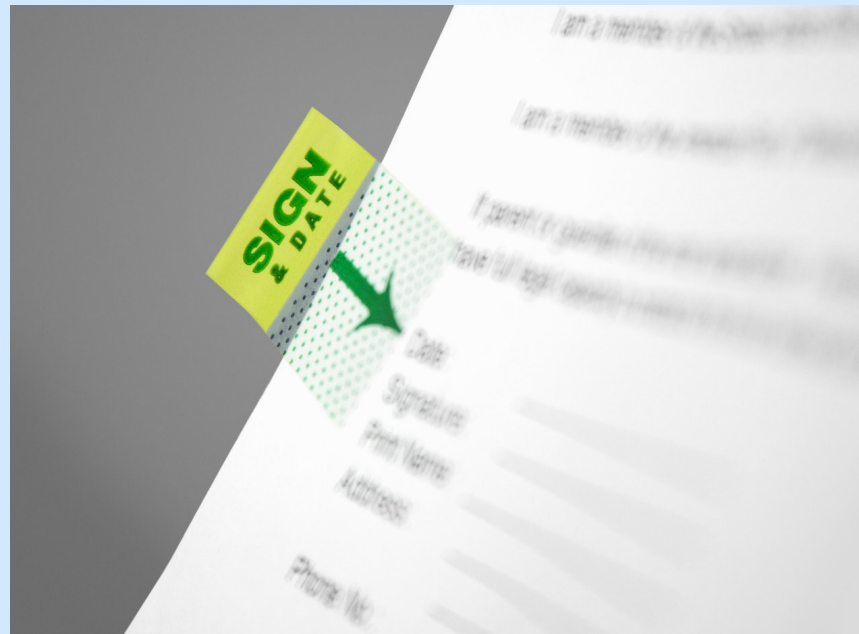
- a) Draw a Dilapidations schedule layout – what is its purpose? You need to know this!
- b) Draw a Scott Schedule layout
- c) Draw a Schedule of Condition layout

Things to find out:

Section 6 mentions CPR, why?

Advices on Schedule of Condition

Schedule of Condition - no standard approach



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Dilapidations Guidance Note – what's in it?

1. Introduction
2. Role of Surveyor
3. Taking instructions
4. The Lease and other enquires
5. Inspection
6. The schedule
7. Claims at the end of the lease
8. Claims during the term



Question Six



- a) **Name the different types of Schedule of Dilapidations**
- b) **What limits when you can serve/ issue a Schedule of Condition**
- c) **Would you serve the Schedule of Condition or a solicitor?**

Things to find out:

Legal cases relating to a Schedule of Condition

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In more detail – claims during the term

- Remedies – rights of Landlord
- Damages – Section 18 limitation (know a legal case)
- Forfeiture – Ending of lease (know a legal case)
- Entry to carry out work followed by costs (Jervis v Harris)
- Specific performance (very rare)
- Things to find out: related case law Jervis v Harris

Exaggeration & Understatement

- Warning against subsequent litigation carries danger of heavy costs order against you



- CPR part 44.3
- In deciding what order (if any) to make about costs, the court must have regard to all circumstances, including the conduct of all parties

Dilapidations Guidance Note - what's in it?

1. Introduction
2. Role of Surveyor
3. Taking instructions
4. The Lease and other enquires
5. Inspection
6. The schedule
7. Claims at the end of the lease
8. Claims during the term
9. Break clause



Question Seven



a) What's a break clause?

b) Why do they go wrong?

Things to find out:

Name and explain any cases relating to break clauses

Dilapidations Guidance Note

what's in it

- 1. Introduction**
- 2. Role of Surveyor**
- 3. Taking instructions**
- 4. The Lease and other enquires**
- 5. Inspection**
- 6. The schedule**
- 7. Claims at the end of the lease**
- 8. Claims during the term**
- 9. Break clause**
- 10. Claims against landlords**

Question Eight

- a) **Claims against the landlord - When would this happen?**
- b) **The tenant remedies (rights) available are damages (only at end of lease), self help (DIY), set off (rents); explain what these are.**

Things to find out:

Find out more about damages

Name and explain any cases relating to break clauses

Claims Against Landlords

Landlord's covenants

Example:



Common parts on a larger property

Dilapidations Guidance Note - What's in it?

1. Introduction
2. Role of Surveyor
3. Taking instructions
4. The Lease and other enquires
5. Inspection
6. The schedule
7. Claims at the end of the lease
8. Claims during the term
9. Break clause
10. Claims against landlords
11. ADR
12. Settlements
13. Appendices



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Question Nine



a) What's ADR?

a) What's needed for a Dilapidations settlement (using common sense)?

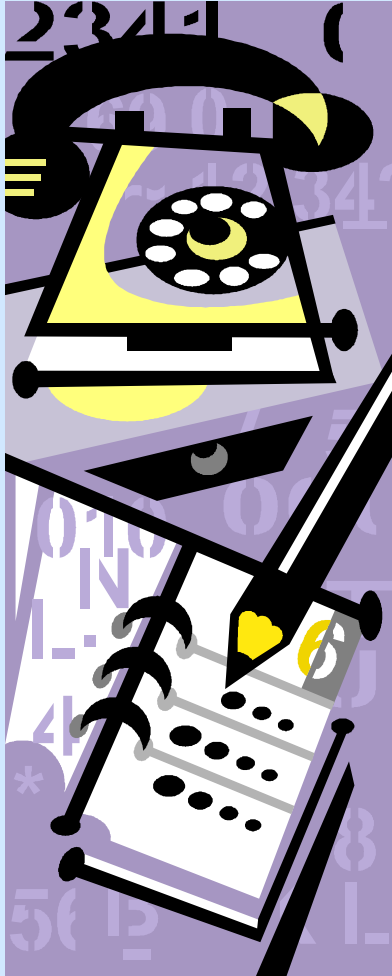
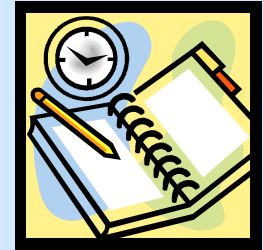
Appendices

PLA Protocol

- **Property Litigation Association pre-action protocol**
- **Key elements – it's about communication**



Timetable – Key times



- **Landlord's Schedule of Dilapidations within 56 days after termination of lease**
- **Tenant's response 56 days from service of claim**
- **Negotiations - meet within 28 days**

CPR Pre Action Protocol

- **Act reasonably in exchanging information and documents**
- **Ultimately if nothing else works use Alternative Dispute Resolution before court**



See: www.pla.org.uk



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CPR 44.3



- **Conduct before as well as during the proceedings**
- **Whether it was reasonable to raise, pursue or contest a particular allegation or issue**
- **The manner in which the party has pursued or defended the case**

Appendix

- **Appendix B - Example of Schedule of Dilapidations**
- **Appendix C - Recommended form of a Scott Schedule**
- **Appendix D - Example of a Scott Schedule**
- **Appendix E - VAT**
- **Appendix F - Extracts from legislation**

More Questions

- What are the parts of Section 18?
(Section 18 L & T Act 1927 only applies to repair covenants)
- Section 18 limits by diminution in value
– what is diminution in value?
- What is supersession?
- What is a heads of terms?
- What is Consequential Losses?

Consequential Losses (i.e. over and above the building costs)

- Legal fees
- Admin
- VAT
- Holding costs until relet or sold
- Loss of rent
- Rates liability
- Insurance, security, energy and cleaning costs
- Loss due to lack of service charge recoupment
- Finance cost (including interest)
- Preparation of schedule
- Other fees of the surveyor

Quote for the Day

***"We are not creatures of
circumstance: we are creators of
circumstance"***

Benjamin Disraeli