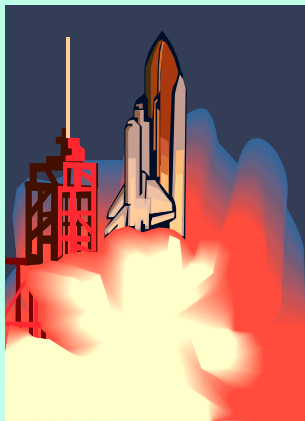
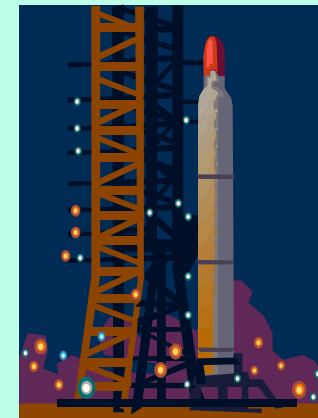


# *Final Count Down*

## *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

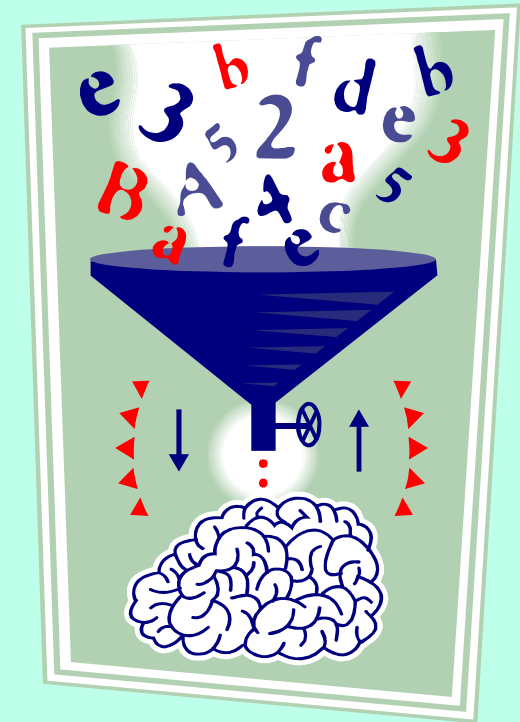
## Last ten minutes

Hot exam tips



# 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](http://www.DilapsHelp.com)**  
**Includes book reviews if you want some bed time reading**



# Dilapidations Process

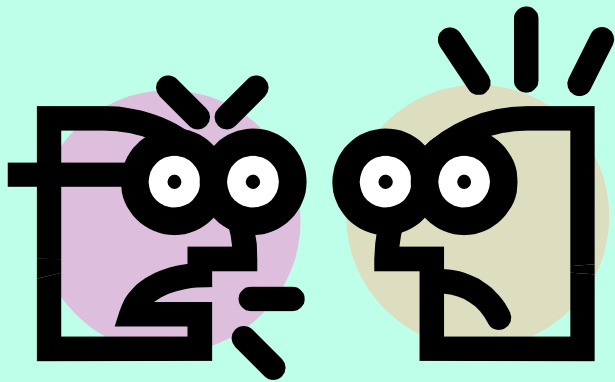
1. **Client rings for advice/ quote**
2. **Talk to client**
3. **Confirm instruction and T & Cs**
4. **Gather available information**
5. **Inspect property**
6. **Prepare Schedule of Condition or Dilapidations report**
7. **Advise and agree way forward with your client**
8. **Meet other surveyor**
9.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

# 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!

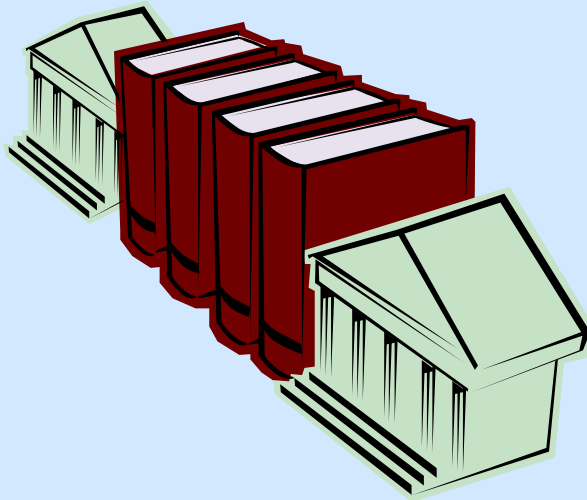
Some interesting sections



**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**

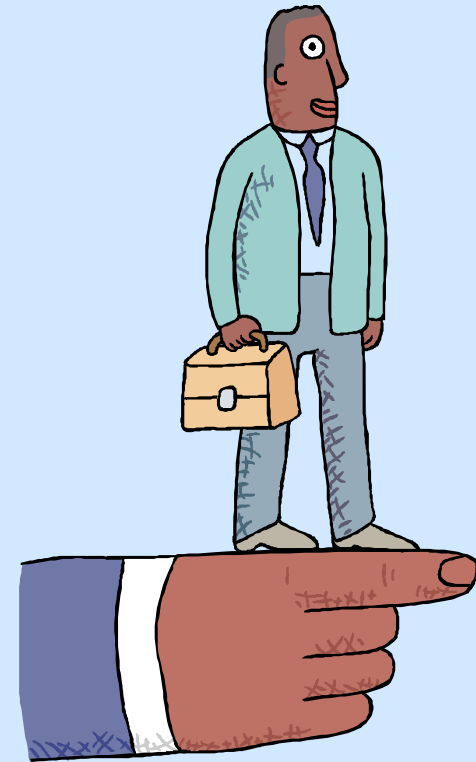
**But - to quote to the Dilapidations Guidance Note:**

**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**

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# 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)**

# Three Characters or was it four!

**Donald Trump -  
Billionaire Property  
Developer - THINK  
BIG**



# Peter Property Developer - Front



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# Peter Property Developer - Back



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# Start up Schedule of Condition



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# Start up Schedule of Condition



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# Start up



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# Dilapidations

## RICS Guidance Notes

### 5<sup>th</sup> 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?**

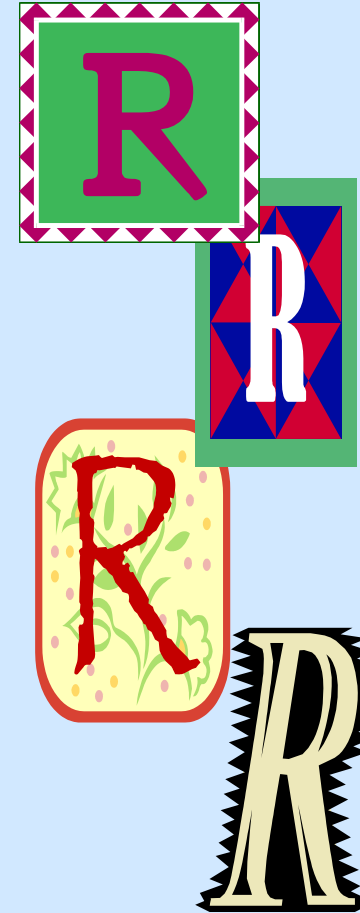
**Anything you're not 100% sure  
about, get a Solicitor to check**



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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?

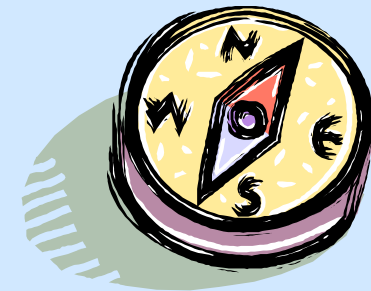
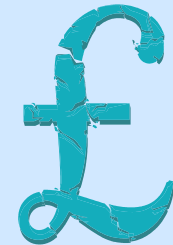
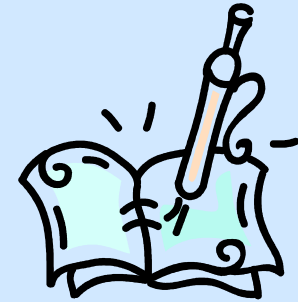
# Inspection



- 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
- North point – I would add some way of establishing beyond doubt what 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



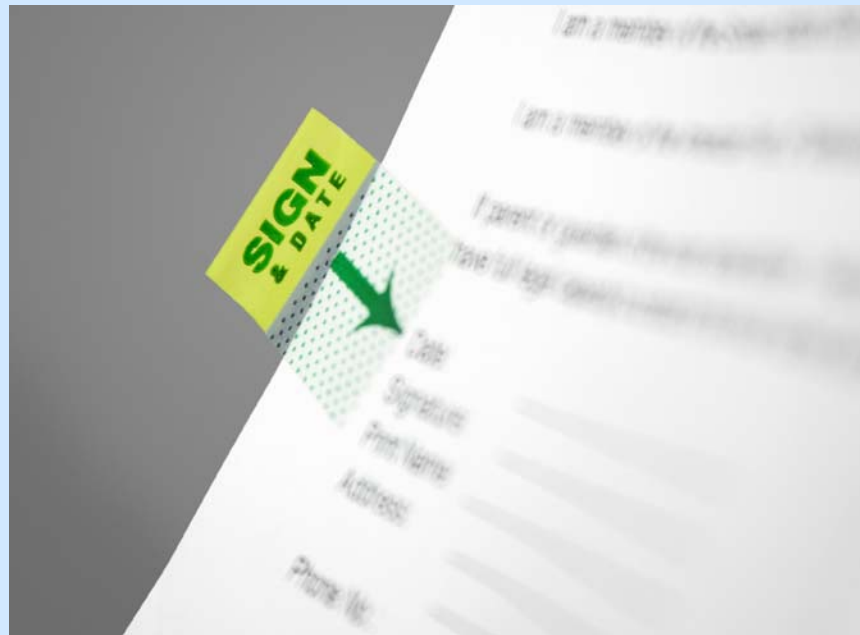
- a) Draw a Dilapidations schedule layout – what is its purpose? You need to know this!
- b) Draw a Scott Schedule layout
- c) Draw a Schedule of Condition layout

**Things to find out:**

**Section 6 mentions CPR, why?**

# Advises 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



# Question Nine



**a) What's ADR?**

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

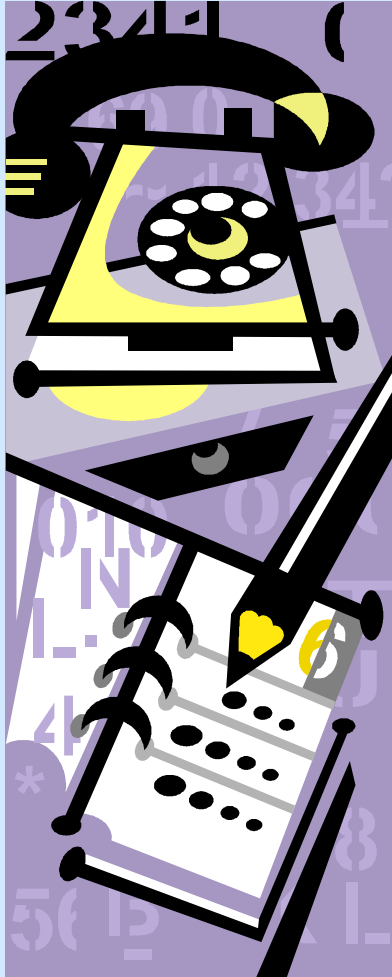
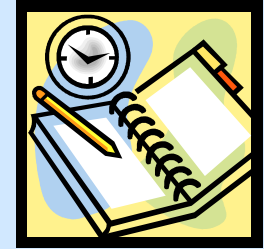
# Appendices

## 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](http://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**