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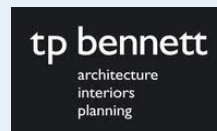
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Breakfast Briefing

Property Exit Strategies: Forewarned is Forearmed

Thursday 23rd May 2013

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Upcoming Events

Joint RICS Event

5th June

Annual Summer Party

20th June

Young Leaders Charity Event

20th July

Annual Summer Walk

23rd July

Energy & Sustainability Event

17th October

Annual Awards Breakfast

3rd December



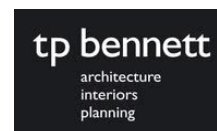
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Programme

- 8.30** **Welcome**
Matt Bigam, Bidwells
- 8.35** **What's changed in the Dilapidations protocol?**
Alex Charlesworth, Cushman & Wakefield
- 8.45** **The legal perspective**
Jane Fox-Edwards, Allen & Overy
- 8.55** **The occupier perspective**
Iain Franklin, Travleport
- 9.05** **Panel Discussions**
- 9.20** **Questions and Answers**
- 9.45** **Close**

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Property Exit Strategies: Forewarned is Forearmed

What's changed in the Dilapidations protocol? Alex Charlesworth

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The protocol

What is The Protocol?

- 1st January 2012 The Dilapidations Protocol was formally adopted by The Lord Chancellor's Department – It is Now Law

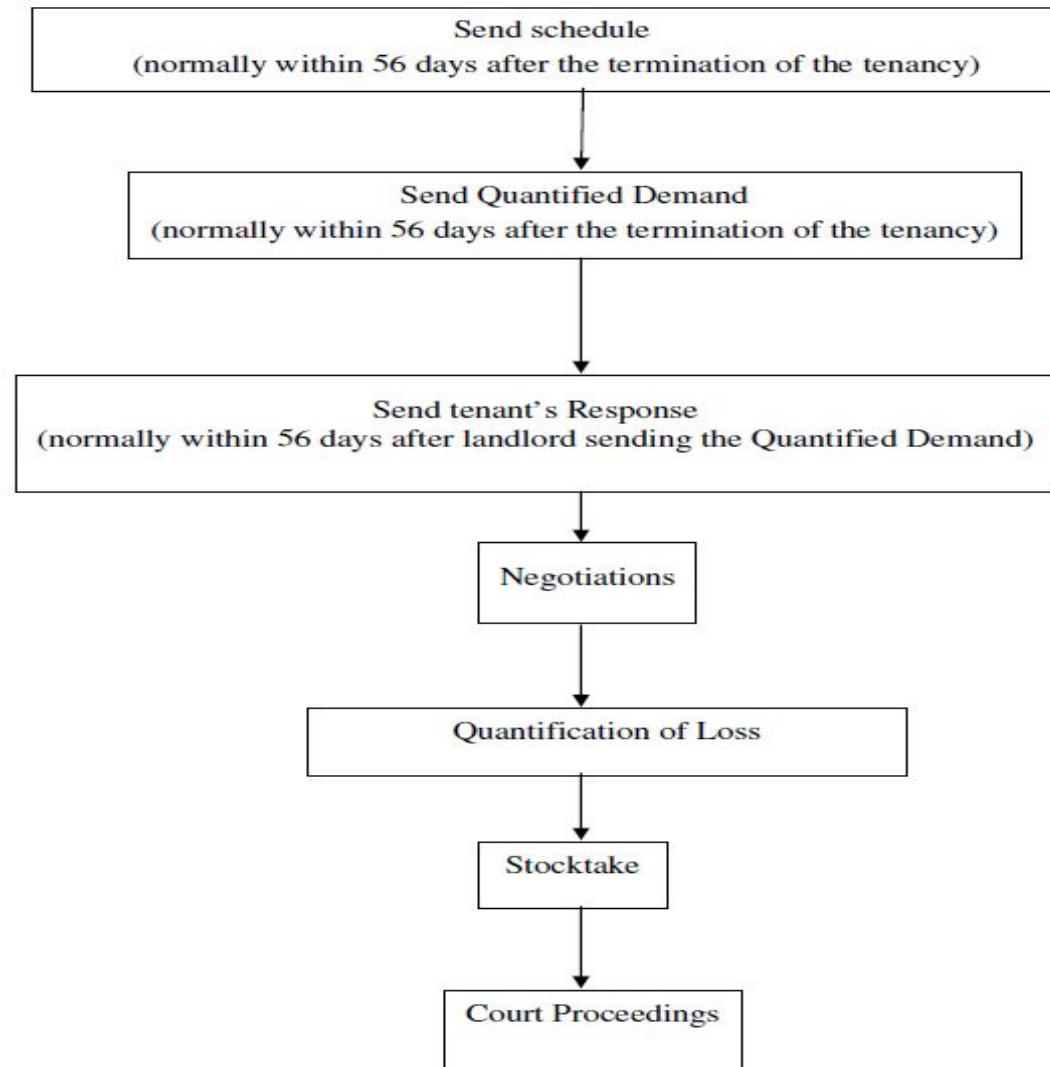
The Protocol....

- Encourages exchange of information in order to understand the claim
- Enables early settlement before proceedings
- Manages proceedings if litigation cannot be avoided.

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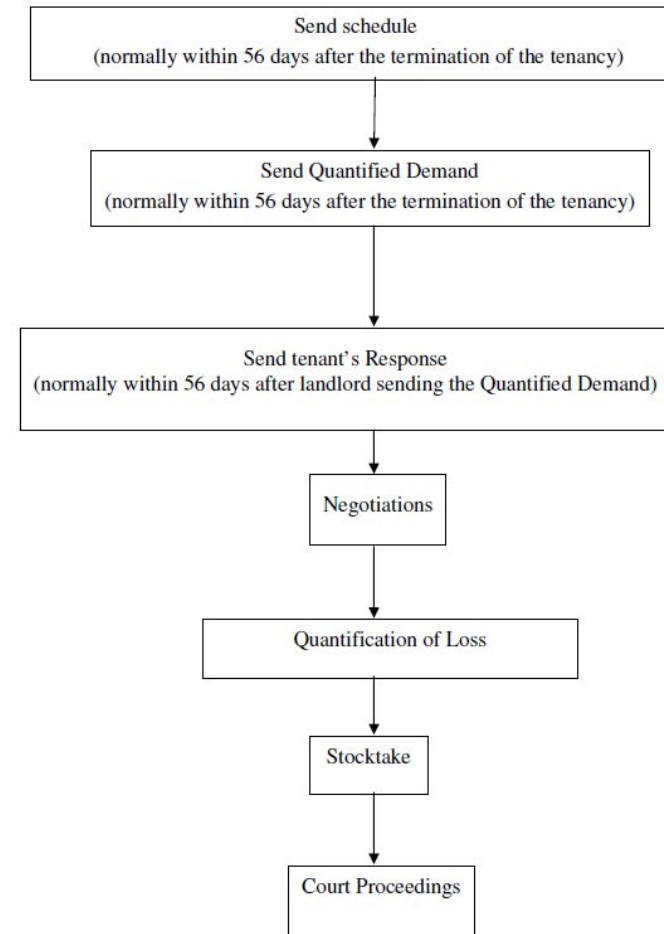


The protocol process



The protocol

- Is it a stick being used by a Landlord?
- What are the implications for not following it?

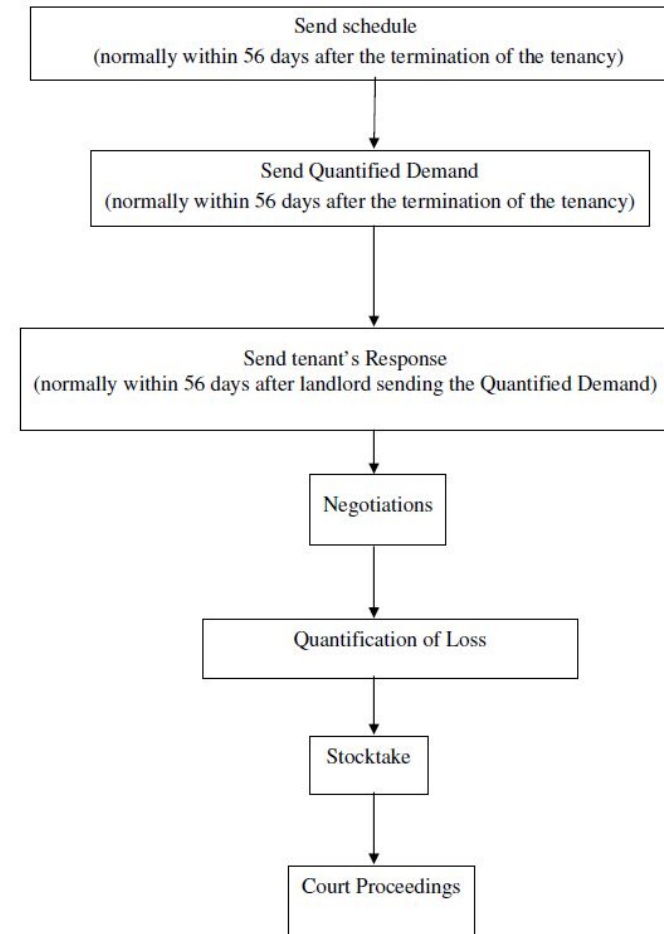


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The protocol

- Is it relevant?
- What do the Legal and Surveying Professions think?

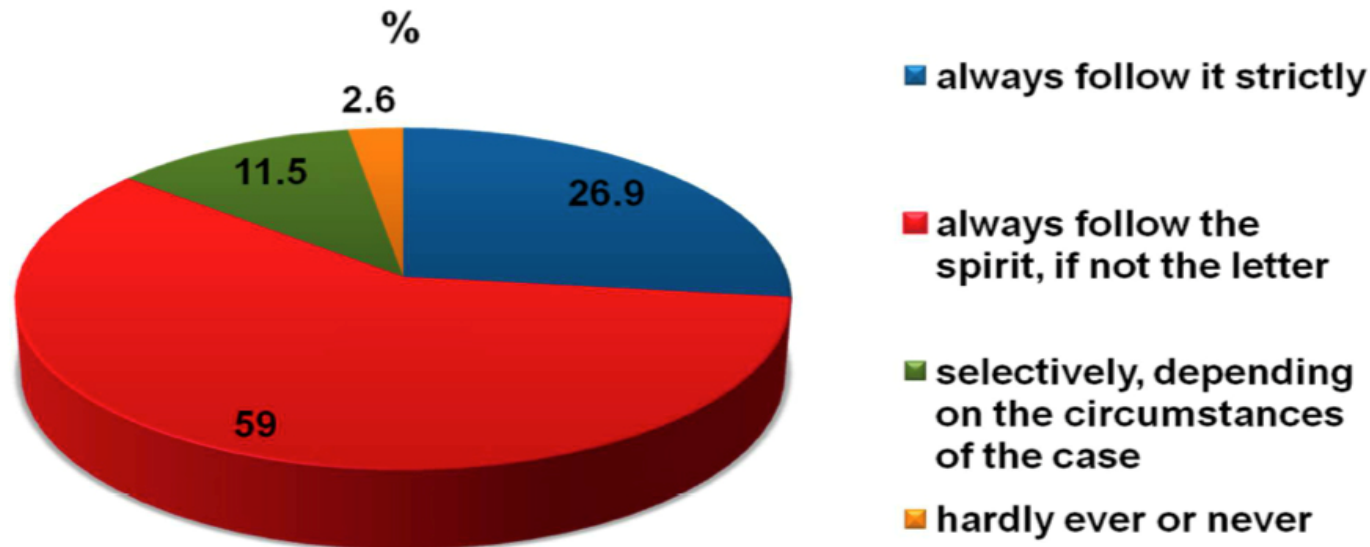


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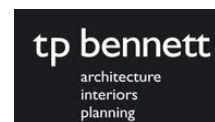


Is it being followed?

When bringing or defending a claim for dilapidations, to what extent do you follow the Dilapidations Protocol?



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An overview on break clauses

The poor letting market means landlord's are more likely to question whether Break Clause provisions have been adhered to.

Be careful - The landlord does not need to help!

1. Is the Break clause conditional upon performance?

- Rent and all outstanding payments must be made by the break date?
- Payment of interest on late payments?
- Vacant possession?
- Specific Performance?

2. Other Issues

- A sub-tenant in occupation stopping performance?
- The break is personal to a previous entity
- Serve the Break Notice on the correct entity

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An overview on vacant possession

We would recommend the following:

1. Ensure no people are in occupation - employees, security, FM or trespassers
2. Ensure the landlord can assume immediate and exclusive occupation
3. Remove all chattels from the property. For example;
 - Furniture & freestanding equipment
 - Demountable partitioning
 - Pictures and signage
 - Debris / rubbish
 - Keys handed back – Property secure
 - Hand over operating and maintenance manuals and plans



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Property Exit Strategies: Forewarned is Forearmed

The legal perspective Jane Fox-Edwards

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It's complicated



- **Break Conditions**
- **Notices**
- **Third Parties**
- **Timing**

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Know Your Enemy



- The Landlord's position
- Timing – go slow?
- Pre-Action Disclosure
- Section 18

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If you do get into litigation...



- Jackson Reforms
- Part 36
- Costs Estimates
- Experts
- Mediation

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The occupiers perspective Iain Franklain

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A Smaller Occupier, with Global Challenges

- World's Leading Provider of Informed Travel Choice
- Primarily B2B, with B2C Subsidiaries
- Part of Blackstone Group

- 76 Corporate Offices Worldwide
- Representation in 170 countries
- 3,500+ employees
- 1m sq ft Portfolio
 - Major Regional HQ's
 - Multiple small sales offices



Our Approach

Be Prepared, Engage Early

Strategic	Tactical	Operational
Review of exit options 12 months prior to expiry	Instruct specialist advisors with sufficient time to act	Gather evidence to defend claim
Open discussions with stakeholders	Consider hypothetical Landlord's Actions	Conduct works prior to expiry
Increasing focus on accounting provisions	Use of Part 36 Notice to draw line in sand	Monitoring of compliance with break clause / VP terms
'Nothing to Hide' approach		

Our Perspective

Communication & Certainty

- UK stands alone in dilapidations complexity and aggravation
 - Education of financial team on impact and opportunities
 - Fixed agreements over longer terms de-risk the lease
- Effective use of Protocol can provide clarity, forewarning both sides of intentions and opinions.
- Current market provides Tenant driven opportunity for change

Panel Discussion Question and Answers

Alex Charlesworth

Jane Fox-Edwards

Iain Franklin

Matt Bigam

Cushman & Wakefield

Allen & Overy

Travelport

Bidwells

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How do you reduce your liability?

1. Before lease commencement

- Negotiate changes to the legal drafting of the lease – eg A Schedule of Condition
- Carry out a fabric and mechanical & electrical survey
- Take photographs

2. During Occupation

- Assess the impact of alterations and review the landlord's licence
- Planned preventative maintenance

3. Leading up to Lease End

- Data and evidence gathering - plugging the gaps
- Carry out a dilapidations assessment and exit strategy
- Repair & maintenance

4. To Do The Dilapidations Works or Not? – The Tenant's Dilemma

- Do you have enough time?

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