

26

Residential

What happens when restrictive covenants hit development?

34

Commercial

Why measuring space in Hong Kong proves value of standards

44

Environment

How will climate change affect individual properties?

rics.org/journals

Journal

Property

22

Data defence

Stop cyber crime before it stops your business



CITIBASE

since 1993

THE PROPERTY MANAGER FOR THE NEW ECONOMY™

Everyone's talking about flexible officing. But we're not just talkers, we're doers. We've been generating cash from underutilised buildings for our Clients for over 25 years.

Whether it's an empty floor or a whole building, whatever type or age, wherever in the UK, it's time your vacant space started to make you money from the flexible officing revolution.

Our Clients have some of the smartest minds in the property industry. Join them and prosper from our unique property management service.

Citibase. The Property Manager for the New Economy™

 citibase.com

 ceo@citibase.co.uk

 0121 667 1296

The *Property Journal* is the journal of the RICS Commercial Property, Dispute Resolution, Facilities Management, Machinery & Business Assets, Management Consultancy, Personal Property, Residential Property and Valuation Professional Groups

Editors: Claudia Conway (Commercial property) T: +44 (0)20 7695 1605
E: claudiaconway@rics.org

Jan Ambrose (Residential property, Personal property) T: +44 (0)20 7695 1554
E: jambrose@rics.org

Brian Ward (Interdisciplinary)
T: +44 (0)20 7334 3765 E: bward@rics.org

Advisory groups

Commercial property: John Baguley (RICS), Paul Bagust (RICS), Sarah Cranke (Faithful+Gould), Nicola Dixon-Brown (CBRE), Martin Francis (BNP Paribas), Charles Golding (RICS) Vivien King (Hollis), Nigel Sellars (RICS), Paul Tonkin (Hogan Lovells)

Residential property: Paul Cutbill (Countrywide), Julian Davies (Earl Kendrick), Graham Ellis (RICS), Chris Rispin (BlueBox Partners), Philip Santo (Philip Santo & Co)

Published by:

The Royal Institution of Chartered Surveyors, Parliament Square, London SW1P 3AD
T: + 44 (0)24 7678 8555 W: rics.org
ISSN 2053-0935 (print)
ISSN 2053-5732 (online)

Editorial & production manager: Toni Gill
Sub-editor: Matthew Griffiths

Advertising:
Will Nash T: +44 (0)20 7871 5734
E: will@wearesunday.com

Design & production: We Are Sunday
Printer: Geoff Neal Group



While every effort has been made to ensure the accuracy of all content in the journal, RICS will have no responsibility for any errors or omissions in the content. The views expressed in the journal are not necessarily those of RICS. RICS cannot accept any liability for any loss or damage suffered by any person as a result of the content and the opinions expressed in the journal, or by any person acting or refraining to act as a result of the material included in the journal. All rights in the journal, including full copyright or publishing right, content and design, are owned by RICS, except where otherwise described. Any dispute arising out of the journal is subject to the law and jurisdiction of England and Wales. Crown copyright material is reproduced under the Open Government Licence v.3.0 for public sector information: nationalarchives.gov.uk/doc/open-government-licence/version/3/

Contents

5
Climate costs
Estimates of the loss to global GDP from climate change vary hugely

6
Briefing

8
All inclusive
The built environment sector can benefit substantially from taking a lead on diversity and inclusion

22
The hack stop
What should your business strategy for preventing cyber crime look like?

24
Tax incorporated
Companies that are not resident in the UK for tax purposes but carry on a UK property business will soon be liable for corporation tax

28
Good value
The public sector is setting an example by considering economic, social and environmental well-being when carrying out procurement



42
Time to sharpen the axe
Investment in proptech now can enable surveyors to work more productively in the long run

44
The letterbox level
Predicting the impacts of climate change on a property-by-property basis presents challenges for professionals

59
Emergency planning
A landmark appeal judgment holds that air pollution arising from housing growth may be a material planning consideration

62
Talk of the towns
High-street regeneration projects reveal current priorities – but also suggest issues to anticipate

Contents

Commercial

11
Breaking promises
Particular attention should be paid to the specifics of break clauses to avoid falling into a trap



12
A healthy outlook
A major new London project is exploiting the opportunities for clinical and commercial success that life-science clusters offer

14
Accessing external expertise
The global code of practice *Procurement of facility management* is published in March to support facilities managers and other professionals



18
Hot data
Why is the quality of data so important in real estate, and how can it be improved?

34
For good measure
Providing transparent and consistent commercial space measurements is a particular challenge in Hong Kong

36
Dilapidations in a global context
Last year's Dilapidations Forum Conference picked up on the themes of an international market, dispute resolution and retail challenges

40
Squaring the circle
A survey of property professionals' approach to circular economic principles in office strip-outs offers some lessons

52
Open to inspection
How can APC candidates avoid some of the common pitfalls in completing the Inspection competency?

54
Can you feel it?
A positive workplace experience for employees can enable their creativity, and a recent summit explored the support corporate real estate can give

60
A question of expertise
The skills of the building surveyor and the valuer must both be used to achieve the best outcome in dilapidations

Residential

16
At home to a retrofit
Installing sprinklers in one high-rise building shows how the process can be completed successfully while keeping residents on site and on site

26
Check the small print carefully
Can landowners modify or discharge restrictive covenants that could affect the value of a proposed development?

30
The elephant in the room
Appalling housing conditions persist in many areas in the UK, but there is a way to ease the problem

38
The importance of keeping fit
Residential landlords should beware of operating close to minimum standards

46
The distributed ledger
Adoption of blockchain technology could make residential property transactions smoother, but is not without its challenges

48
Moisture measures
What is the role of a surveyor in a property with significant mould?

56
When action must be taken
The third article in a series on rights of light focuses on remedies for interference

Economics

'Even at the lower end of the scale, climate-related losses to global GDP could affect the very stability of the financial system'

Kisa Zehra
Economist, RICS



When evaluating the merits of measures to address large-scale challenges, policymakers are now increasingly mindful of the impact these plans might have on climate change. However, despite the prominence of this threat, there is little consensus about what the economic cost might prove to be.

Estimates of the loss to global GDP from climate change vary hugely depending on the assumptions being made, ranging from seven per cent in a 2019 IMF report to 30 per cent in research from Stanford University in 2018.

Even at the lower end of this scale, an economic adjustment would not just have consequences for households and businesses, but also ramifications for the very stability of the financial system. This in part helps to explain why, under the governorship of Mark Carney, the Bank of England has taken such active leadership on climate change. Other central banks have also been keen to focus attention on the issue, as has the IMF under Christine Lagarde before her recent appointment to the European Central Bank.

The hit to financial stability from climate change may come from a variety of sources, but a timely example is the upsurge in insurance claims following the unprecedented scale of bushfires in Australia. According to Munich Re, global insured losses are now running at around double the average of the past 30 years. Moreover, it is reasonable to assume that such losses will increase further over the coming years, posing a challenge to the very business model of insurance.

The impact of weather-related damage on asset values is meanwhile being felt by more and more households, businesses and, by extension, the banking sector. One obvious example is flooding, with government estimates suggesting that around one in six homes in the UK are under threat.

For businesses, there is also a particular concern about the consequence of new regulations that are part of the government's commitment for the UK to be carbon-neutral by 2050. This will require some clear signals to shift demand away from fossil fuels and towards

renewable energy, potentially leaving carbon-intensive assets stranded.

To take full account of how all of this may play out in the financial system, the Bank of England will publish a climate stress test for financial institutions next year that will help to test the resilience of the largest UK banks and insurers to climate-related risks, and look into the scale of the adjustment necessary for the system to remain robust. The European Central Bank is also in the process of implementing a taxonomy that will help differentiate environmentally sustainable financial instruments and activities from those that could be seen as harmful.

For central banks, climate-related shocks will also increasingly affect policy management on a day-to-day basis as, much like other large-scale events, these shocks could significantly shift economic activity and inflation away from set targets. Policymakers will face significant challenges in attempting to gauge the appropriate response.

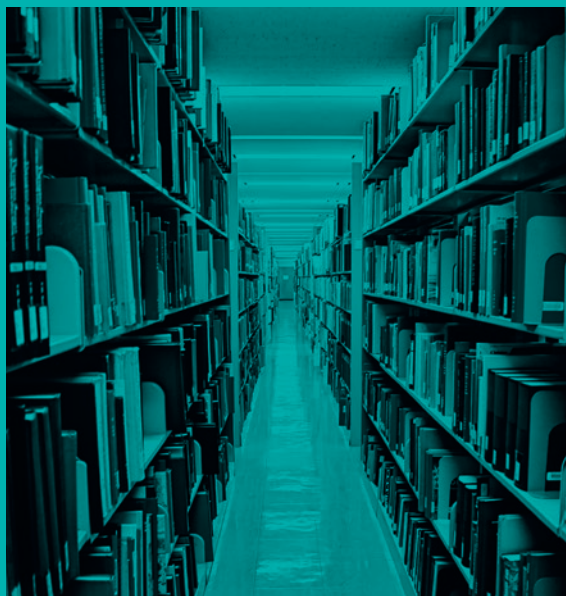
In an ideal world, a smooth transition to what might be viewed as a new normal, rather than an abrupt change, is always going to be preferred. Whether this is achievable given the scale of challenge associated with climate change remains to be seen.

However, there are a few encouraging signs as far as the finance and real-estate sectors are concerned. This is likely to be another record year in terms of sustainable bond issuance, suggesting that there is now financial advantage in pursuing this approach. More specifically, Derwent London has become the first UK real-estate investment trust to sign a £300m credit facility specifically for green projects.

Nevertheless, there remains a threat of significant disruption. As Carney said at the UN Secretary General's Climate Action Summit in New York last year, 'the task is large, the window of opportunity is short, and the risks are existential'.

*Kisa Zehra is an economist at RICS
kzehra@rics.org*

Briefing



New online RICS library catalogue launched

A new online catalogue for the RICS library indexes print and ebook collections, as well as providing a searchable database of:

- current and archived standards
- RICS journal articles
- articles and law reports from other journals
- links to free publications by the government, other professional bodies and surveying firms
- useful websites.

library.rics.org

Entry route to profession undergoes review

RICS is in the early stages of a major review of entry to the profession. It's a wide-ranging programme, and includes all aspects of the way someone can qualify as AssocRICS, MRICS or FRICS.

Over the past few years we've made changes to different parts of the entry model, but now is the time to look at it as a whole. We need an approach that supports people from all backgrounds, levels of education and work experience in qualifying, and which continues to be market-relevant, robust, inclusive and trusted. We should be bold, innovative and flexible in our approach.

RICS' Education and Qualification Standards team is leading the review, supported and challenged by the organisation's new Standards and Regulation Board. If you have feedback or insight that will help shape our thinking, we need to hear it. Ahead of a wider consultation later this year, thoughts and comments can be sent to the team at the address below.

globaleqs@rics.org

Search Code committee appoints public-interest members

The UK's Council of Property Search Organisations has announced the appointment of the public-interest members for the new Property Codes Compliance Board Compliance Committee, which will regulate the Search Code from the beginning of 2020.

The code is the quality mark for private-sector searches, and is the only one recognised by property lawyers and mortgage lenders. The new committee will not only be responsible for code registration but also the inspection team charged with ensuring compliance by registered subscribers, as well as deciding on all disciplinary matters. The committee is also responsible for the relationship with the Property Ombudsman, who provides the code's redress mechanism for consumer protection.

The three new appointees are Nicky Heathcote, a non-executive director of Propertymark, Mark McLaren, a non-executive director of the Property Ombudsman, and Paula Higgins, the founder and CEO of the Homeowners Alliance. Heathcote will chair the new committee of public-interest representatives.

copso.org.uk



Business coalition advocates VAT cuts

Business groups and organisations from across the property and construction sectors have joined forces to urge the UK government to cut VAT on maintenance and improvement works to people's homes.

Reducing VAT from 20 per cent to five per cent on home improvement works would enable investment in housing, stimulate the economy and enable the UK's transition to net-zero carbon, groups including the Federation of Master Builders and the British Property Federation said. The coalition added that the measure would also improve the standards of older homes and those in rural areas, while reducing the irrecoverable VAT associated with maintenance and management of build-to-rent homes would allow the sector to supply more properties.

bit.ly/FMBReTax

Report sets out HRRB skill recommendations

Following the Hackitt review, *Raising the Bar* has been published by the Industry Response Group's Steering Group on Competence for Building a Safer Future. The interim report recommends competence requirements for those working on higher-risk residential buildings (HRRBs).

bit.ly/IRG-CSF-bar

Fire safety standards consultation open

RICS is part of a coalition of more than 70 international organisations that has been developing the International Fire Safety Standards, supported by the UN and World Bank. Views are now invited to help shape the standards through a global consultation, and can be submitted online until 23 March.

rics.org/firesafety

Standards

Recently published

Client money handling professional statement, 1st edition

rics.org/moneyhandling

RICS Valuation – Global Standards (Red Book Global Standards)

rics.org/redbook

Surveyors advising in respect of the Electronic Communications Code UK guidance note, 1st edition

rics.org/electroniccommscode

Valuation of individual new-build homes UK guidance note, 3rd edition

rics.org/valuationnewbuild

Forthcoming

Data handling and prevention of cybercrime professional statement

Measurement of land for development/planning purposes guidance note

Valuation of intellectual property rights guidance note

rics.org/standards

All RICS and international standards are subject to consultation, open to RICS members.

rics.org/iconsult

All inclusive

Traditionally slow to react to changes of culture, the built environment sector can benefit substantially from taking a lead on diversity and inclusion

Amanda Clack and Judith Gabler

Diversity and inclusion is a business imperative for attracting top talent into organisations. It is crucial that the built environment sector has a diverse and inclusive workforce that represents the global communities our profession supports and serves.

The range of roles and opportunities that the built environment offers is often misunderstood, which can make competing to attract the best and brightest talent even harder. With this war for talent cited as the number one concern by employers in the RICS report *Our changing world: let's be ready* ([rics.org/ourchangingworld](https://www.rics.org/ourchangingworld)), and reiterated in the *Future of the profession: consultation response report* published last year ([rics.org/futprofrep](https://www.rics.org/futprofrep)), we need to consider how best to ensure diversity and inclusion at all levels and throughout people's careers.

Our sector is acknowledged to be worryingly behind when it comes to attracting and retaining talent, particularly when it comes to gender pay gap reporting. Insight from PricewaterhouseCoopers on gender pay gap reporting highlights the

extent of the problem: 'the real-estate sector has one of the highest disparities between the proportion of women in the higher-paid quartiles and the rest of the workforce' (bit.ly/PwCpaygap).

Real Estate Balance, an association focused on addressing the gender imbalance in the sector, has shown that in the past two years considerable progress has been made in flexible working and talent development planning, with around 70 per cent of companies now reported to have a diversity policy ([realestatebalance.org](https://www.realestatebalance.org)). Nevertheless, as the PwC report notes, 'many employees [are] feeling impatient about the pace of change, especially on areas such as culture and behaviours'.

It is essential that building corporate diversity goes further than seeking gender parity among employees, and that companies embody inclusive practices that embrace all the nine protected characteristics of the UK's Equality Act 2010, which are gender reassignment, sex, sexual orientation, age, disability, race, religion or belief, marriage and partnership, and pregnancy and maternity.

New professionals will want to work for an organisation that shares their values and where there are role models who reflect their career ambitions. Having a positive culture, authentic leaders, flexible working arrangements and supportive middle managers is integral to developing people, serving clients, and playing a leadership role in communities. However, it takes far more than good people management. To realise the benefits of diversity and inclusion in the organisation, it is vital that strategy is set from the top, as follows.

- **Set the vision:** start with a clear and aspirational vision about how diversity and inclusion is linked to the corporate purpose, showing how these will be embraced and how they reflect the values and culture of the organisation, as well as the practical limitations.
- **Establish the baseline:** identify what the organisation is currently doing, getting an honest and independent understanding from employees and clients as well as from the business metrics.
- **Write the strategy:** once the aspiration has been set, the strategy itself will emerge

as the organisation becomes increasingly receptive to diverse behaviours and ways of thinking. It is important to articulate the added value of a diversity and inclusion strategy to stakeholders, and allocate adequate resources and budget to support its implementation.

- **Set the cultural tone:** the organisation's leaders need to commit to the strategy. They need to avoid leaving it open to misinterpretation as well, because inconsistent messaging or behaviours will be quickly seen by employees as paying only lip service to the strategy; authenticity is key.

- **Engage stakeholders and change ambassadors:** work to identify key stakeholders and ambassadors inside as well as outside the organisation who can give honest counsel and support.

- **Review governance and measuring progress:** setting priorities with clear roles and timelines will ensure that the business monitors progress during the transition. Taking time to celebrate achievements will give greater visibility to success.

The role of CEO as leader means they should understand the capacity for improvement and set the vision for diversity and inclusion. But bear in mind that diversity and inclusion are the responsibility of everyone, and that it is not only the CEO who plays a role in changing the culture of the organisation.

People are at the heart of organisational performance. Creating a positive corporate culture, environment and workplace that enables everyone to excel makes sound business sense and will engender a far greater loyalty and work ethic. Stronger diversity and inclusion have been linked to improved financial performance, while more diverse organisations outperform less diverse rivals, with average profitability up 27 per cent and customer satisfaction up 39 per cent (bit.ly/womrep).

There is increasing evidence that companies with women on their boards outperform those without by 25 per cent. They also see higher-than-average returns on all key measures, such as 42 per cent greater return on sales, 53 per cent better return on equity and 66 per cent higher return on invested capital.

Meanwhile, those with increased racial diversity at board level bring in 15 times more sales revenue on average than those with the lowest levels of racial diversity. Board diversity sees returns on equity that are 53 per cent higher, on average, for those in the top quartile against those in the bottom quartile, with profit margins being 14 per cent higher in those companies that are the most diverse. Companies in the top quartile for racial and ethnic diversity are also 35 per cent more likely to have financial returns above their respective national industry medians (bit.ly/diverseroe). The Chartered Management Institute in London has estimated that by 2025, improving diversity and inclusion could add as much as \$12tr annually to the global economy (bit.ly/diverimid).

Worth considering in all of this is that, of the more than 134,000 RICS members worldwide, women represent only 15 per cent, and the proportion drops to around one per cent for professionals who are LGBTQ, BAME or people with disabilities. Organisations are missing out on talent, and this is talent that is in demand. Diversity of thought is predicated on a diversity of people.

RICS has therefore developed four guiding principles for organisational leaders based on its Inclusive Employer Quality Mark. They are:

- **leadership:** demonstrable commitment at the highest level to increasing the diversity of the workforce
- **recruitment:** engaging and attracting new people from under-represented groups to the professions, and employing best practice recruitment methods
- **culture:** creating an inclusive culture where all staff engage with developing, implementing, monitoring and assessing diversity and inclusion
- **development:** policies for training and promotion that offer equal access to all members of the workforce when it comes to career progression.

The need to attract, develop and retain talent is essential for business survival. Nowhere is this more acute than in the built environment sector, where organisations have been slow to react and move with the working demographic.

Culture, traditions and history can determine how flexible the profession is in remoulding long-established practices in different geographies governed by local laws and religions, although the increasing number of diversity and inclusion networks and initiatives in Europe, Asia and the USA shows that the shift is already happening.

Our book, *Managing Diversity and Inclusion in Real Estate*, takes an holistic approach to the challenge of implementing diversity and inclusion in global business cultures. Legislation such as the General Data Protection Regulation, organisational size, education, language and geographies all influence the maturity and pace of a diverse and inclusive culture. As authors and advocates, we personally call on all CEOs and leaders in the boardroom – and everyone in the organisation and beyond – to own the agenda. Now is the time for us to shape the future of our sector.

The reception of the book has been wonderful. It is now a core text for the CBRE leadership team in Europe, the Middle East and Africa, and its senior leadership programme for future leaders across the business, while executive directors in the UK and Ireland business have each received a copy. We hope it helps to foster an environment that will encourage others to enjoy fulfilling careers that enable them to be themselves and realise their potential.

Amanda Clack is executive director at CBRE and head of strategic advisory, and a former RICS president amanda.clack@cbre.com

Judith Gabler is RICS director of operations – Europe jgabler@rics.org

Related competencies include:

Diversity, inclusion and teamworking, Inclusive environments

Further information: All author royalties from the sale of *Managing Diversity and Inclusion in Real Estate* (bit.ly/ClackGabler) will be donated to LandAid, the property charity that seeks to improve the lives of those affected by youth homelessness. We hope that this will make a positive difference to this worthy cause and the world around us.



We are **passionate** about achieving the **maximum** return on **your client's land**



Rosconn Strategic Land Limited

Rosconn House, 1 Grove Road, Stratford upon Avon, Warwickshire CV37 6PE

T: 01789 294520 **E:** enquiries@rosconngroup.com

www.rosconngroup.com

Trusted Transparent Innovative

Break clauses

‘Each specific provision can become a trap for the unwary, as the courts have determined on many occasions’

Shanna Davison
Hogan Lovells LLP



Q: My tenant has served notice to exercise their break clause. What are the conditions of the break, and do they have to comply with the reinstatement clause in the lease?

A: Put simply, it depends on what the break clause actually says. The courts interpret break clauses strictly, so the question becomes: what are the conditions that the tenant must satisfy in order to exercise the break successfully?

It is usual for the primary condition to be the service of a valid written notice on the landlord to trigger the exercise of a break clause. It sounds simple, but in addition to complying with any specific provisions in the lease, a tenant should make sure that:

- the notice clearly states their own identity, the property and the lease to which it relates
- it is addressed to and served on the landlord, or any other person expressly specified in the lease
- it is served in accordance with any mandatory service provisions in the lease or, if there aren't any, then at a minimum

by a trackable service such as Royal Mail special delivery

- it gives the correct amount of notice to exercise the break, taking into account time between posting and delivery of the notice.

Each of these individual factors can become a trap for the unwary, as the courts have determined on numerous occasions.

Other than service of the notice, the 2007 Code for Leasing Business Premises in England and Wales suggests only three conditions should be agreed when a lease is drafted: the tenant is up to date with the principal rent, not including service charge or other amounts reserved as rent in the lease; the tenant gives up occupation; and the tenant leaves no continuing subleases.

That said, many leases contain more onerous break conditions and advice should always be sought. A well-advised tenant should also require an express obligation on the landlord to refund any overpaid rent relating to the period after the break, when it is exercised partway between rent payment dates. However, it is ultimately up to the parties to decide what the conditions should be when negotiating a lease.

It is also usual in commercial leases to have a yielding-up clause that sets out what the tenant is required to do when the lease comes to an end. This typically takes one of the following forms:

- the tenant is automatically required to reinstate any alterations carried out during the term of the lease
- the tenant is only required to reinstate alterations if the landlord has given notice before the termination of the lease that this is required
- the tenant is required to reinstate alterations unless the landlord notifies them to the contrary.

The break clause and the yielding up clause are two separate and distinct parts of the lease; however, it is possible that the tenant is required to comply with the reinstatement provisions as a condition of the break. Again, it depends on the exact wording of the break clause, but clear drafting is required to avoid any misunderstandings on the point.

For example, if your break clause requires the tenant to yield up the premises with vacant possession and then cross-refers to the yielding-up clause, this is not generally sufficient to make compliance with the latter a condition of the break. The courts consider that the natural and ordinary meaning of drafting in this form is that vacant possession is the only condition of the break. If the landlord requires that reinstatement be a condition of the break, it should expressly say so in the break clause.

That does not mean to say that the tenant is not liable for breaches of the yielding-up clause, only that such breaches will not prevent the successful operation of the break but will give the landlord a claim for dilapidations.

Shanna Davison is a senior associate, real-estate disputes, Hogan Lovells
shanna.davison@hoganlovells.com

A healthy outlook

A major new London project is exploiting the opportunities presented by life-science clusters to ensure clinical and commercial success

Peter Ward

King's College London and Guy's and St Thomas' NHS Foundation Trust are developing their campuses near Westminster Bridge and London Bridge as clusters of life-science expertise. The two institutions, working with a range of other partners, have a 25-year strategy to expand their central London estates into internationally significant centres for healthcare and life-science research and education, attracting talent, expertise and investment from across the world. At the heart of the programme are ambitious campus masterplans, a new standard for adaptable buildings, and a proven model for completing them.

The programme will make a major contribution to the UK's *Life Sciences Industrial Strategy* (bit.ly/GovLifeSci), keeping London at the forefront of global healthcare and life-science innovation. By developing centres that complement other life-science hubs in the capital rather than competing with them, it will help define the city's life-science proposition in a growing market, allowing it to compete with other international centres. It will also improve the health and well-being of millions of patients and improve the environment for staff; a 2018 economic impact assessment by PricewaterhouseCoopers also indicates that the programme will generate more than £35bn in economic value and create more than 50,000 full-time jobs by 2050.

The partners propose two clusters:

- a biomedical cluster at the London Bridge campus, including Guy's Hospital, focusing on elective care, advanced therapies,

cellular medicine, cancer and biomedical science; this will build on the success of the Guy's Cancer Centre and Guy's Tower as hubs for research into advanced therapies

- a medical technology, or medtech, cluster at the Westminster Bridge campus, including St Thomas' Hospital (bit.ly/MedTechEU), building on the trust's strengths in emergency care, diagnostic imaging, cardiovascular care and paediatrics, and the university's cardiovascular, imaging and healthcare engineering research.

Along with King's College Hospital NHS Foundation Trust and South London and Maudsley NHS Foundation Trust, the two institutions are also founding members of King's Health Partners (KHP) – one of only six academic health-science centres accredited by the Department of Health in the UK (bit.ly/AHSCentre). KHP has plans to develop a third cluster at Denmark Hill, focusing on translating research into practice, in particular integrating psychiatry, psychology and neuroscience and supporting major research programmes in dementia, epilepsy, stroke, neurosurgery and transplantation.

Clustering life-science expertise has been shown to improve the study and practice of healthcare, resulting in better care for patients and a better environment for staff. They do this by bringing together hospitals, research institutions and industry in a collaborative environment, where the best academic and commercial researchers work closely with clinicians and entrepreneurs to advance healthcare.

Outside clusters, ideas typically take 17 years to become commercial applications; within them, barriers to collaboration are removed, significantly reducing this time. Diverse groups from across the public and private sectors, including medics, engineers, physicists, chemists and computer scientists can share insights and form integrated teams to tackle challenges identified by frontline clinicians. That helps them bring new treatments and technologies to market faster, in a more joined-up way.

Professor Sir Robert Lechler is vice-principal, health, for King's College London and executive director of KHP, and sees strong potential in this model: 'KHP has a long-standing strategy of developing clinical-academic hubs at our sites, built on a platform of academic science and clinical service at each campus. The medtech, biomedical and translational biomedicine clusters will enable internationally significant academic and industrial partnerships, providing significant scientific and economic growth in this sector for London. This environment will in turn draw investment into buildings, landscape and culture that then regenerates neighbourhoods and attracts new talent and investment, in a virtuous circle of growth.'

The partners have existing contracts and relationships with industrial partners leading the development of commercial medical and biomedical technology, including artificial intelligence and machine learning, which could improve early diagnosis and treatment. As those partnerships grow, there will be new opportunities with these and other commercial firms, ranging from small and medium-sized enterprises to larger industrial partners.

There are strong potential benefits in co-location for commercial partners too. They include:

- improved access to innovators in the financial, technological, legal and healthcare sectors
- platform capabilities, including imaging, bioinformatics and digital support
- access to researchers and labs to enable informal sharing of knowledge and research insights
- collaborative discovery programmes in areas of mutual interest
- access to research partnerships
- rapid decision-making
- shared facilities and governance for joint projects.

As the largest healthcare educator in Europe, King's also has a significant pipeline of talent, innovation and entrepreneurship.

Dr Ian Abbs is the trust's chief medical officer and interim CEO, and recognises the role partnerships will play in improving care for patients: 'The trust's strategy is built around our patients, our people and our partnerships. All three of these support the objective of accelerating the development and introduction of the world-leading advanced therapies and medical technology that will be central to our future success in providing sustainable, high-quality care for our patients.'

Adaptable buildings, changing needs

The partners must ensure that the buildings supporting this plan can adapt well to the changing needs of healthcare and life-science research. Over the past year, they have developed a standard

Clustering life-science expertise has been shown to improve the study and practice of healthcare

specification using adaptable base buildings that can then be fitted out to meet their needs, and refitted as those needs change.

They have categorised high-, medium- and low-intensity uses – for example in relation to floor loadings, ventilation and electrical demand – and written a policy governing their fit-out that will specify how they can be adapted quickly and cheaply to changing uses. Typically, the buildings will be zoned, with lower floors likely to be dedicated to highly specialist clinical and research space – such as operating theatres, critical care and high-containment laboratories – with higher floors being used interchangeably for commercial, research and clinical uses. In this way, these adaptable base buildings will be futureproofed against changes in treatment and technology and the evolution of new fields of research. They will also remain fit for purpose for longer, and cost less to adapt.

The trust or university works with commercial developers through a model that is well established in their own sector, and base buildings will be constructed to a shell and core specification that includes the basic structure and the installation of heating, lighting, water and other essential services. The partners will then lease and control the space they need and fit it out as required, usually every ten to 15 years. Any space they don't need will be let to healthcare, scientific and commercial partners, subsidising the cost of any space used by the partners.

Alongside the Adaptable Estate Standard referred to above, the partners will adopt new ways of working to harness the benefits of digital technology, better integrating the healthcare system and providing services as close to home as possible. They will involve patients, students and staff at every stage, so that their views and requirements can be reflected in service design.

This programme represents a once-in-a-generation opportunity to develop a significant new life-science district for London. It will transform care for our patients and dramatically improve the environment for NHS and university staff – as well as helping London to live up to its potential as an international centre for healthcare and life-science research. But perhaps most importantly, it will offer a platform from which to teach the next generation of clinicians, scientists and entrepreneurs and help them build careers around healthcare innovation.

Peter Ward is the director of real-estate development for King's College London and Guy's and St Thomas' NHS Foundation Trust
peter.ward@kcl.ac.uk

Related competencies include: Asset management

Accessing external expertise

The global code of practice *Procurement of facility management* is published in March. How will it support facilities managers and other professionals?

Derrick Tate

The new facility management procurement code is designed to promote professional standards and good practice globally. Adapted from the *Procurement of facility management* professional statement, published by RICS and the International Facility Management Association (IFMA) in 2018, this code supersedes and replaces that earlier document.

The code is aimed at professionals involved in a facilities management (FM) procurement process, whether in their territory, their region or globally. This includes property managers, directors of estates, heads of FM, consultants,

FM suppliers procuring services from subcontractors, and RICS-regulated firms acting for a landlord. Those who are managing in-house teams providing facility management services may also find some of the content helpful in their work.

While the professional statement was aimed primarily at UK professionals procuring services up to a territory level, RICS and IFMA felt that there was an opportunity to fill a global gap by providing guidance applicable in other territories and for regional or global procurement. In doing so, the objective is to raise the standards of FM procurement globally.

The code provides guidance on the various factors that need to be considered as part of the procurement process, including activities and key decisions during planning, procurement and post-procurement. It aims to help the professional choose an appropriate procurement route, and consider the various factors that result in a successful contract, benefiting both the client organisation and supplier.

For RICS-regulated firms procuring FM on behalf of a landlord, care should also be taken to comply with the latest edition of the RICS professional statement

Service charges in commercial property as well ([rics.org/servicechargesps](https://www.rics.org/servicechargesps)).

The aim of a procurement process is to access external expertise by selecting a service provider best able to fulfil the requirements of the procurer or demand organisation. For a procurement process to be successful in the long term then careful planning is needed before going to the market. This will include developing strategic objectives, as outlined in RICS' and IFMA's *Strategic FM Framework* guidance note, first edition ([rics.org/strategicfm](https://www.rics.org/strategicfm)) concerning what the demand organisation wishes to achieve, and a clear description of the services to be procured.

A successful procurement process is also a key stage in developing a successful relationship between the demand organisation and the supplier, being critical to achieving strategic and operational objectives for both.

Step by step

The code is divided into four parts:

1. key principles
2. planning
3. procurement
4. post-procurement.

As a code of practice, the guidance contains principles that should as far as possible be observed in the procurement of FM services. The code contains the following eight key principles.

1. There should be a defined, detailed scope for the services being procured, stating what is and is not included.
2. The demand organisation should set out clear objectives for the procurement project and subsequent operations.
3. It should provide bidders with enough data and information to allow them to respond with robust proposals.
4. The evaluation criteria should reflect the demand organisation's objectives.
5. It should develop a pricing structure

stating what services and costs are included, what is excluded, and how changes will be calculated and agreed.

6. There should be specific and reasonable timescales for the procurement process.
7. The demand organisation should detail a payment mechanism and commercial terms that are transparent and fair.
8. All parties are required to comply with relevant legislation and rules that apply in the territories where services are to be provided, such as data protection.

Next, the planning section covers the period between the demand organisation obtaining internal approval to procure facility services and the start of the procurement process proper. Adequate preparation is essential at this stage. The guidance covers the following aspects: strategic factors that should be considered as part of procurement planning; the necessary project planning activities; how to assess market trends; how to identify potential bidders and evaluate market interest; and what procurement strategy to use to attract market interest and maximise competition from suppliers.

The section on procurement then follows, covering the process itself and providing guidance on the activities and decisions that should be undertaken. These include detailing the scope and developing service specifications, service-level agreements, a performance mechanism, pricing templates and commercial terms, as well as establishing how the supply chain will be treated and bidders selected, what the stages of the process will be, and mobilisation and transition of the services.

The final section covers the activities that are necessary following a procurement process, that is, the post-procurement stage. Demand organisations should have robust contract management procedures in place, because contracts that are not managed properly are at risk of failing

even when the procurement process itself has been effective.

A management structure should also match the contract, including an experienced senior manager with overall responsibility and enough staff to carry out the contract management functions. If a demand organisation plans to audit quality, for example, the structure needs to make clear who is going to do so.

Demand organisations should consider how to manage the regional or global contracts and supplier relationships, in addition to managing services within territories. Poor performance of a regional or global contract in some territories may require specific focus and input to communicate with local stakeholders. It is important to remember that, although the activities have been outsourced to the supplier, the demand organisation is still responsible for ensuring that requirements are met.

Towards the end of a contract term, demand organisations will have to decide what to do next. Options should be considered well before this date to allow time for a re-procurement process or other change to the model if that is required. These typically include:

- a contract extension, public-sector procurement directives permitting
- re-procurement of the same contract
- re-procurement of a changed or updated contract
- bringing services back in house.

To make an informed decision, demand organisations should go back to the planning and strategic stage as outlined earlier in the code.

The importance of properly run, fair and robust procurement processes for property professionals should lead all parties involved to consider the content of the code of practice, and in particular to adhere to the key principles.

Derrick Tate is a director at PricewaterhouseCoopers
derrick.j.tate@pwc.com

Related competencies include:

Procurement and tendering

Further information: [rics.org/standards](https://www.rics.org/standards)

Demand organisations should have robust contract management procedures in place

At home to a retrofit

Installing a sprinkler system in one high-rise building shows how the process can be carried out successfully while keeping residents on side and on site

Mark Gardner

As fire and safety reviews of high-rise buildings continue across the country in the wake of the Grenfell Tower fire, pressure is growing from campaigners for the law to become stricter when it comes to protecting residents.

This reinforces the message to housing associations that they need to invest in essential fire protection to safeguard their tenants and provide reassurance. However, installing new fire safety measures is not without its challenges. Minimising disruption and creating something that is aesthetically pleasing, while communicating with a diverse range of residents, are the important factors that need to be considered if a fire safety upgrade is to prove successful.

As a social and affordable housing provider, we at Ocean Housing recently reviewed fire safety across our entire estate. Following this, we carried out a £300,000 retrofit of a sprinkler system to our only high-rise building, Park House in St Austell, Cornwall, a 1960s, 36m-high building comprising 67 flats across 12 floors. The work thus cost around £4,500 per unit, including VAT.

It was an appropriate time to fit the sprinklers: after Grenfell Tower, residents were very receptive to the installation of further fire safety measures and welcomed the additional safeguards that the new sprinkler system offered.

Nevertheless, there is considerable potential for disruption and disgruntled residents with a scheme of this scale. Credit should be given to the project management team for its organisation and communication with residents, which were essential to the success of the project.

To ensure that all members of the project team were kept abreast of work in progress and forward planning, weekly meetings were held between our installation staff and the tenant involvement team. This gave everyone on the project up-to-date information, and ensured consistency when communicating with residents.

The caretaker was the main point of contact for most day-to-day enquiries from residents and, in many cases he could immediately answer any concerns or queries. However, residents also had access

to the project leads at Ocean Housing for any queries that needed additional support.

Show flat

To give residents a better understanding of the retrofit and how the sprinkler system would work, an unoccupied flat was refurbished and a system installed so they could view the aesthetics as well as the finish. Two open events took place for them to look at the sample installation, one of which was during the evening for those at work during the day. Cornwall Fire and Rescue also attended the open day with a mobile sprinkler unit to demonstrate how the system would be activated in the event of a fire.

With the tenants satisfied about the arrangements, installation took place floor by floor. Residents on each storey were contacted personally by contractors one week ahead of impending works, so that any concerns or questions raised could be addressed directly.

Each flat's system took one to two days to install, and carpenters and decorators swiftly followed up the work to leave a neat and tidy result. Installation could take place while residents were at home, although the show home was made available for those who wanted a quiet space throughout the project. Here, they could make tea and coffee, watch television or receive visitors. The project was completed within six months, on time and within budget. Most importantly, there were no complaints or obstruction from our tenants and leaseholders.

RICS global building standards director Gary Strong commented: 'RICS has, with the Royal Institute of British Architects and the Chartered Institute of Building, jointly called for sprinklers to be mandatory in residential buildings more than 11m high in England, and to be retrofitted where possible' ([rics.org/sprinklerspolicy](https://www.rics.org/sprinklerspolicy)).

Mark Gardner is group chief executive at Ocean Housing
m.gardner@oceanhousing.com [@mgardnerocean](https://twitter.com/mgardnerocean)

Related competencies include: Client care



simple commercial property search

proplist.com

Hot data

Why is the quality of data so important in real estate, and how can it be improved?

Kevin Grice

Whether it's the nefarious collection practices of companies such as Google and Facebook or the apparently infinite possibilities of artificial intelligence and automation, data seems to be on everyone's lips. For those of us in real estate, the promises of the proptech explosion are equally alluring. What's not to like in a beautiful online dashboard that tells you everything you need to know about your portfolio?

However, as my old computer science professor used to tell me, it remains the case that garbage in equals garbage out. And as my own long experience in property management has since proven, too many companies are prepared to put up with poor-quality data when it is entirely in their power to improve it.

But here's the good news: fresh ideas about digital transformation – many of them from UK Government Digital Service (GDS) and its first leader Mike Bracken (bit.ly/MBrackenGDS) – can significantly improve data collection and the quality of the processes that follow.

Finding a place for big data

Let's pause to draw an important distinction. Big data is where much of the current buzz is. But the clue is in the name: big data sets need to be very sizeable indeed to be useful.

Only big data has the scale necessary to excite PhD statisticians, to power revolutionary algorithms and machine learning, or to predict one individual's pregnancy on the basis of the online shopping habits of millions of other women (bit.ly/ForbesDatam). So while there is a growing place for big data in real estate, it requires automation – or automated sensors – capable of collecting it at a massive scale if it is to provide insights that are useful. In everyday property management, which deals with leases, financial transactions and physical measurements, big data as yet plays little part.

If our data may seem mundane by comparison, it still lies at the heart of our businesses. Even a small inaccuracy – for example, missing a critical date – can have a severe impact on profitability and reputation. So above all, good-quality data must be accurate and, ideally, should conform to common standards if it is to be of value.

Even if we were to enforce common standards on format or measurement method, however, this would still pale into insignificance when compared to how that data is being collected. This is because so much of our data collection remains manual. Ours is a profession that still has to collect and manage a significant proportion of its data manually – and will continue to do so for the foreseeable future.

Manual data entry inevitably introduces a disconnect between the data collectors, often surveyors, and the

Too many companies are prepared simply to put up with poor-quality data when it is entirely in their power to improve it

computer systems that then do the processing. At some point, fingers have to connect with keys – and keying always introduces errors. Often, the processes themselves make this worse: the more complicated the process, the more likely the user will make mistakes. This wastes time in checking, validating and approving data – but it also wastes resources, because the more uncertain you are of your data the less likely you are to automate higher processes.

All businesses should be actively addressing these issues, but it rarely happens; generally, it takes a massive business problem to provoke action. That was the situation one of our bigger clients faced not so long ago when it secured its largest ever instruction. Suddenly it was confronted with the need to upload, manage and maintain a massive amount of data all in the space of a few months. The data related to an international estate of astonishing complexity, and its existing data management practices – built using a combination of off-the-shelf packages such as Sharepoint, Workflow and Excel – was simply not going to cut it.

Not only did the project take huge resources to run, the approach was also completely rigid: there was no way to change approval procedures on a form-by-form basis or add new fields specific to the instruction, and no documentary evidence could be attached or notes added to say why something had been changed. Worst of all, it was impossibly complicated to use. Given that people around the world had to engage with it immediately and without training, this was clearly a disaster waiting to happen.

Template for transformation

Fortunately, if you're looking to solve the problems of manual data management in a systematic manner there is a solution right in front of us – courtesy of the UK's largest data collector, the civil service. It is the process called digital transformation, and it has been defined and refined by GDS over the past ten years.

The story of GDS and its revolutionary approach to process refinement has been told many times elsewhere

(bit.ly/GDSvid), but it remains remarkable. At its heart was the understanding that the internet could change forever the way that a large organisation interacted with its end users – in all sorts of ways, but particularly when it came to data management.

If you're a car owner, you'll have encountered the GDS approach when you last paid your road tax. What was once an unbelievably complicated process, involving the collation of multiple documents and the completion of complex forms, now involves little more than a couple of clicks and an online payment to update the central Driver and Vehicle Licensing Agency database fully and accurately.

To paraphrase GDS's definition of digital transformation, it is the use of internet-era principles and technologies to create processes that the user prefers to use. In other words, although the internet clearly enables new ways of thinking, digital transformation actually has much more to do with improving how the user experiences the process.

By ending the big IT culture of the past – where, for instance, the civil service awarded vast contracts for software that promised the earth but never delivered – digital transformation has saved UK taxpayers many millions of pounds (bit.ly/DTsaving). Unsurprisingly, it has since been adopted by governments and organisations around the world.

This was the path that my own company, Trace Solutions, chose to follow, in partnership with our client. In its initial incarnation the project was aimed squarely at data management. Following the principles of digital transformation, we put web apps for data collection directly into the hands of the person closest to the source, using whatever internet-enabled device they had to hand. That person might be a surveyor, a solicitor, an accountant, a manager, or even an external investor; but each app would focus on that user's needs. Once we'd understood those needs, we could optimise the process.

So, for example, data could be stored as a draft, passed automatically along the approval chain and only posted to the live database once it was fully signed off. We stored comprehensive audit trails with commentary and supporting evidence alongside the data. We also allowed the removal of unnecessary fields and the addition of new ones, making some mandatory if required. In short, we made data collection and its subsequent maintenance simpler, to reduce the chance of introducing inaccurate information.

Implementing improvements

It is clear that digital transformation, as defined by GDS, can be an immensely powerful way to improve the quality of real-estate data, wherever people are involved

Anyone who seeks to change long-established ways of doing things will encounter resistance from those who feel threatened

in its collection or maintenance. This encompasses the vast majority of data we work with as real-estate professionals on a day-to-day basis.

However, as GDS founder Mike Bracken points out, although digital transformation is not a complicated concept to grasp it can be very hard to implement. Anyone who seeks to change long-established ways of doing things will encounter resistance from those who feel threatened.

Few organisations will have the resources, skill sets or even the will to attempt such a project in house, so clarity of thinking about your data is needed from the outset. Do you need all the data you currently collect? Is the investment to improve data management actually worth it compared to the scale of the potential losses if you don't?

Whichever way you choose to answer those questions, there is no doubt that digital transformation will improve data quality far more than traditional, procedural methods such as Six Sigma process design methodologies (bit.ly/6SigmaOutline). And as for routine data audits – well, somehow you just never seem to get around to them.

For our large client, the investment in digital transformation has certainly paid off. As mobilisation began, cloud-based data entry apps were distributed automatically to the team of people doing the job. These people had never used any of our systems and yet they were able to enter and subsequently maintain the data on no fewer than 10,000 separate properties, all in a fraction of the time it would have taken using traditional systems. Best of all, the client knew that all this data was accurate.

Kevin Grice is director of digital transformation, Trace Solutions kevin.grice@tracesolutions.co.uk @trace_solutions

Related competencies: Data management, Property management



selectaglaze

Secondary Glazing

Grade II* Listed Blue Mills, Essex



WARMER
Minimises draughts
Increases the rating on an EPC
Meets heritage guidelines

QUIETER
48dB reduction with traditional primary windows or 56dB reduction with modern high performance primary windows

SAFER
Deters intruders
Second barrier to entry
Protection against firearms

T: 01727 837271 E: enquiries@selectaglaze.co.uk W: www.selectaglaze.co.uk



@selectaglaze



UNIVERSITY OF PORTSMOUTH

GIVE ME A SURVEYOR WHO CAN FUTURE-PROOF MY BUSINESS

GIVE ME THE UNIVERSITY OF PORTSMOUTH

Our RICS accredited Chartered Surveyor degree apprenticeships are an affordable way to develop and retain tomorrow's talent. We specialise in building surveying, quantity surveying and real estate. On day release, apprentices learn the latest laws and practices. From sustainability to BIM and beyond, tomorrow's talent help you tackle tomorrow's challenges.

Discover more at port.ac.uk/apprentice



The hack stop

As hacking becomes more prevalent it is a question of when, not if, your business will be targeted. What should your strategy for preventing cyber crime look like?

Andrew Knight

We now operate in a world where the security of data is as important as the physical security of people, or that of the buildings and infrastructure where we live and work. As technology becomes yet more pervasive, we are storing and processing more and more data about individuals, clients, employees and assets, and using it for an increasing number of purposes.

While many jurisdictions already have specific laws to protect personal data – the General Data Protection Regulation (GDPR) in the EU being an important example – as RICS professionals we also need to consider the way sensitive data about clients and organisations is managed and protected. Is this a question of technology, processes and procedures; or, more fundamentally, an issue of conduct and ethics that is central to being an RICS professional?

While legislation such as GDPR and the contractual agreements you have with clients together define how personal and commercial data should be processed and protected, we have an ethical duty to manage and protect all kinds of data to the highest possible standards. This responsibility falls on us all at every level of any organisation, irrespective of its size, the sector in which we work, or the country in which we practise.

The question we should ask ourselves is how we would want a third party to manage and protect our data. In addition to the fundamental ethical imperative, there are strong practical reasons to manage and protect all kinds of data in order to protect our customers, organisations and

profession from financial loss, reputational damage and business interruption.

All the same, there is an ever-increasing list of parties using an evolving set of approaches to access data, intercept and change payee details, and otherwise damage, infect or extract ransom payments from us. These include:

- unskilled individuals using code developed by others, often referred to as script kiddies
- hackers
- organised criminals
- state proxies
- nation states
- business insiders.

To do so, they are using an increasingly diverse range of tactics that include phishing, ransomware, malware and identity theft, among others.

Recent cases around the world highlight the risks to reputation and business continuity as well as the potential for financial loss that can be caused by hacking. These also stress the risks associated with using third-party suppliers to provide shared web hosting and other services, with devices that form the ever-growing internet of things (IoT).

As former FBI director Robert Muller stated at a 2012 conference on cyber security, ‘I am convinced that there are only two types of companies: those that have been hacked and those that will be. And even they are converging into one category: companies that have been hacked and will be hacked again.’

There is an ever-increasing number of examples of large companies’ data being targeted. Customers of US retailer Target had their data stolen via the credentials of one of its heating, ventilation and air conditioning suppliers, who had access to the company’s network. In the UK, TicketMaster and British Airways (BA) both suffered data breaches, with customer credit card data being stolen.

As a consequence, BA could be fined £183m by the Information Commissioner’s Office, and TicketMaster is facing a multi-million-pound lawsuit. In the latter case, the breach occurred via a third-party chatbot service, and when BA’s website was penetrated customers were also redirected to a malicious external website that harvested their credit card information.

In Norway, aluminium and energy producer Norsk Hydro suffered a

As RICS professionals we need to consider the way sensitive data is managed and protected

ransomware attack early in 2019 that seriously affected its computer networks and reportedly cost the firm some \$52m. It is also important to note that hackers do not always seek ransom or phish for credit card details but can be damaging in other ways. In one instance, an attacker gained access to an IoT device in a warehouse and raised the temperature of the cold storage unit, resulting in the unplanned defrosting and spoilage of the contents.

With the need to protect data and the threats from cyber crime here to stay, how do we manage this new normal? What should our business plan look like? There are three key dimensions we should consider when developing an organisational data protection plan:

- **customer and commercial:** this includes the way you use data for services and marketing, how you process it and use it to manage contracts, and how you delete data on request
- **employer and employee:** this covers use of personal data and how you deal with people's requests to access their data
- **crisis management:** what are your data breach protocols, and how do you tackle theft or unauthorised issue of personal and other data.

How far we may insure the risks is perhaps an obvious consideration, but still important. As with all insurance there is a danger that protection from losses creates a moral hazard; but cover can provide a useful discipline for organisations and a source of support when putting technology, policies and procedures in place, as well as in the event of an actual data breach.

Policies and premiums come at a cost, and insurers will look for evidence of your existing technology, processes and procedures. Insurance is unlikely to cover fines by regulators and there are question marks over its use to pay ransomware demands. Indeed, the legality of such payments is doubtful given that many of those demanding a ransom may be linked to terrorist organisations, and the Terrorism Act 2000 explicitly makes such payments illegal in the UK.

It is essential to recognise that this is an issue of when, not if, and that it needs

to be the responsibility of a firm's board or principal to deal with it. You should assemble your cyber-response team – even if it consists only of you with support from professional advisers – with legal, senior executive, IT, information security, risk and compliance, PR and HR departments all involved as well. Your plans and communications should not depend on your current systems either, because in the event of an attack these themselves may also be compromised.

Your plans should address both personal data and all other sensitive data. GDPR has been in place for almost two years now and its impact has been immediate and wide-ranging; for instance, a Swedish high school attracted fines and other sanctions under the regulation for using CCTV and facial recognition technology on its pupils. Since GDPR protects EU and EEA nationals wherever they reside and covers all data processing in the EU and EEA, its effects are felt beyond Europe itself,

with firms around the world recognising their responsibilities to EU citizens. Other jurisdictions are setting the bar for personal data handling at similar levels, with legislation coming into force at state level in California early this year, for instance.

The box below details the factors you should therefore consider when making your plans. While some of these relate to technology and infrastructure, many concern processes, documentation, education, and working closely with suppliers to ensure that data is protected at every stage. Although cyber crime is the new normal, many of the common-sense approaches we already use for physical security can be applied digitally.

Andrew Knight is RICS international data standards director aknight@rics.org

Related competencies include:
Data management, Ethics, Rules of Conduct and professionalism

Data protection plans: key considerations

- Assessment and documentation of any potential risks to both personal and client data
- Defining and maintaining a data retention policy
- Understanding and recording the purposes for which data is being collected and held
- Understanding and documenting data processing procedures
- Understanding where data is recorded, and all the jurisdictional requirements that apply
- Managing relationships with third parties that process data on your behalf
- Appointing a person responsible for enquiries and controls
- Ensuring employees follow your controls, policies and procedures
- Devising passwords that are difficult to guess
- Use of firewalls and anti-malware and anti-virus tools
- Use of encryption for personal information and cardholder data during transmission
- Use of multiple methods for validating payment details to prevent fraud
- Ensuring personal and client data is protected from unauthorised access, whether it is stored digitally or in physical form
- Ensuring data is backed up regularly
- Ensuring acceptable use of client data through contractual clauses
- Ensuring that any use of third-party data is licensed
- Ensuring consent is obtained for storing and processing data, and that this can be demonstrated
- Ensuring that appropriate regulators are notified should a significant data breach occur
- Ensuring where necessary that affected data subjects are notified of a significant breach

Tax

'Corporation tax returns will need to be completed and filed online within 12 months of the accounting period's end'

Robert J. Walker
PricewaterhouseCoopers



As previously discussed in *Property Journal* (July/August 2019, p.24), all companies that are not resident in the UK for tax purposes but carry on a UK property business will, from April this year, be brought within the scope of corporation tax rather than income tax in respect of that business's profits.

As a result, there will be a number of restrictions on the deductibility of finance costs and carry-forward of any losses, which may increase the profits chargeable to tax. At the time of writing, the rate of corporation tax is due to reduce from 19 to 17 per cent from April, and in theory this would reduce the tax burden compared to the income tax rate of 20 per cent.

In addition to the changes in the way taxable profits are calculated and the tax rate itself, there are administrative changes that, for those taxpayers not already familiar with corporation tax returns, will represent a significant change – not least in moving from paper to electronic filing.

Non-resident companies that are currently filing UK income tax returns in respect of property rental income in this country need to be registered for

corporation tax purposes and obtain a unique tax reference number (UTR). Although HMRC will automatically issue UTRs for companies already registered for income tax purposes, each company will need to notify HMRC of the date to which it will draw up its accounts.

Non-resident corporate landlords established on or after 6 April 2020 will need to register and notify HMRC within three months of becoming chargeable to UK corporation tax. It may be that other administrative elections and registrations – for example, relating to finance cost restrictions, use of losses and group payment arrangements – are also required.

Corporation tax returns will need to be completed and filed online within 12 months of the accounting period's end. Accounts may also need to be submitted with this return, with appropriate tagging where necessary.

While income tax returns are filed for a fiscal year, companies are required to file corporation tax returns for an accounting period. The first period for companies coming within the charge to corporation

tax on 6 April will commence the same day and end on their accounting reference date, or 5 April 2021 if earlier. The corporation tax liability for the first accounting period will be due nine months and one day after the end of the accounting period.

For subsequent periods, tax payment dates will depend on the profitability of the company. Where the profits for an accounting period are more than £1.5m – reduced proportionally for the number of 51 per cent group companies, and for the length of the accounting period if less than 12 months – the corporation tax payment date will be accelerated.

Under the quarterly instalment payment rules, up to four instalment payments may be required, all of which may be due within the accounting period. Where there are other companies in the group that are within the scope of UK corporation tax it may be possible to enter into a group payment arrangement, under which one company is nominated to make the payments on behalf of all of them.

Notwithstanding these changes, the existing non-resident landlord scheme will continue to apply. Under this, if HMRC has not approved the non-resident landlord to receive rental income gross, the letting agent or tenant must calculate the tax due at 20 per cent and pay it quarterly.

This scheme will continue to apply with the existing 20 per cent rate of withholding tax, regardless that corporate non-resident landlords will be subject to corporation tax. Where the withholding exceeds their corporation tax liability in respect of their net rental income, they will be able to reclaim that excess.

Robert Walker is partner and real-estate tax UK network leader at PricewaterhouseCoopers LLP robert.j.walker@uk.pwc.com



Make your move today – Join SDL Surveying



**Flexible
working hours**



**Supportive
culture & team**



**Progress
your career**

Join our successful team today:

01156 719 708
careers@sdl surveying.co.uk

Check the small print carefully

Can landowners modify or discharge restrictive covenants that could affect the value of a proposed development?

Martin McKeague and David Manda

Many landowners have restrictive covenants associated with their land that impede them from developing it for certain purposes. Often the restrictions will be historic, yet they can have a significant impact on marketability and value. However, it may be possible to modify or discharge these covenants by applying to the Upper Tribunal Land Chamber (UTLC).

Nowadays, the UTLC is granting applications far more frequently than it was five years ago, and it is generally a much swifter procedure. This article explains the purpose of restrictive covenants, and how a landowner can get them modified or discharged with the help of a property dispute resolution solicitor.

An enforceable restrictive covenant prohibits the landowner from using the land or building, either outright or for a particular purpose. This burden will endure over time, so successive owners or occupiers are bound by the restriction. Typically, it might restrict the appearance of a development or the kind of activity that takes place there.

Crucially, restrictive covenants are not considered during planning applications, and so a planning consent will not override them. Examples of common restrictive covenants include:

Any landowner and their professional team must consider their strategy

- limiting the number or type of buildings
- preventing property owners from making specific alterations
- limiting the use of the land, for example to agricultural use
- requiring adherence to a building line
- restricting the height of buildings.

Identifying the covenant will depend on whether the land is registered or unregistered. If it is registered, it can be found in a title register obtained from the Land Registry; if unregistered, the covenant should be registered as class D (II) land charge, visible on the land charges register.

If a landowner wants to modify or discharge a covenant, they should first check whether it is enforceable by examining its terms and determining its scope and extent. Consideration should always be given to whether the covenant applies to what the landowner is doing, and if there is an identifiable beneficiary. If the landowner intends to develop the land and continues doing so without an agreement in place, the covenant's beneficiary could seek an injunction that prohibits the work. This could be after the landowner has paid professional fees and planning costs, and if they have started building works they may be required to undo these.

Subject to the terms of any title indemnity insurance, a landowner may need to negotiate a private agreement or settlement. The starting point for a release is often, say, a third of the resulting increase in value or development profit, but the possible fee could be anywhere between five and 50 per cent. Legal advice at the outset could pave the way for negotiations and alternative dispute resolution, and ensures that the landowner's case is properly put forward to the beneficiary of the restrictive covenant. Care should be taken in this respect; it may well be impossible to approach the beneficiaries or be a breach of any existing restrictive covenant insurance cover.

Where a release cannot be agreed, a landowner can go to the UTLC and ask it to consider modifying or discharging the covenant. The tribunal will examine whether it is in the public interest, review the covenant's rationale and validity, and assess whether there are grounds to develop or modify the land use. Should a landowner choose the latter course of action, their position must first be evaluated from an evidential perspective before they consider the grounds they may rely on for any application, as discussed below.

Facts and details are important in these applications; for example, who benefits from the covenant and what is their standing, legally or financially? Do you need their consent, and what happens if they refuse? The tribunal will be looking to all these important evidential points. The landowner and their professional team must prove what is special about the facts of the case throughout the application. Context is vital if you can prove that it is materially relevant: for example, the environmental, social and historical context of the covenant and application are all relevant in the tribunal's eyes, as in *Thomas Pocklington Trust v Aikman* [2018] UKUT 256 (LC).

What is the landowner's planning position, and do they have anything concrete by way of planning consents or plans to demonstrate the potential development? In the case of *Jackson & Anor v Roselease Ltd* [2019] UKUT 273 (LC), an important factor in the application's success was that the proposed development was already permitted under planning legislation. This 'arguably indicate[d] that the proposed use is reasonable, since it furthers a planning policy to provide homes by making use of disused and redundant buildings'. If this is not the case, your application may end up failing, as it did in *Morningside (Leicester) Ltd Re 169 Narborough Road* [2014] UKUT 70 (LC).

Any landowner and their professional team must consider their strategy. They should only seek an order for what they need:

If a landowner wants to modify or discharge a covenant, they should first check whether the covenant is enforceable

modification to enable the planning consent to be implemented will usually be enough and present a better case on the merits for the applicant. A landowner should therefore only seek to discharge the covenant if they are confident of success, as there may be cost consequences of seeking discharge and then abandoning that relief if they change tactics and go for modification.

A landowner should also be prepared for the costs involved in the process. Applications are typically disposed of within nine months, and inevitably result in, for example, legal fees throughout the duration and at the conclusion. Under paragraph 12.5(3) of the UTLC practice directions, objectors will not normally have to pay your costs, even if they lose (bit.ly/UTLCprac). In fact, successful objectors will usually be awarded their costs unless they have acted unreasonably; compensation may even be payable to them under section 84(i) and (ii) of the Law of Property Act 1925 if they lose their rights derived from the covenant. Applicants should be aware of this when evaluating the extent of success of their application.

A landowner must consider the grounds on which their application is based. The right choice can avoid the undesirable cost consequences mentioned above, while the wrong one can be disastrous. Ground (a) of section 84, which seeks to modify or discharge 'by reason of changes in the character of the property or the neighbourhood', is usually difficult to prove. The question is whether the original purpose of the covenant can still be carried out, and invariably it can. It is therefore a premise that the objector can win, which does not bode well in terms of costs for any applicant. On the other hand, ground (aa), which allows discharge or modification on the basis that 'the continued existence thereof would impede some reasonable user of the land for public or private purposes', is typically the best and most commonly used by applicants. Other grounds are available but rarely used.

The outcome will always be determined on the facts of each case, and no two developments are the same. By considering the factors raised above, you can help ensure your application has the best chance of succeeding, and thereby unlock the value in your land. But this is a complex area of law, and it is imperative to seek legal advice from specialist solicitors.

Martin McKeague is a partner and David Manda a senior associate in the real estate litigation team at law firm Walker Morris LLP
martin.mckeague@walkermorris.co.uk
david.manda@walkermorris.co.uk

Good value

The public sector is setting a positive example by considering economic, social and environmental well-being in procurement contracts

Nancy Towers

The Social Value Act 2013 was designed to maximise the value of procurement spending in the public sector, encouraging professionals to look beyond financial value and consider the social and environmental impact of a purchase.

The legislation has taken a few years to become embedded, but now evidence shows that social value clauses are increasingly common and play a significant role in decision-making. Central government departments are committed to including social value clauses in all contracts, and assigning a 30 per cent weighting to the social value question is not uncommon in local authority contracts. It's increasingly likely that your response to such a question may well determine whether you are awarded a contract or not.

What is social value?

The act is designed to be flexible, so social value priorities can be agreed by the local authority commissioning body and reflect what is important for its residents and area. In the most successful cases, social value priorities echo the corporate priorities of the commissioning authority.

For example, Wirral Council has twice the number of children in care compared to the national average, and 45 per cent of those leaving care in 2013 were not in education, employment or training. Addressing these issues is central to its corporate strategy, and it has done so by using the apprenticeship levy as well as social value clauses in contracts to encourage providers and suppliers to offer support and employment to care leavers.

Recent research by national campaigning body Social Enterprise UK has found that, despite an increasing understanding of social value in local authorities, measuring and communicating social value still presents challenges. However, as the weighting that commissioning bodies give social value increases, they will need to be more strategic, robust and transparent in their approach to measurement and contract management, and providers and suppliers will also need to be ready for this.

The Salford Social Value Alliance's Ten Per Cent Better Campaign is a great example of what can be done: it set a range of targets to achieve through procurement, such as ten per cent more local spend and ten per cent more active residents, with clear baselines and priorities for its social value clauses that providers must fulfil.

Measuring social value

There's an ever-growing array of social value measurement tools, which can be confusing to navigate. The Themes Outcomes Measurement framework and the Housing Associations' Charitable Trust social value bank calculator are increasingly prevalent, both ascribing a financial value to social value interventions.

Though these tools might be useful to kick-start a measurement approach to social value across a system or organisation, they can be expensive, clunky to use, and can limit innovation and customisation of social value priorities for an area. You don't need to make it complicated, particularly if you are a small business: look to national network Social Value UK for

guiding principles, decide what meaningful change your social value offer will make and measure that (bit.ly/SVprinciples). The quality and impact of apprenticeships or reductions in carbon footprint, for instance, are two of the most effective and easily quantifiable measures of social value.

But the most crucial question is whether an increasing emphasis on social and environmental outcomes will improve your business. There is growing evidence that it builds a more effective local economy, and on an individual level changing the way you do business can improve your operations.

In the course of our recent research at Social Enterprise UK, we spoke to a number of businesses that said not only were they winning more bids because of their approach to social value, but they had also increased their productivity. One company had for instance introduced a quota of volunteering days, allowing employees to contribute to community projects on days of their choosing, and this had reduced staff absenteeism and increased productivity.

If you need more persuasion that your business should consider social and environmental issues, *The Deloitte Global Millennial Survey 2019* found that the younger generations seek to buy from and support companies that align with their personal values (bit.ly/DelGMS19). It therefore makes increasing sense to invest in environmental and social impact to futureproof your business.

Nancy Towers is public services lead at Social Enterprise UK
nancy.towers@socialenterprise.org.uk



Transforming the industry

One apprentice at a time

**BUILT
ENVIRONMENT
A TALENT CHAMPION**

Get in touch: 0118 467 2315
businessdevelopment@ucem.ac.uk



Do you know the value of placemaking?

This will soon be on everyone's agenda in real estate. Get up to speed at the StreetDots website.

- Follow StreetDots on LinkedIn and get daily insights, news and trends regarding placemaking and site activation.
- The world's first placemaking booking platform
- StreetDots breathes life in to new and existing developments
- Working with every sector in real estate

www.streetdots.co.uk

 **StreetDots**
The world's first placemaking booking platform

The elephant in the room

Appalling housing conditions persist in many areas, but there is a way to ease the problem

Jan Ambrose



Thank goodness for the 21st century, where the horrors of the Victorian slums and overcrowded housing are behind us.

Oh, really? Sadly, the long-running housing deficit has prompted local and national government to turn to innovative but unsuccessful approaches to deal with the problem.

Since May 2013, it has been possible to convert an office building to residential use without planning permission. This policy of deregulation was intended to boost housing supply and help regeneration by re-using vacant offices. It was also predicted that there would be no financial costs; local planning authorities would make administrative savings, there would be few applications and it was unlikely to lead to housing in unsustainable locations.

In May 2018, RICS' research team assessed the consequences of extending permitted development rights (PDRs) for office-to-residential conversions in England ([rics.org/pdrinsight](https://www.rics.org/pdrinsight)). Five local authority case studies were conducted in the London Boroughs of Camden and Croydon, and in Leeds, Leicester and Reading to assess the extent of individual office-to-residential building schemes that have proceeded under PDRs, as well as their implications for local authority revenues, planning and local communities. The research also considered similar projects in Scotland and the Netherlands.

Key findings included the following:

1. high rates of prior notification were found for such conversions in all authorities, far more than predicted by the then DCLG – now the Ministry of Housing, Communities and Local Government (MHCLG) – when introducing the policy
2. divergent views from stakeholders on the merits and impacts of PDRs
3. PDRs have allowed the development of extremely poor-quality housing, much worse than schemes that required planning permission; viable office-to-residential conversions could clearly still be delivered through the more stringent full planning permission process
4. there was direct evidence of the profitability of conversions for developers and landowners; in contrast, there was little evidence of contribution to the extra

RICS members and staff have offered practical and innovative solutions: some have even questioned whether there is a housing shortage at all

public infrastructure required to support the additional housing seen in the five case study authorities

5. the comparative study of Rotterdam showed the potential for alternative, softer governance approaches instead of the hard governance deregulation seen in England.

In August 2019, the children's commissioner for England released a shocking report, which stated that more than 210,000 children are estimated to be homeless, with some being temporarily housed in repurposed shipping containers and office blocks and whole families living in tiny spaces (bit.ly/CCOBkHses).

Councils blamed a £159m funding gap, while a spokesperson for MHCLG said anyone who feels they have been placed in unsuitable accommodation should request a review. However, according to the report, this is easier said than done.

Case study

When a single parent, Lucy, became homeless, she and her two-year-old son were placed in a flat by her local authority in a converted office block far from her previous home. The flat had no basic furniture; Lucy had to borrow a blow-up mattress and a cot. It was noisy, with cars and lorries continually whizzing past, and she felt unsafe when walking to the shops.

Although it was considered temporary accommodation, they were there for 11 months. It took six months and a formal complaint before her local authority completed its assessment and found it had a duty to find the family a permanent home. She was then put on a waiting list and asked to express an interest in properties she wanted to live in by bidding

online, but was told she was too low on the list to be offered anything in the short term. Lucy was also unable to start bidding until a dispute about her temporary accommodation was resolved.

The whole process and worry about her son's living conditions made Lucy ill with stress. She had to submit another complaint to be moved back to her local area. This took another three months.

Lucy has now moved to a self-contained flat back in her local area. The flat is up three flights of stairs and there is no lift, but Lucy prefers carrying her son's buggy up the stairs to avoiding drug dealers on her doorstep as she had to in her previous situation. She still has no idea when she and her son will be offered a permanent home, what it will be like or where, and feels terribly let down by the system.

Unfortunately, this story is typical of the current housing situation. Children's commissioner Anne Longfield, who visited the properties, said that whole families live in single rooms barely bigger than a parking space, adding that shipping containers converted into flats are blisteringly hot in summer and freezing in winter.

In Essex, 13 office blocks were converted into more than 1,000 individual flats; in one such building, some units measure 18m² – the average size of a home in England is 90m² – and are being used to house whole families with parents and children sleeping in a single room also used as a kitchen. Crime rates have risen in areas of overcrowded housing, while office block conversions are often located on or near industrial estates, presenting safety risks and being some distance away from shops and amenities.

B&Bs are also being used as temporary accommodation. The bathrooms are often shared with other residents and vulnerable adults. A third of the 2,420 families known to be living in B&Bs in December 2018 had been there for more than six weeks. The report also confirms that two in five children had been in temporary accommodation for at least six months, and at least 6,000 children had been there for a year at this date.

As a further 375,000 children in England are in households that have fallen behind with rent or mortgage payments, thousands more could become homeless. Temporary accommodation is costly – councils spent nearly £1bn on such short-term solutions in 2017–18 (bit.ly/19TempAcc).

These stories are appalling, and it is acknowledged that the UK has suffered an increasing housing deficit – now estimated at more than 1m homes – for many years. Sixteen years ago, the Barker Review made various recommendations, including building 120,000 extra houses each year.

Readers will doubtless recall numerous occasions where senior politicians from all parties have outdone each other in promising to build hundreds of thousands of affordable homes, blithely ignoring the problems of planning regulations, availability or suitability of land, and resources in the construction industry, among other issues. The increasing housing deficit confirms the promised homes have never been built.

Property Journal has covered this topic repeatedly over the years – since David Cameron was prime minister – and RICS members and staff have offered practical and innovative solutions: some have even questioned whether there is a housing shortage at all.

Why do politicians continue to ignore the elephant in the room – that is, the ever-increasing number of empty homes? The MHCLG published statistics last May showing that, at October 2018, the number of empty homes in England stood at 634,453 (bit.ly/EmpHsgHC). This figure includes more than 226,000 long-term empty homes – properties that have been empty for longer than six months – and among these, some buildings – both



A 'No hoodies' sign in a lift at Terminus House, Harlow, a disused office building now used for social housing. The building has been criticised for its small room sizes and a significant rise in crime in the area since opening

residential and commercial – have stood empty for more than ten years.

During the recent general election, the major parties' leaders continued to parrot on about the huge numbers of affordable houses they would build if elected. The Green Party's manifesto did say it would 'empower local authorities to bring empty homes back into use, change the planning system to incentivise renovation, extension and improvement of existing buildings, rather than relying on new build, to reduce the use of steel, concrete, cladding and finishes, which produce massive amounts of carbon in their manufacture'. Meanwhile, the Conservatives, Liberal Democrats and Labour all suggested hiking council tax on empty homes.

In response to an earlier letter from Action on Empty Homes, the then housing minister Esther McVey pointed to existing initiatives such as the Empty Dwelling Management Order (EDMO). However, councils have found EDMOs, introduced in 2006, too difficult to administer (see *Property Journal* October/November 2019, pp.50–51). Only six EDMOs were used in 2018, not the 1,000 a year that were originally envisaged.

Chris Bailey is campaign manager at Action on Empty Homes. Before the election, the organisation sent the following proposals to the parties vying for power:

1. establish a national empty homes programme to create additional housing for those in most need, using vacant properties or those requiring renovation

2. introduce new powers to allow councils to bring empty homes back into use

3. create a national fund through a locally focused programme of grants and loans to support councils in bringing tens of thousands of long-term empty homes back into use

4. ensure that owners taking advantage of this programme agree nomination rights and fair rents with councils; in this way, homes brought back into use can help alleviate local need and reduce the £1bn national temporary accommodation bill for local authorities

5. create a fund for local authorities to help build capacity for local community-led housing projects that sustainably refurbish long-term empty homes and buildings.

It is hoped the new government will listen to these eminently sensible proposals. Obviously, there is no easy or quick solution to the disastrous housing situation, but it surely makes more sense to act to reduce both the number of empty homes and the housing deficit.

Or are the politicians' repeated promises to build new houses – while not actually doing anything, as is shown in current figures and the number of people living on the streets – a better option?

Jan Ambrose is editor of the residential section of Property Journal jambrose@rics.org

Related competencies include:
Housing strategy and provision, Planning development and management



Ben's client wanted 7 different reports this morning. Thanks to Mojo, Ben hasn't had to supply any of them

Preparing endless reports for clients can be one of the more tedious jobs a property manager has to endure.

So endure it no longer. Instead, choose the only property management software with added Mojo.

Then you can give your clients or investors their own Mojo app – branded, if you wish, with your own corporate

stylings – and let them enquire about their portfolio to their hearts' content.

You, meanwhile, need merely to configure the app so it gives access only to the information you want them to see. And nothing confidential that you don't.

The Mojo client app is a wonderful way to develop a real point of difference from your competitors.

And a wonderful way to give your property managers the space to do the things you actually want them to.

Like manage property, for example.



Reinventing property management, one process at a time

tracesolutions

For good measure

The challenges of providing transparent and consistent commercial space measurements in Hong Kong illustrate the need for international standards

Tom Parker



In real estate, size matters. With offices in particular, size affects every element of property decision-making, from assessing workspace layout and suitability to planning and predicting likely running costs, fit-out expenses and reinstatement values. It is also a crucial factor in determining the total amount of rent an occupier will pay.

In Hong Kong, there are four principal methods of measurement prescribed by the Hong Kong Institute of Surveyors (HKIS):

- **gross floor area:** broadly similar to gross internal area, and equal to International Property Measurement Standard (IPMS) 1 plus B (external balcony)
- **saleable area:** the area exclusively allocated to a unit, including balconies but excluding common areas; equal to IPMS 1 plus B (external balcony) minus common parts minus plant room
- **lettable area:** the area exclusively allocated, including toilets and lift lobbies but excluding common areas, except where the unit is one of several making up an

entire floor; equal to IPMS 3 minus half the thickness of the common wall with adjoining occupier minus difference in area from internal dominant face

- **internal floor area:** the enclosed internal space of the unit for the exclusive use of the occupier; it is measured between the internal faces of the walls and includes internal partitions and columns, and it is equivalent to IPMS 3.

These standards work particularly well for residential properties, and it is mandatory that all marketing particulars for residential properties state the saleable area, allowing occupiers to compare properties quickly and easily.

The existing standards are also consistently applied in property valuation, and valuers in Hong Kong are accustomed to dual reporting, in line with both HKIS' *Code of Measuring Practice* (hkis.org.hk) and the RICS *Property measurement* professional statement, second edition, of January 2018 (rics.org/propertymeasurement). This enables valuers and their clients to compare both

domestic and international properties consistently and accurately through the use of IPMS as stated.

The main issue we have in Hong Kong is how consistently these standards are applied when it comes to commercial property – particularly in office leasing, where the city’s landlords have formed their own basis for property measurement:

- **gross area:** the enclosed internal space of a floor
- **lettable area:** as above but excluding staircases, lift shafts, plant rooms and risers
- **net area:** the enclosed internal space exclusively available to an occupier.

Landlords will then often quote an efficiency for the space, which will indicate what percentage of the quoted floor area is actually available exclusively for the use of the occupier.

While there is a broadly accepted definition for each basis of measurement, the way it is applied can often be quite inconsistent. So with multiple methods and interpretations for measurement, comparing properties can often be challenging, and decision-making is then neither transparent nor quick.

To give an example, one landlord may choose to measure their property on a net basis, that is 100 per cent efficiency, quoting HK\$1,075/m². Another landlord may also be quoting the same rate for the same quoted area, but they measure their property on a gross basis with a 60 per cent efficiency. Effectively, this means that while the unit rate and the quoted area are the same, the actual price you are paying for the useable space in the second property is around HK\$1,795/m². With different efficiencies being quoted for different buildings, you cannot compare properties using the unit rate without first having made a number of adjustments to the figures.

Another example of where confusion may arise is when occupiers are looking at property options. Due to the different methods of measurement that have been applied, an occupier looking for cost savings may end up taking an office at a higher unit rate than they are currently paying, or an occupier looking for a larger office may actually end up in a space that quotes a smaller area than that of their existing premises, although in actual fact it is physically larger.

The measurement process also often lacks transparency and, while independent measurement is usually possible, it tends to take place much later in the decision-making process when landlords are generally unwilling to renegotiate. For properties measured on a gross or lettable basis, the quoted efficiency can sometimes be higher than the actual efficiency.

As real-estate professionals, we are now working in an increasingly global context, and several years ago concerns were raised by businesses, professionals and

As RICS members, we should promote trust in the profession by applying consistent and transparent standards

RICS on ensuring consistent measurement standards globally. In January 2016, the IPMS were introduced for office properties to provide a universal method that would enable decision-makers to compare property sizes in different cities around the world in a consistent and accurate way.

This is particularly important in a global city such as Hong Kong where around 60 per cent of occupiers of grade-A office space are multinational companies. With corporate real-estate professionals and decision-makers frequently involved in regional or even global roles, quick and consistent comparison of properties across geographies is crucial.

As RICS members, we should promote trust in the profession by applying consistent and transparent standards; but with so many potential uncertainties in property measurement in Hong Kong, you can forgive occupiers for getting confused and frustrated with the process. IPMS therefore present a great opportunity to work alongside existing standards to provide a consistent, transparent basis for measurement that enables quick comparisons between properties, simplifying real-estate decision-making in the process and avoiding confusion and frustration.

At present there has been limited appetite from Hong Kong landlords to apply a universal method of measurement. However, I see it very much as an ongoing process. We as property professionals need to demonstrate the benefits of adopting IPMS, such as creating an easier environment for occupiers while at the same time helping to improve trust between occupiers and landlords during the process.

For the past few years vacancy rates in Hong Kong have been at historically low levels, but since the start of 2019 we have started to see levels rising, creating a more competitive leasing environment for landlords. Potentially, this could also act as a catalyst for adopting IPMS across Hong Kong.

Tom Parker MRICS is assistant manager, valuation and advisory services, Colliers tom.parker@colliers.com

Related competencies include: Measurement
Further information: rics.org/ipms

Legal

‘Leases around the world contain repairing obligations – and so there are also claims for failure to repair in many countries’

Alison Hardy
Ashurst



Building surveyors can be a parochial lot, and even more so in the specialist area of dilapidations claims. It is easy to think that our skill set has no application in other countries, and even that dilapidations claims are exclusive to the UK.

However, the leasehold property-owning structure is commonplace across the globe, and in all leases responsibility for repairing the property must be allocated. This means that leases around the world contain repairing obligations – and so there are likewise claims for failure to repair in many different countries.

Property ownership is becoming ever more globalised, with investors looking beyond their borders to diversify their portfolios and occupiers seeking world domination. Many of our clients hold properties in multiple jurisdictions and so it is important for them – and for us as their professional advisers – to understand how to manage and allocate risk in those different jurisdictions.

As when travelling abroad, it is essential to recognise the value of local knowledge. By taking the advice of a local specialist,

it is possible to avoid bear traps and take advantage of each market’s nuances.

In France it has been compulsory since 2014 to obtain a schedule of condition when entering into a lease. At the end of that lease, the French Civil Code requires the tenant to return the premises in the state evidenced by that schedule, normal wear and tear and acts of God excepted. Dutch law meanwhile puts almost all repairing obligations on the landlord. The tenant of a property in Amsterdam can require the landlord to carry out works, failing which the tenant can do the works themselves and offset it against their rent.

In my research into repairing obligations and associated claims across the world, I learned that the term ‘dilapidations’ is familiar in very few countries. The Australians call dilapidations ‘make good’, the Japanese use the label ‘restitution’, and the USA calls these claims ‘reinstatement’ or ‘restoration’. Many countries simply don’t have a specific name for it – and that might be why there has been a misunderstanding in the past that dilapidations claims don’t exist outside the UK.

Most dilapidations claims are resolved by negotiation or mediation. However, I remain surprised that, whenever they are fought across the world, many parties go to court to resolve their disputes rather than use expert determination or arbitration.

If landlords and tenants reflected on the potential for disagreements and gave serious thought as to how best to resolve any that might arise, I believe that more leases would include tiered dispute clauses to enable them to be settled more quickly and cost-effectively.

Such clauses include the following escalating steps:

1. a meeting of directors, or in this instance surveyors
2. compulsory mediation
3. expert determination for some types of claim, for example those related to valuations, and arbitration for others, such as disputes about whether a landlord should consent to a tenant’s application for a change of use or to assign the property.

All-inclusive rents, which are popular in the USA and making inroads into the UK market, do represent some threat: if every lease were made on this basis there would be no claims for dilapidations as landlords would generally be liable for repairs. However, at the same time we see free ports such as the Abu Dhabi Global Markets adopting English law, which present a growth opportunity for RICS members involved in dispute resolution.

As long as leases continue to be granted, parties will allocate risk and responsibility for repair – and with that comes a future rich with opportunities for those who have specialist knowledge.

Alison Hardy is a partner at Ashurst LLP and head of the global real-estate dispute resolution team alison.hardy@ashurst.com

Related competencies include:
[Landlord and tenant](#)



Creating Car Parks



Transparent ANPR Management Agreements

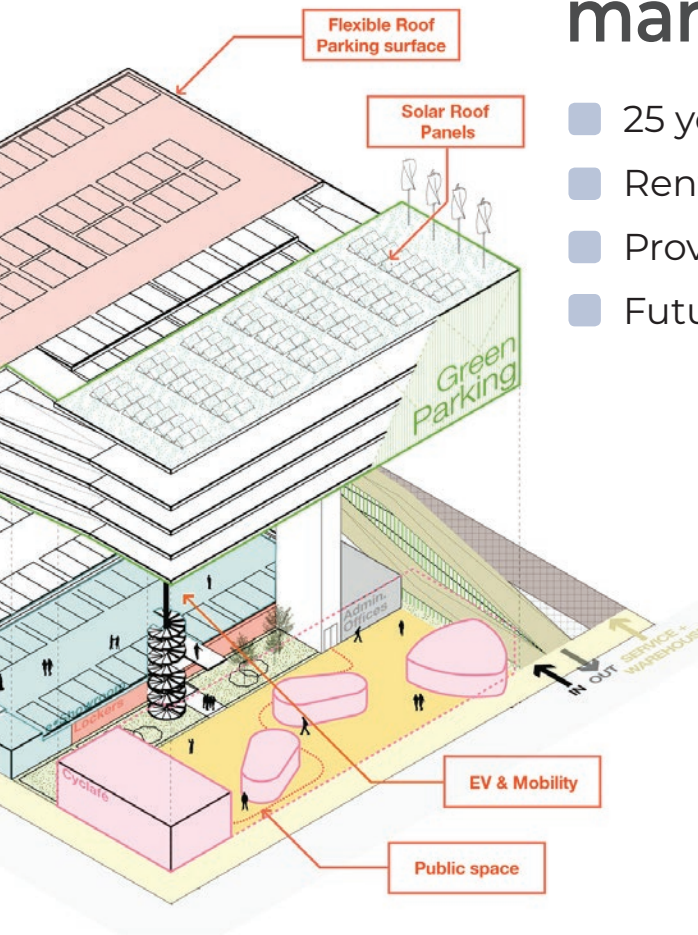


Leasing and Managing Car Parks



Combining flexible car parking solutions with a property management perspective

- 25 years' operational experience
- Rental, management fee or income share
- Providing yield enhancement
- Future proofing car parks for the digital age



Contact Neil Edwards MRICS

neil.edwards@green-parking.co.uk

Telephone: 01372 462 156

www.green-parking.co.uk



The importance of keeping fit

Residential landlords should beware of operating close to minimum standards

Andrew Thompson and Michael Cooper



The Homes (Fitness for Human Habitation) Act 2018 came into force for new leases in March 2019, and takes full effect on all residential short leases from 20 March this year. The legislation got cross-party support and was welcomed by both landlord and tenants' rights groups. The changes give new rights to tenants that will have significant implications for those operating in the rental housing market.

Historically, enforcing minimum fitness standards has been the responsibility of a local authority environmental health officer (EHO), with steps only taken after informal conversation or encouragement to resolve the matter has failed or been ignored.

Misinformed or naive investment may mean private landlords hold properties that are unsuitable as tenanted homes

The issue of rogue landlords is well known throughout the housing sector, but the explosion of a new generation of buy-to-let (BTL) investment has created a rejuvenated private landlord sector. This could be a target of the new enforcement

regime: misinformed or naive investment may result in them holding properties that are totally unsuitable as tenanted homes in regulatory terms. Any property that is not maintained or regularly inspected may quickly become an investment risk.

The legislation has created a fundamental shift in this area of property management. For the first time, a tenant can bring a direct, private civil claim for disrepair against the landlord; under the new system, the EHO does not need to be consulted to allow the commencement of a claim. However, the tenant's right to bring redress via the EHO has been retained, providing them with a choice of enforcement routes against a landlord.

This new tenant right comes with an additional ability for them to seek compensation for the disrepair. A study of county court claims under the former system shows that issues such as damp in a one-bedroom flat can lead to a direct compensation figure of hundreds of pounds a week for the period of the occupancy.

Even if the tenant knows about the disrepair when signing the lease, this is no defence: a landlord is barred under the legislation from contracting out of any of the tenant safeguard provisions. In addition, the tenant has full legal protection from eviction on presentation of a claim. The property must therefore be in a fit state on the first day of the lease and maintained for the duration of the tenancy.

Since the commencement of the first stage of the legislation, a simple search of potential interest in this subject online has shown that several legal practices are offering no-win, no-fee litigation for any potential housing disrepair claim. It is very clear from these advertisements and the associated compensation sums on offer that there could be a future flood of claims against landlords.

Legal practitioners appear to be awaiting for the full commencement date of 20 March, and the expectation is that there is an opportunity for straightforward and successful litigation against poorly advised landlords. These claims will be made in the county courts, providing a low-cost enforcement route for the tenant, but expensive for landlords to defend.

It is not the role of RICS members to shield rogue landlords in the private rental sector. However, the first rung on the property ladder is a vital requirement of a functional market. As the legislation becomes embedded, this compensation

culture will place a greater onus on professional advisers reporting on housing either being used or considered for rental purposes. This will be particularly important for pre-purchase practitioners acting for BTL investors.

Some low-cost maintenance repairs, if ignored, can generate damp or condensation mould. In a compensation claim, these could lead to a risk of exposure disproportionate to the cost of maintenance. Afterwards, a professionally advised landlord will ask whether this claim could have been avoided if they had made the correct precautionary repair and been informed of the risk. A successful claim can now result in an award covering the cost of the original disrepair item and the compensation plus litigation fee.

Residential managing agents may wish to review the knowledge and experience of the parties they use to undertake regular inspections; the necessary safeguarding requirements could be significantly beyond the abilities of basic inventory staff.

The technical areas on which a claim will be based are centred on the 29 hazard categories of the Housing Health and Safety Rating System (HHSRS), as seen in the box (right). These can operate either individually or in combination, possibly resulting in a property being deemed unsuitable for human habitation and hence triggering a potential claim.

Major residential landlords usually have a system of regular qualified surveyor condition inspections to ensure that the asset stock is preserved; these stock condition reports protect them from the potential risks created by such tenant claims. Annual housing officer checks and five-yearly surveyor inspections are common in housing associations and local authority estates.

Smaller-scale private landlords do not currently have the same culture of regular inspections, and their properties could therefore be at risk of disrepair. Older properties could deteriorate over time owing to a combination of age and occupation; RICS also recommends that a pre-purchase condition survey be carried out for a new-build property three years after its completion and occupation.

RICS members work for both landlord and tenant across the sector. The act is welcome, but landlords must always ensure they maintain rental properties properly.

Michael Cooper FRICS is director, head of neighbourly matters, project and building consultancy at Colliers International
michael.r.cooper@colliers.com

Andrew Thompson FRICS is senior lecturer in building surveying, Department of Built Environment at Anglia Ruskin University
andrew.thompson@anglia.ac.uk

HHSRS hazards

- Damp and mould growth
- Excess cold
- Excess heat
- Asbestos and manufactured mineral fibres
- Biocides
- Carbon monoxide and fuel combustion products
- Lead
- Radiation
- Uncombusted fuel gas
- Volatile organic compounds
- Crowding and space
- Entry by intruders
- Lighting
- Noise
- Domestic hygiene, pests, refuse
- Food safety
- Personal hygiene, sanitation and drainage
- Water supply
- Falls associated with baths etc.
- Falling on level surfaces etc.
- Falling on stairs etc.
- Falling between levels
- Electrical hazards
- Fire
- Flames, hot surfaces etc.
- Collision and entrapment
- Explosions
- Position and operability of amenities
- Structural collapse and falling elements

Squaring the circle

What lessons can be learned from a survey of Australian property professionals' approach to circular economic principles in office strip-outs?

Lorna Hennessy and Prof. Sara Wilkinson

The principles of the circular economy have an important role in reducing waste when offices are vacated (see *Property Journal* January/February, pp.32–33). A recent survey carried out by researchers at the University of Technology Sydney (UTS) therefore explored attitudes towards the circular economy, and what needs to be done to increase the implementation of its principles in office strip-outs in Australia.

In 13 interviews with owners, leasing agents and negotiators, builders, sustainability consultants, furniture logistics and quantity surveyors, 77 per cent of interviewees were found to have a good understanding of the circular economy; however, while the remaining 23 per cent understood that strip-outs generated waste and that this has negative impacts, they were not aware of the term circular economy. For 46 per cent, an ideal solution would be zero waste. Most respondents expressed the view that, ideally, all fixtures and fittings would be re-used, repurposed or recycled with no landfill, correlating with the definition and three principles of the circular economy as expressed by the Ellen MacArthur Foundation (bit.ly/CircEcoEMF).

Regarding make good, the Australian process analogous to dilapidations, all respondents stated that the most common outcome was completing the strip-out and returning the premises back to base build. All confirmed that owners take responsibility for making good in at least 75 per cent of strip-outs. Typically, building surveyors work with owners or tenants to negotiate, draft and prepare a claim, usually six to nine months before termination of the lease. Once the scope is agreed, tenants and landlords reach a financial settlement that can reduce the waste associated with services: when the landlord takes responsibility for make good in this way, they can negotiate with incoming tenants and encourage them to use existing services, carpets and so on. Although this is beneficial for services, partitions, carpets and ceiling tiles, it does not reduce furniture waste.

Ten interviewees stated that lead time and the time taken to complete strip-out together represent a major barrier, and both are key to ensuring the re-use of furniture. To enable furniture to be rehomed, an inventory of all of it and its re-use potential is needed.

Even when early settlement is reached, consultants are not given time to complete inventories because tenants are still using the space. There is generally insufficient access time during strip-out to organise re-use or recycling of the furniture on site.

Eighty-five per cent thought tenants were interested in sustainability, although motivations varied: 48 per cent thought tenants were genuinely concerned, 20 per cent thought interest was superficial, while 24 per cent thought tenant interest stemmed primarily from the prospect of saving money. Large landlords focused on sustainability, with mid and lower tiers not so interested. Our research revealed that tenants engage with waste because it's visible. Lease duration correlates with interest in sustainability; longer leases equal greater attention. Most tenants want fit-outs to look good for minimum cost, whereas premium tenants already include sustainability in their operations.

Perceived barriers to sustainable strip-outs are the lack of mandatory waste targets; corporate branding overriding the possibility of re-use; a lack of skills and knowledge in fitting-out to circular economic principles; a shortage of places to recycle; designers promoting new furniture; the stigma attached to used furniture; the inconsistent quality of waste that is re-used; technology development; and changing tastes in fit-out design. Other barriers identified were lack of cost savings; time; lack of warranty; concern that builders may make less money; and a lack of tenant awareness.

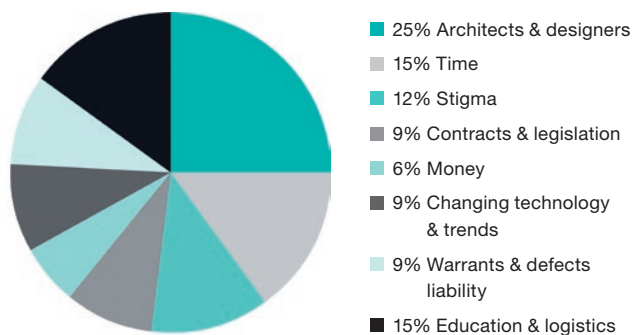
Difficulties with access to the tenancy after expiry, goods lifts, designing products for disassembly, and architects' or designers' relationships with suppliers also featured. The biggest barriers are education and logistics, architects and designers, time and stigma. Eight themed barriers are highlighted in Figure 1.

Through discussions, it was found that the theoretical model for the circular economy has limitations in practice for numerous reasons, including conflicting stakeholder wants and needs, market barriers, lack of incentives, the changing nature of fit-out design, contracts and government legislation. As such, an updated model was created, as seen in Figure 2.

Suggested changes to overcome the barriers in Figure 1 include:

- educating tenants and architects on making sustainable choices

Figure 1. Barriers to implementing the circular economy according to built environment experts



- specifying re-used materials in fit-outs; if not used, readily recyclable products with limited materials should be selected
- selecting materials that can easily be disassembled
- engaging sustainability consultants early so there is time to rehome materials
- ensuring sustainability consultants and those responsible for rehoming furniture have access to create an inventory at least two months before lease-end
- rewarding demolition contractors or tenants for re-using furniture
- creating a market for second-hand products; though this is reflected in the interior rating tool of the Green Star sustainability certification scheme, more needs to be done to engage A-grade tenancies that are not interested in obtaining such a rating
- providing financial incentives for re-use and diverting waste from the landfill stream
- green leases with sustainable material procurement guidelines for re-using strip-out waste
- providing warranties and defects liability periods on re-used services and furniture.

Table 1 highlights which groups could be responsible for each of these changes.

All the main stakeholders need to collaborate if circular economic principles are to be successfully adopted, and owners and tenants should work together to ensure that materials are procured sustainably. As far as tenants are concerned a fit-out is transactional, only completed every seven years on average, and as such most are unaware of take-back schemes or access to sustainable products. Cooperation with owners will help them improve fit-out design.

Early communication is key to allow owners to understand tenants' needs and explore opportunities to re-use parts of existing fit-outs. This can be financially beneficial for all. Communication is also necessary when coordinating the make-good process. If the owner is responsible, a furniture inventory should be produced at least two months before lease-end.

Leasing agents and owners need to work together to lease spaces without the requirement of making good to a warm shell, that is, a base building with a ceiling grid and floor covering, and all holes filled. To improve strip-out waste separation, green clauses should be incorporated into new leases. Finally, communication between builders or demolition contractors and owners is vital when seeking to re-use, as builders need adequate time or a financial incentive to take on used furniture.

If we are committed to reducing waste and implementing a circular economic paradigm then we, collectively, need to adopt the changes outlined above.

Lorna Hennessy BEng is a graduate engineer at Arup and a UTS alumna lorna.hennessy@arup.com

Sara Wilkinson FRICS is professor of sustainable property in the School of Built Environment at the UTS sara.wilkinson@uts.edu.au

Related competencies include: Property management

Figure 2. Updated circular economy model according to participants

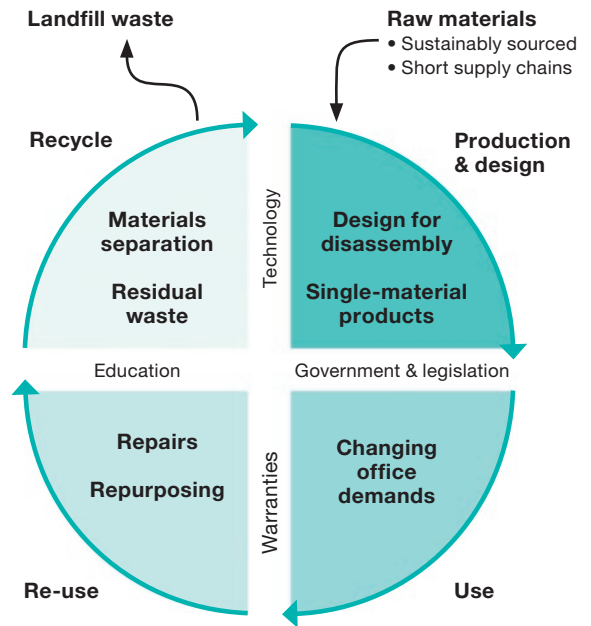


Table 1. Stakeholder roles in sustainable strip-outs

| Change | Stakeholder responsible |
|--|--|
| Education | All |
| Specification of materials in fit-outs | Tenants, owners |
| Early engagement of sustainability consultants | Tenants, owners |
| Providing access to the demised property to create an inventory | Tenants, owners |
| Rewarding furniture re-use | Tenants, owners, governing bodies |
| Creating a pull for second-hand products | Tenants, owners, governing bodies and organisations |
| Giving financial incentives for re-use and diversion of landfill | Governing bodies and organisations |
| Green leases | Owners, leasing agents, chartered building surveyors |
| Warranty and defects liability periods | Product manufacturers and companies involved in repair and maintenance |

Time to sharpen the axe

Money and time invested in proptech now can enable surveyors to work more productively in the long run

Anthony Walker



US president Abraham Lincoln is reported to have said: 'Give me six hours to chop down a tree and I will spend the first four sharpening the axe.' The remark concerns the story of a woodcutter determined to chop down as many trees as possible. Yet after an excellent start on the first day, on each subsequent day he felled fewer and fewer trees. The woodcutter eventually went to the timber yard manager to apologise, and put it down to a loss of strength. The manager asked when the axe had last been sharpened, and the woodcutter replied: 'Sharpened? I've had no time to sharpen my axe. I have been so busy trying to cut trees.'

The story highlights the positive impact that preparation can have on productivity. The preparation that surveyors should carry out today must take account of technology and digital transformation so they can add maximum value to the services that clients are seeking. In fact, this is now a more important consideration than ever.

Latest available figures from the Office for National Statistics indicate that, on the basis of GDP per hour worked, UK productivity in 2016 was lower than the average of the rest of the G7 by 16.3 per cent, with the gap narrowing fractionally from 16.4 per cent in 2015 (bit.ly/ONSprod2016). Many reasons have

been put forward for this, although limited investment in research and development, poor integration of information systems and the lack of large-scale adoption of digital technologies are among those suggested by McKinsey in a 2018 paper (bit.ly/UKprodig).

Breaking down the benefits

Construction is the least digitised sector, ranking bottom of the Industry Digitalisation Index. According to an article by Deloitte in late 2017, of 19 industrial sectors, construction spends the least on technology as a proportion of revenue, at 1.51 per cent. The leading sector, at 7.16 per cent, was banking, and the average spend across all sectors was 3.28 per cent, all of which reinforces the view that many still consider technology to be a cost rather than an investment (bit.ly/valprescre).

This point was stressed in the RICS survey *Proptech: Its position and impact on surveying*, work on which I led and presented at the RICS Building Surveying Conference 2018 (rics.org/ptsurvey2018). The questionnaire asked what challenges are holding back wider adoption of proptech, with 56 per cent of respondents attributing it to lack of knowledge and training, closely followed by cost at 53 per cent and lack of clarity of benefits at 43 per cent.

Investment in proptech can offer a number of potential benefits.

- **Productivity:** proptech can enable more efficient use of time on site and back in the office.
- **Competitive fees and profit:** increased productivity means that firms can set fees at a more competitive level while also maintaining or increasing profit.
- **Reduced errors:** manual handling of data increases the potential for human error and the need for rework.
- **Converting data into intelligence:** robust and accurate data can inform property management decisions and maximise the return on future investment. This in turn increases the likelihood of repeat business or follow-up commissions, such as contract administration and project management after a planned preventative maintenance survey.
- **More opportunities:** an increasing number of commissions now require the collection of data by technology and its upload into client systems. An inability to do so is likely to reduce the number of future opportunities.
- **Recruitment:** many of those now entering the profession are attracted to companies that can show technology is a key part of their business offer, and that have a digital strategy.
- **Research and development:** this is essential for businesses that want an advantage over their competitors. Any investment made in this field – and not just the cost of the technology – is eligible for tax credits (bit.ly/RandDtaxrlf).

When adopting new technology or expanding its use, maximum return can be ensured by taking the following steps.

- **Lead from the top:** the rationale for adopting technology and its importance to the business must be clearly communicated to all from the top.
- **Create a champion:** most organisations will have someone who is passionate about technology, so seek them out and make them a proptech champion. Give them freedom to explore and make mistakes, and allocate them time when they don't have to be earning fees. Set them objectives and make them eligible for a bonus if they achieve these – they must feel that the work they are doing is valued and that they will not be financially disadvantaged in taking on the role.
- **Map the process:** existing ways of working will need to be reviewed to develop better means of collecting and reporting data. Start with the end in mind, and reverse-engineer new processes rather than digitising existing ones.
- **Take one step at a time:** choose one survey type that you can digitise first, for example a schedule of condition. Once this version is created, established and used consistently, consider the next survey type to digitise that will have the most positive effect or best align with the services you provide, for example planned preventative maintenance.
- **Allow time to learn and make mistakes:** without adequate training, staff will not have the skills to use the technology correctly and this creates a risk of mistakes. Accept that mistakes will happen and, when they do, learn from them and apply that learning. Within a short time, staff will be comfortable and confident in using the technology.

The preparation that surveyors should carry out today must take account of technology and digital transformation so they can add maximum value to the services that clients are seeking

- **Go live:** on successful completion of training, start to provide the service. Emphasise that everyone in the business must follow the new ways of working, because if adoption remains optional you will not maximise the benefits or consistency.
 - **Review and check:** as with any process, it's important to carry out regular audits to help reinforce agreed practices and ensure staff do not drift away from these.
 - **Seek feedback:** ask for regular feedback, because this will help identify where improvements can be made and new services that may be offered.
 - **Maintain the message:** once technology is adopted it is here to stay – so ensure that staff understand this.
- RICS has four broad categories to classify building survey types, and proptech can be used to carry out all of these:
- **acquisition:** pre-purchase or building survey; reinstatement cost assessment; mechanical and electrical; specialist structural inspection; contamination survey; flood risk assessment; commercial valuation; asset survey; technical due diligence
 - **occupation:** stock condition survey; planned preventative maintenance; defects or latent defect survey; schedule of condition; insurance – loss adjustment; access audit; asbestos management survey; workplace assessment; health and safety audit; fire risk assessment; glass and glazing assessment; dilapidations
 - **disposal:** vendor survey; energy performance
 - **development:** project monitoring; independent certifier; meeting notes and actions; site inspection report; party wall survey.

Change is never comfortable, but nothing worthwhile is easy. Proptech offers the profession incredible opportunities to up its game and efficiency.

*Anthony Walker FRICS is chief executive officer at GoReport
anthony.walker@goreport.com*

Related competencies include: [Business planning](#), [Data management](#)

The letterbox level

A building society has commissioned research to help lenders, surveyors and valuers deal with the challenges of predicting the impacts of climate change at the level of individual properties over the coming decades

Graeme Winser and Gill Dickson

While, large-scale intergovernmental modelling of climate change in the atmosphere and ocean is already well established, initiatives that address impacts at the level of the individual property are less developed. At this letterbox level, property professionals in the UK are not yet ready to assess the risk of climate change over the coming decades.

Therefore, the property risk team at the Nationwide Building Society has since 2014 been collecting best-in-class data on such perils. This work was designed and managed in conjunction with two lead consultants, Airbus Defence and Space Ltd and Property Risk Inspection Ltd (PRI), with technical support from JBA Risk Management and Cranfield University's geohazards team.

Addressing the agenda

On 15 October 2018, the Bank of England published for consultation a draft supervisory statement on climate change expectations and financial institutions' responsibilities. This set out four key aspects of climate change management as follows:

- **governance:** board-level engagement with climate risks
- **risk management:** a strategic approach to risk appetite
- **scenario analysis:** conducting bulk tests of back books against climate planning scenarios
- **disclosure:** transparency in releasing planning information.

In the same year, Nationwide commissioned Airbus and PRI to examine the impact of climate change at address level, in line with the Bank of England's advice that account holders, lenders and insurers should put climate change research, planning and action on the agenda of financial institutions' boards. By identifying risks at a letterbox level, the project sought to inform mortgage-lending and property risks, providing greater confidence for the consumer and lender than a standard mortgage application.

The need to use sophisticated and fast-moving climate change modelling techniques required Nationwide to invest in modernised software systems and properly curated and geocoded information on property and perils. This is key for any financial institution and its professional advisers, given the challenge of strategically assessing climate change impacts at the level of the unique address – specifically, where individual families reside and where mortgages are written.

Legacy systems and peril data sets are insufficiently accurate to allow modelling or scenario planning below the portfolio or

acquisition level. The letterbox level is essential to the complex data relationships that modern geospatial and risk systems require and regulators expect to see.

Subsequent financial and risk framework scenario modelling can only be trusted if the raw data properly reflects the homes of bank account holders or building society members. Any new approach to climate change must address:

- investigation of reliable big data resources as the basis for improved decision-making
- appointment of data provider partners
- use and evolution of geospatial big data systems
- improving internal use of data
- developing new operational systems and approaches to increase the accuracy and resilience of the mortgage-lending process
- planned research, development and implementation of appropriate mortgage-lending policies
- links with, and the inclusion of, insurance as a financial safety net for the present and future.

It is important to note as well that the UK has one of the most sophisticated general insurance markets in the world, with ordinary cover for flood, subsidence and other perils available to almost all addresses on a pooled basis. Critically, however, it is often overestimated that paying an insurance premium generates an awareness of risk among homeowners.

The government and its agencies are strongly committed to the property sector and its security. The continuing availability of general cover should remain a central protective feature of the public and property sectors into future decades. It is therefore also important that any central risk management strategy aligns with the UK's general insurance risk modelling frameworks for residential management of major perils and climate change.

In addition to appreciating specific homes, an understanding of risks in modelled scenarios and the transitions between them must also consider the following, broader problems:

- inability to travel due to flood or storm damage to infrastructure or private transport
- commercial property and employment impacts from flooding
- outages to services and utilities disrupting routines.

Once the investment in systems has been made and the importance of the relationship between insurance and mortgageability is understood, the organisation will be better

placed to govern, manage risk and test scenarios strategically. At Nationwide, these investments meant that a model for scenario planning and risk analysis could be developed over a mortgage book that was fully geocoded with peril layers, where insurability was understood at the individual security address.

There are many places on this planet where settled and stable weather systems dominate. However, with the Gulf Stream bringing warm and wet air from the Atlantic, high-pressure systems carrying warm settled air from the equator and cold settled air from the Arctic, alongside other intercontinental influences at play, it is challenging to prepare reliable short-term forecasts for the UK. The country experiences a unique annual range of ocean and atmospheric currents and high- and low-pressure systems that determine the type of weather year that each region experiences. The model assumes that surge years for subsidence, flooding and storms will continue, with the frequency likely to increase and insurance claims growing in amount and number.

We are well served in the UK by a tightly integrated general insurance market, a sophisticated claims management market and modern governmental structures and agencies skilled in understanding climate change. As such, it is possible to plan scenarios at the portfolio and new acquisition levels using the now very sophisticated climate, soil, water flow and geospatial data overlaid on the UK residential and commercial portfolio.

The key scenario perils

Subsidence is a class of ground instability that includes any disruptive, differential movement, in any direction, of the supporting soil on which property foundations rely. It is typically caused by heave, shrinkage, landslip, geological holes or historic mining failure. For landslip, swallow holes and other geological holes, mining and other impacts caused by human activity, the geospatial centres tend to be distinct, while the risks are well known and understood.

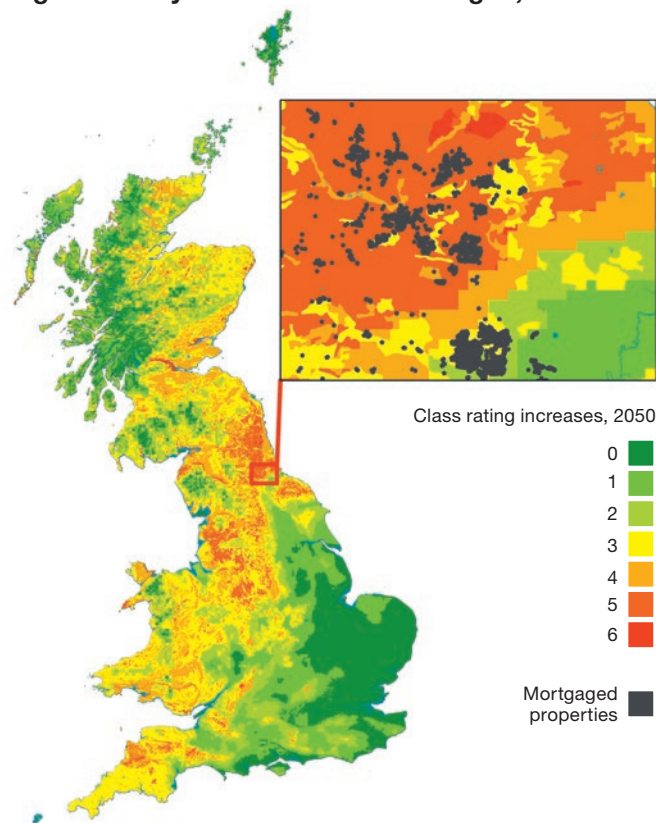
The most important form of subsidence at the statistical or cost level to general insurers on an annual basis is caused by clay shrinkage. Clay soils have the ability to shrink and swell depending on the temperature and precipitation cycles. Intense periods of hot, dry weather lead to shrunken, cracked soils underneath foundations, and an increase in subsidence claims as a result.

Flooding is another key threat in which water damages buildings, internally or externally, damages or disrupts infrastructure including power networks, disables vehicles or otherwise affects residents' ability to live in their homes, travel to work or socialise. Flooding events have exceptional impacts on communities and regions. The recurrence of storm and flooding episodes has been a major factor in the environmental protection measures taken by the UK government, business and the general insurance market.

Proof of concept

The proof of concept data processing for this report has been based on both JBA Risk Management and Cranfield University data predictions, allied with claims data from PRI and geospatial and satellite earth observation from Airbus, for any period to 2050.

Figure 1. Clay subsidence risk changes, 2050



SOURCE: NATIONAL SOIL RESOURCES INSTITUTE, CRANFIELD UNIVERSITY, AND THE CONTROLLER OF HM STATIONERY OFFICE, 2019

Figure 1 shows the degree of change and the locations where that is expected for clay subsidence, as a sample peril. The classes range from a very low increase, 0, to very high, 6. The representative area enlarged has been overlaid with the locations of properties that have a mortgage as part of Nationwide's back book; risk can then be ascertained and scenarios planned into the future at scale.

Property professionals will in coming years be better served by sophisticated modern geospatial and data library integrations at lender level. These screens and systems will allow triage of portfolios and valuation cases never previously imagined. It is essential, therefore, that property professionals recognise these changes in approach so they can be better placed to add value to portfolio and mortgage origination decision-making.

*Graeme Winser is director, strategy, at Propria
graeme.winser@propria.co.uk*

*Gill Dickson is sales manager, finance & insurance sector, at Airbus Defence and Space
gill.dickson@airbus.com*

Related competencies include: Insurance, Sustainability

The distributed ledger

Adoption of blockchain technology could make residential property transactions smoother, but is not without its challenges

Matsele Fosa

Blockchain was invented in 1991, and has evolved into a technology that has many more applications than the cryptocurrencies with which it is commonly associated. In the 21st century, blockchain 2.0 – such as Ethereum – was developed, which expanded its functionality considerably. Hyperledger, an open-source, collaborative project was launched in 2015, which aimed to encourage the use of blockchain to support global business transactions.

Blockchain 3.0 is now being planned, comprising legal, construction, estate agency and financial applications, which will start to communicate with one another in the same way as the internet of things.

This article explains what blockchain is, how it works and how it could help simplify the homebuying process. Existing literature identified gaps in adopting blockchain in residential development;

further insight was gathered from RICS, educational institutions, governments, proptech companies, real-estate and housing organisations, internationally as well as nationally.

What is blockchain?

Blockchain is a combination of existing technologies that creates a digital replicated and distributed ledger, used as a database to store transactions. It is decentralised and transparent, and can achieve secure and reliable data interaction between relevant parties. Various services and applications can be built around these to increase speed, security and transparency. As a result, data and assets can be moved in a way that saves time and money.

Blockchain differs from other digital ledgers as it can simultaneously disperse information to all parties. It cannot be controlled by a single organisation because

each server contributes an equal amount of data to the system.

For a blockchain to be formed, several transactions that are sent to the network are grouped into a block. This is then linked to the preceding block to create a logical, chain-like structure. Strong cryptography validates and links blocks of transactions; each new block contains a hash of the previous one, making it nearly impossible to tamper with any record.

The blockchain technology verifies the document and the rules and order of authorisation with a system for storing digital fingerprints. These are unique for every transaction. Once data has been entered into the blockchain or transaction rules have been executed, the block holding this record cannot be edited or deleted; an additional block must be created to display the amendment. The distributed network must also approve any changes.

Blockchain in development

In the residential sector worldwide, there are many considerations involving a host of stakeholders, all needing different information, both for new developments and existing homes. Buying a home involves intermediaries, paperwork, fees and lengthy delays. Real-estate registry records, for instance, are often antiquated, paper-based and located across various governmental agencies.

Adopting blockchain technology could also make the housing development process less cumbersome, yet still able to deliver homes without compromising on quality and sustainability. A trusted network can underpin huge operational improvements, particularly for contracts, which are prone to corruption or disputes. It is envisaged that the solicitor's role will primarily lie in adding all the legalities regarding terms and conditions into smart contracts, rather than acting as a trusted intermediary.

All legal permissions must be obtained before full commitment to the development can be made and construction can start. Other considerations include a comprehensive analysis of the site and objectors' interests. Negotiations should be conducted before applying for planning consent. Leasing, managing and disposal are vital from the initiation of the scheme.

After completion of due diligence checks by the developer, all factors that may affect the success of the development are re-evaluated. Having access to reliable information is vital at this stage, as it allows the developer to reflect on the status of the project.

Implementation commences when all raw materials deemed essential to undertake the development process are in place. Additional professional expertise may be brought in at this stage to anticipate and minimise delays or extra costs.

Landowners cooperate with the proposed development if their return is financially adequate and commensurate with their investment risk. They need to be informed of financial variables and the profit and risk level. Where several landowners are involved in a single residential development, each must agree to the proposal. Occupiers are the primary

Blockchain could support security, liability, transferability and live data collection

stakeholders and their requirements must be thoroughly researched at the commencement of the development.

Building information modelling (BIM) already enables the integrated design of buildings and infrastructure. Blockchain technology could support security, liability, transferability and live data collection, as it allows the project to be mapped and tracked at every stage.

Real-estate transactions often involve a transfer of title, which can be a lengthy process. Using blockchain technology for land title management means the parties involved can gather and input information about properties on one common, reliable and secure platform. Global supply chains can be transformed by tracking, verifying and coordinating freight autonomously.

A shortened development time frame can achieve the initial anticipated profit without compromising the quality and sustainability of homes. Developers could purposely bring down costs, such as the purchase of the land, construction expenses and development finance. A shorter development process results in lower costs. If a homebuyer only takes a week rather than six months to complete the sale and the developer gets its money sooner, it can afford to sell houses for less and make the same profit margin.

Blockchain is not the answer to all the problems of the residential sector. Although it could enhance efficiency, the affordability of housing is influenced by a combination of factors, which, when consolidated, eventually dictate the prices of homes. Demand and supply remain an issue, and the technology is not suitable for every situation or organisation.

It should also meet certain prerequisites for it to be relevant. Before adopting blockchain, companies should ask themselves whether a traditional database could work just as well. Scalability issues, such as a system's inability to grow and manage increased demand, can make the technology more inefficient than simpler applications would be.

Currently, there is a shortage of experts who have successfully adopted this technology from initiation to completion of a development, as it is still in its nascent stage. When it comes to homeownership, the UK is one of the most traditional markets, and the residential development sector remains largely unaware of the technology and how it can best be adopted. The market needs incentives to share data if blockchain technology is to survive. This leaves questions as to how its benefits will be adopted by housing developers and eventually lower house prices.

Nevertheless, the future of blockchain technology in the UK looks promising for the next five to 15 years and RICS is working on regulations and policies regarding its adoption, while government may well support its wider introduction.

Matsele Fosa is a graduate of the MSc in property development and planning at Nottingham Trent University. The article is a summary of her dissertation, Blockchain for housing affordability: could its adoption during the residential development process improve affordability?
matselefosa@gmail.com

Related competencies include:
Data management

Moisture measures

The second article in the series examines the measurement of internal environmental conditions, looks at the case of a flat with significant mould, and considers the role of the surveyor in such situations

Mike Parrett

In the previous edition, we looked at how to quantify the dryness or dampness of our homes, and how to determine whether an occupancy is classed as dry, moist or wet (*Property Journal* January/February, pp.42–44). But how do we measure humidity?

The best form of measurement for internal environmental conditions is absolute humidity. This is a quantifiable measure of the amount of moisture in the air, irrespective of temperature. However, relative humidity is the amount of humidity in the air in relation to the ambient temperature.

When monitoring a home, removing temperature from the equation gives a more accurate measurement of moisture in the air. It does not then matter whether readings are taken on a warm or cold day, in summer or winter. Absolute humidity will give you a clearer picture of whether the occupancy is dry, moist or wet according to Table B.3 in BS 5250, as shown in the previous article.

For example, a bathroom in a fourth-floor flat in an old block constructed with solid external walls has a bath situated against an internal party wall. The internal face of the outside wall is covered in black mould; on the external face of this wall is a cracked, cast-iron rainwater pipe that is leaking water on to the surface. The tenant says that the mould gets worse during periods of rain.

A surveyor or other expert witness needs to be able to determine whether the cracked rainwater pipe is causing the mould, particularly on the external wall. If so, it would be a breach of repairing covenant under section 11 of the Landlord and Tenant Act 1985, and an abrogation of a landlord's duty of care under section 4 of the Defective Premises Act 1972.

The outbreak of mould could then lead to further claims under the more recently introduced Homes (Fitness for Human Habitation) Act 2018 and the Housing Health and Safety Rating System (HHSRS), part of the Housing Act 2004, or a prejudicial to

When monitoring a home, removing temperature from the equation gives a more accurate measurement of moisture in the air

health or statutory nuisance claim under sections 79–82 of the Environmental Protection Act 1990.

However, if the tenant caused the mould to occur then the landlord is not responsible for any repairs. Understanding the true cause of the dampness can therefore clearly have major implications for the landlord and tenant.

The first step when measuring moisture would be to take a core sample from the external wall and send it for laboratory analysis, gravimetric test or calcium carbide test. If the found moisture content at the core is greater than the hygroscopic moisture content, then this would confirm that the solid wall has been penetrated from an external source.

If the hygroscopic moisture is greater than the found moisture content, then this would indicate that the mould is the result of an internal problem, meaning that we need to understand whether the growth is symptomatic of the use and occupation of the dwelling. To do this, we need to determine whether it is a dry, moist or wet occupancy.

Truly understanding the cause of damp and mould is crucial before a surveyor can determine who or what is responsible for the problem and make recommendations for repair. It is easy to arrive at the wrong conclusions because temperature and relative humidity can give very misleading measurements.

Many surveyors use a hygrometer and thermometer to measure relative humidity on a single day, which means they are at the mercy of temperature. If during a visit the environmental conditions all seemed fine – the air temperature was good, within World Health Organization guidelines, and the moisture content of the internal air was also low or normal – then the measurements would indicate that at this particular time there was no risk of condensation. However, the mould on the walls and around the windows suggests otherwise, indicating that longer-term monitoring of the internal conditions is required, especially during cooler months.

It could be that on the day, or even those preceding the visit, there has been little or no moisture activity in the property. I have seen cases where, knowing a surveyor was due to visit, an occupier would turn up the heating and open windows to improve the internal conditions and show there was no risk of condensation. In doing so, they would try to emphasise that the moisture results from a defect to the building – such as the cracked external rainwater pipe in the case mentioned above – because this could enable them to make a disrepair or statutory nuisance claim against a landlord. In contrast, mould and damp caused by use and occupation can, if proven, support a landlord defending such legal claims.

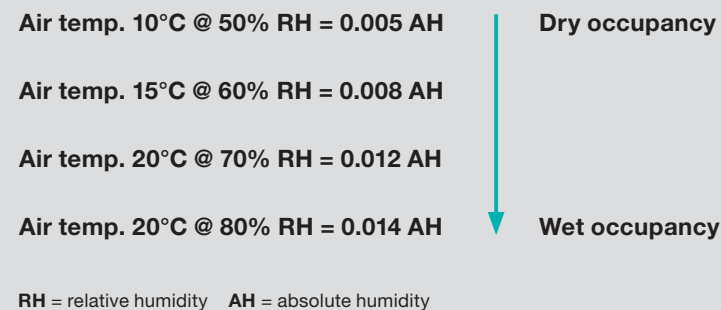
Measuring focuses on the true amount of absolute humidity in a property. It is the number of grams of water vapour per cubic metre or air irrespective of temperature. Relative humidity meanwhile represents the measured moisture content as a percentage of the total moisture that air can hold – its saturation humidity – at any given temperature. This is determined by dividing the absolute humidity by the saturation humidity and multiplying the number by 100. A range of examples are shown in Figure 1.

In most properties, if construction or design faults are not causing dampness and mould, then occupiers and their activities are creating the problem. They cause poor ventilation by, for example, not opening windows, taping over gaps, keeping trickle vents closed, switching off extractor fans or keeping curtains closed all day.

Excess moisture is also created by overcrowding, poorly vented appliances such as tumble dryers, and the constant activity often associated with a young family, such as cooking, washing, bathing, and drying clothes. Such conditions mean that BS 5250 is extremely useful in helping to determine whether an occupancy is dry, moist or wet.

It is critical to know the mass of moisture in a volume of air, irrespective of temperature, to determine accurately what kind of occupancy it is. Getting this

Figure 1. Range of air temperatures correlated with humidities



wrong could mean that unnecessary and expensive remedial actions are taken. Part of the solution to damp should be educating building occupiers on adequately heating and ventilating their homes to minimise condensation. Underheated homes and fuel poverty are a huge challenge to the NHS in reactive treatment, and the BRE estimates that HHSRS category 1 hazards cost it an annual £1.4bn in first-year treatment costs.

Understanding whether a property is a dry, moist or wet occupancy has bedevilled the legal system due to poor or inadequate expert knowledge, and has often been compounded by inappropriate evidence from surveyors investigating claims. BS 5250 is a crucial part of understanding that we often have a systemic failure – not of the building but of the way people live.

Mike Parrett is a building pathologist, chartered building surveyor and founder of Michael Parrett Associates. He is an eminent fellow of RICS and the lead author on the Damp section of isurv info@michaelparrett.co.uk

Related competencies include: Building pathology, Inspection

Further information: isurv.com/info/1155/damp



Power your portfolio with Propman

Take your business to the next level with Propman, all-in-one property management and accounting software.



Request a demo or discover more
grosvenorsystems.com 020 7089 1400



Propman

Developed by  Grosvenor Systems

Open to inspection

Inspection is a core commercial competency in the APC. What do candidates need to know, and how can they avoid common pitfalls?

Jen Lemen

Inspection is a core competency to Level 3 on RICS' Commercial Real Estate APC pathway, as it was on the Commercial Property pathway before August 2018. It is also an optional competency on various other related pathways, such as Corporate Real Estate, Building Surveying and Property Finance and Investment.

At Level 3, candidates need to give practical examples in their summary of experience or case study of having provided reasoned advice on inspections, as well as demonstrating a depth of relevant technical knowledge and the ability to synthesise and apply this in practice.

Inspection is fundamental to providing accurate property advice and includes the following aspects, as detailed in the RICS competency guidance:

- understanding the reasons for physical inspection
- being conscious of health and safety issues
- carrying out desktop due diligence
- making access arrangements
- having a logical inspection methodology
- understanding construction and materials
- considering the factors that affect value

Inspection is fundamental to providing accurate property advice

- knowing the legal requirements relating to occupation and ownership
- accurately recording your observations and giving advice.

Aspects of the competency

There are many reasons to inspect a property physically, such as valuation, management of occupied and unoccupied properties, agency and lease consultancy. Depending on the particular purpose, candidates may need to focus on different aspects in their inspection, such as advising how to increase marketability for an agency disposal, or on the quality of location and accessibility for a valuation report.

In terms of health and safety, candidates should be familiar with the RICS *Surveying safely* guidance note, second edition, particularly in relation to risk assessment,

the hierarchy of risk control, lone working and personal protective equipment. Before attending site, they will also have needed to carry out comprehensive due diligence according to the purpose of the inspection. This could cover planning use, environmental issues, flood risk, neighbouring occupiers, lease terms and site boundaries, for instance.

Candidates should always check whether a lease is in place, so they can make appropriate access arrangements with the occupier. Disruption to occupiers should be minimised and, depending on the purpose, confidentiality should be maintained. If the survey is for disposal purposes, say, the occupier may not be aware of this and the surveyor could maintain confidentiality by indicating a more general reason for the inspection, such as property management.

In making the inspection, candidates should take a logical and methodical approach by, for example, starting with the surrounding area, before proceeding to inspect the external and internal parts of the building. For valuation work, candidates will need to refer specifically to valuation technical and performance standard (VPS) 2 and valuation practice guidance – application (VPGA) 8 of the Red Book.

Any limitations or restrictions on an inspection should be recorded in the subsequent client advice. Candidates should also ensure that accurate site notes and photographs are taken during inspections and held on file to provide a clear audit trail. Ideally, an inspection checklist or pro forma will be completed to ensure that nothing pertinent on site is missed.

Candidates should demonstrate relevant knowledge of building construction, defects and deleterious and hazardous materials, and be aware of the following:

- building age and associated typical architectural characteristics or construction details, which can be cross-checked with planning records and historic maps or by speaking with the client
- construction types, such as foundations, solid or cavity walls
- materials that degrade with age causing structural problems, such as high-alumina cement, calcium chloride or mundic
- materials that are harmful to health, including asbestos, lead piping and wood wool slabs
- invasive species such as Japanese knotweed or giant hogweed

- defects, including the difference between inherent and latent defects and common defects such as structural movement, wet and dry rot and various types of damp.

Candidates should have a broad knowledge of these issues, as well as in-depth knowledge relating to the construction, specification, age and potential defects associated with any Level 2 or 3 examples mentioned in their summary of experience. Insufficient depth of detail is a common area of referral for commercial candidates, so they should make sure that they brush up on inspection knowledge as part of their final assessment preparation in order not to fall short.

Candidates should likewise be able to assess various factors relating to the surrounding area and subject property, including how they may influence value or marketability. These will depend on the property type: for instance, a retail unit may have a shell specification with capped services; an office may have a modern grade A specification; or an industrial unit may require a certain eaves height. Candidates should also know the difference between category and grade in terms of office specification, as well as the different types of air conditioning, being aware of the ban on the R22 refrigerant.

Legal requirements relating to occupation and ownership are particularly important for property managers, who should be aware and alert to any potential compliance issues. Examples include duty of care towards visitors and trespassers under the Occupiers' Liability Act 1957 and

Occupiers Liability Act 1984, as well as fire safety under the Regulatory Reform (Fire Safety) Order 2005.

Inspection findings and observations will then be used to provide reasoned client advice and recommendations at Level 3 – for instance in a valuation, marketing or pre-negotiation rent review report – if a defect has been identified, or to advise a client of their statutory responsibilities. In many instances, to ensure they do not act outside their own scope of competence, candidates will need to recommend that clients consult specialist. For example, if water ingress has been identified, advice on how to respond should be sought from a building surveyor.

Potential pitfalls

Commercial candidates often find the Inspection competency challenging because it requires technical knowledge, practical experience and an awareness of where advice may fall outside the core scope of a commercial candidate's role. This knowledge is often acquired during degree studies and has not been revisited since, and might include construction types, common defects and typical specifications of different building types.

Furthermore, the competency requires candidates to analyse and reflect on the process of inspecting in a logical and methodical manner. This is sometimes difficult to explain in simple step-by-step terms, especially in establishing a timeline for an inspection and associated reporting to the client.

Jen Lemen BSc (Hons) FRICS is a partner at Property Elite, providing training and support to RICS APC and AssocRICS candidates
jen@property-elite.co.uk

Related competencies include: Inspection

Further information: As well as RICS journals and *Modus* ([rics.org/journals](https://www.rics.org/journals)), *isurv.com* is an excellent source of information, as are degree-level textbooks and RICS guidance notes such as *Surveying safely* and *Environmental risks and global real estate* ([rics.org/guidance](https://www.rics.org/guidance)) and the Red Book ([rics.org/redbook](https://www.rics.org/redbook)).

Succeeding in Inspection

- Put health and safety first at all times – if in any doubt, go with your gut and withdraw from an inspection until you can return to do it safely.
- Collate comprehensive desktop due diligence before a visit; you can often identify potential issues at the outset that you can further investigate on site.
- Take neat, tidy and professional notes that enable you to provide diligent reasoned advice, and to which someone else can refer at a later date.
- Act within your scope of competence and recommend specialist advice from other professionals where necessary.
- Brush up on your technical knowledge through further CPD, such as through informal private study of *Property Journal*.



Can you feel it?

A positive workplace experience for employees can enable their creativity. Last autumn's CoreNet Global Summit in California explored the role that corporate real estate can play in fostering supportive business environments

Jo Sutherland

Orange County, California, home to Disneyland and sunny skies, is a fitting location for an event focusing on the human experience. At the CoreNet Global Summit on corporate real estate, the keynote address by Duncan Wardle (see photo, above) — creativity consultant and former head of innovation and creativity for the entertainment giant — implored the thousand-strong crowd to explore their playful, curious and childlike sides.

‘The biggest barriers to innovation are ourselves and the thinking we get trapped in,’ he said. He encouraged delegates to ask

‘Why?’ more frequently, and ‘What if ...?’ We must be brave and open to new ways of thinking, he stressed, which means letting the inner child out from time to time.

Between the background Disney music and the larger-than-life characters who were speaking, nobody would dispute that the summit energised the crowd. Before looking at the summit's main messages, however, why is there now so much fuss in corporate real estate about the human experience in the workplace?

In a session on learning as the new working, the audience got a glance at

the workplace and education through the ages. Industry 4.0 is the current buzzword, a term that marks a new way of working. The Third Industrial Revolution was triggered by the humble computer, and now we're on the cusp of a fourth: machine learning and artificial intelligence. With repetitive and predictable tasks being done by robots, humans will have more time to do what they do best — connecting with others and exploring new ideas.

Industry 4.0 demands that everybody has a little more fun. People can only be creative if they don't take themselves too seriously,

and employees can only relax into this way of being if their employers offer workplace experiences that are immersive, meaningful and intuitive by design.

In a session looking at the evolution of the TV and movie industry, workplace experience was positioned as more than just something that's nice to have; in fact, it's becoming imperative for a company's survival. The atmosphere has to attract and inspire the community, enabling creatives to be creative.

With the proliferation of media brands comes a more vicious war for talent between Hollywood and the Silicon Valley start-ups. Stacy Green and Craig Schwartz from Sony Pictures Entertainment revealed that production companies have been known to poach employees from competitors such as Netflix and Amazon, offering two or three times their salaries – but the experience that companies such as Sony provide is another essential part of the package.

Human experience has given real-estate leaders an opportunity to transform both their profession and the organisations they represent. But this requires a bold change in the way that the sector measures success. CoreNet Luminary and Leesman's head of insights Dr Peggie Rothe graced the Anaheim Convention Center stage with her colleague Racha Kamal, the Leesman advanced practitioner lead, to explore this in more detail.

They suggested that employee experience is no gimmick – it is the answer to unlocking even greater value in corporate real estate. By switching focus to this new key performance indicator, real-estate leaders can reinvigorate workplaces as catalysts for competitive advantage. 'Don't dial down cost – dial up experience to maximise corporate real-estate assets, employee engagement and organisational performance,' Rothe said.

The digital workplace panel, which featured leaders from JLL, Avanade, Accenture Labs and Microsoft, explored business, workforce and workplace transformation. The greatest source of competitive advantage for 30 per cent of organisations in 2020 will be digitally savvy talent, and that talent will demand

The atmosphere has to attract and inspire the community, enabling creatives to be creative

an immersive workplace experience. We need to optimise the corporate real-estate portfolio so it offers more value but also create an experiential workplace blueprint for this human-to-machine world of ours. This is the era of smart experience, the panel agreed, moving towards a transhumanism where tech and humans become one: in equal measure frightening and illuminating.

Workforces are now increasingly migratory, with workers also more mobile in their organisations. By the same token, the idea of a job for life is dying out. Simply put, employees tend to move around and real-estate leaders need to understand how to operate in light of this paradigm. The workforce wants to trust their employers, and this should be reciprocated. Trusted relationships trigger chemical responses in the brain – the hormone oxytocin makes people feel empowered and loyal, inspiring a sense of belonging. Cultures that promote trust are empowering, transparent and inclusive, and organisations that create excellent experiences for employees bring culture, processes, tech and the physical workplace together.

Dr Whitney Gray led a session on the intersection between health and the built environment. She suggested design teams think about control in terms of how the space can empower employees to choose the work zones that suit their needs. Providing adaptive environments that consider stimuli management is key, such as acoustic landscapes that either shut off noise or contribute to an organisation's energy, depending on what employees are doing. Sound blocking, sound absorption and activity zoning are all worthy causes, Dr Gray argued.

Managing acoustic and visual stimuli in the workplace can contribute to reducing

burn-out, suggests recent research from global well-being company Delos. We spend 90,000 hours at work over the course of our lifetime, and 90 per cent of our lives indoors, so it's highly important that the physical environment helps people recover during the working day. 'We can't solve it all through design,' explained Dr Gray, 'but we can give people the power to control their environment.'

One thing that united speakers at the summit was that, while work used to be a place you had to go to, now it's a place you should want to go to. The importance of the experience is overtaking the need to reduce or manage costs, and this new focus has changed the physical use of space. Various speakers argued that you should apply a data- and insight-driven approach to transforming your workplace experience, being clear about how you will enhance business performance; alongside this you should also engage with key groups across the business and adopt a multidisciplinary approach to the workplace.

The employee experience discourse isn't only good for individuals, it has a positive business impact too. Let's listen to the advice of Walt Disney: 'The way to get started is to quit talking and begin doing.' Let's keep moving forward, opening new doors, and doing new things. Let's be curious because, as Disney says, it is curiosity that keeps leading us down new paths. Together we will find a better way of living, working and injecting more fun into all our worlds.

*Jo Sutherland is MD, Magenta Associates and IFMA UK chapter board director
jo.sutherland@magentaassociates.co.uk*

Related competencies include:
Corporate real estate

When action must be taken

The third article in our series focuses on remedies for interfering with rights of light

Angela Gregson

There are two possible remedies for unlawfully interfering with a right to light: an injunction or damages. Once there is an actionable interference with a right to light, an injunction is the primary remedy. This could be granted by the court, either to prevent a development from being started or to cut back one that had already been constructed.

Prior to *Coventry & Ors v Lawrence & Anor* [2014] UKSC 13, as discussed below, the crucial case was *Shelfer v City of London Electric Light Company* [1895] 1 Ch 287, CA (isurv.com/ShelvLELC1895). This laid down what has become known as the *Shelfer* test, which determined that damages could be awarded in substitution for an injunction if:

- the injury to the claimant's rights is small
 - the injury can be estimated in financial terms
 - the injury can be adequately compensated by a small payment
 - it would be oppressive to the defendant to grant an injunction.
- The *Shelfer* principles were applied in both *Regan v Paul Properties Ltd & Ors* [2006] EWCA Civ 1391 and *HKRUK II (CHC) Limited v Heaney* [2010] EWHC 2245 (Ch), which marked the high point for claimants in rights of light cases. In each one, injunctions were granted by the court to cut back buildings to prevent interference with rights of light.

Today, the leading case on the question of whether an injunction will be granted is *Coventry* (bit.ly/CovvLawr2014). It was not, in fact, a case about rights of light but one that concerned noise nuisance; however, the principle that it laid down applies equally to the nuisance caused by interfering with a right to light. The Supreme Court held that 'the court's power to award damages in lieu of an injunction involves a classic exercise of discretion, which should not, as a matter of principle, be fettered ... Each case is likely to be so fact-sensitive that any firm guidance is likely to do more harm than good.'

So, the court will determine whether or not an injunction will be granted on a case-by-case basis. It is a question of fact and therefore impossible to predict with certainty whether an injunction will be granted in any particular case. Commentators generally agree that the impact of *Coventry* is that injunctions are now less likely than they were following *Regan* and *Heaney*; it is far more likely that an injunction will be granted where the property affected is residential rather than commercial. As the Supreme Court stated: 'The right to enjoy one's home without disturbance is one [that] I believe that many, indeed most, people value for reasons largely if not entirely independent of money.'

I am a solicitor specialising in the field and can look at all the facts of a case and advise on the likely chances of an injunction being granted in a particular case. However, following *Coventry*, every case is unique, and while it is possible for an injunction to be granted in any case where there is an actionable interference with a right to light, this is ultimately at the court's discretion.

The second remedy for unlawfully interfering with a right to light is damages. Most cases are resolved with a payment of damages without proceedings ever being issued, or even contemplated. There are, essentially, two methods by which damages are assessed:

An injunction is the primary remedy for an actionable interference with a right to light

1. Book value: using the Waldram method for calculating a loss of light (see *Property Journal* January/February, pp.8–9), rights of light surveyors generally agree a book value for the loss. This is achieved by looking at the extent of the loss of light, the likely rent, and the yield that would be applicable. They then agree a multiplier for that figure, which could be three, four or five times the book value depending on the severity of the loss. The multiplier is something that is agreed between the surveyors, and the enhanced book value is often greater than five times, especially when dealing with residential properties.

2. Damages in lieu of an injunction: the court can award damages in lieu of an injunction pursuant to section 50 of the Senior Courts Act 1981. Such damages are generally known as negotiating damages following the Supreme Court case of *Morris-Garner v One Step (Support) Ltd* [2018] UKSC 20.

The starting point for the calculation of damages in lieu of an injunction is the net profit that the developer will earn as a consequence of infringing the claimant's rights. In practice, this means that the claimant will be entitled to a percentage of the profit that the defendant will make from that part of its development that infringes their rights of light.

In *Tamares (Vincent Square) Ltd v Fairpoint Properties (Vincent Square) Ltd* [2007] EWCA Civ 1309, the court held that a share amounting to one-third of the developer's profit might be appropriate. However, the one-third share can clearly be increased or decreased by other factors. In *Tamares*, damages were reduced to substantially below 33 per cent of profit due to the relatively minor nature of the interference; in *Wrotham Park Estate Co Limited v Parkside Homes Ltd* [1974] Ch 798, only five per cent of the developer's profit was awarded, while in *Wynn-Jones v Bickley* [2006] EWHC 1991 (Ch), the figure was 50 per cent.

It is fair to say that, as with predicting whether an injunction will be granted, the level of damages that might be awarded by a court in lieu of an injunction is also uncertain. The principle remains, as the court emphasised in *Amec Developments Ltd v Jury's Hotel Management (UK) Ltd* [2001] 07 EG 163, that it needs to consider whether the deal arrived at 'feels right'.

Angela Gregson is a partner with Child and Child
angelagregson@childandchild.co.uk

Related competencies include: Legal/regulatory compliance



Advance your career and remain at the forefront of your profession with RICS

Take your career to the next level with RICS Training

- Certificate in property finance and investment
- Certificate corporate real estate
- Certificate in residential real estate

Receive key technical updates at this event

- Commercial landlord and tenant and MEES roadshow

Discover the latest CPD seminars

- RICS guidance note: comparable evidence in real estate valuation
- Valuation of flexible workspace: challenges, risks and opportunities
- Rent reviews in commercial property

Stay on top of your day job

Have you heard about isurv? Access all RICS information, sector insight and professional support surrounding standards in one easy-to-find place.

Visit our website to find out more: [rics.org/propertyoffering](https://www.rics.org/propertyoffering)

Emergency planning

A landmark appeal judgment may have significant consequences for future developments

Lisa Foster

In September 2017, the Court of Appeal in *Gladman Developments Ltd v Secretary of State for Communities and Local Government* [2019] EWCA Civ 1543 upheld the decision of Swale Borough Council and the Planning Inspectorate to refuse permission for a housing development of 330 dwellings on greenfield land in Newington, Kent, England, on the basis of its probable adverse impacts on air quality. The Hon. Mr Justice Supperstone dismissed Gladman's statutory claim on all grounds.

The decisions made by the council, the inspectorate and then two courts were informed by the expert evidence from Prof. Stephen Peckham of the Centre for Health Services Studies at the University of Kent. His evidence showed that air pollution resulting from housing growth can be a legitimate material planning consideration and warrant refusal.

Gladman sought to alleviate the development's impact on air quality with financial contributions, but Peckham argued there was no indication of how that contribution would be spent; neither was any evidence provided that those measures would limit the use of petrol or diesel vehicles and so reduce pollution.

In June last year, the borough council wrote to the prime minister, adopting a climate emergency declaration. The Department for Business, Energy and Industrial Strategy responded on 29 October, noting that 'in determining

both applications and any subsequent appeals, the passing of a climate emergency motion would be a material consideration'.

The following month, Peckham gave evidence at a council inquiry regarding the neighbouring village of Borden, involving 47.5ha of greenfield land and a proposed suburban development of 675 dwellings following Quinn Estate's appeal for non-determination. The council initially resolved to approve the development but, after wrangling over the section 106 agreement and local elections in May 2019 that led to a change in council members, its planning committee adopted putative reasons for refusal including air quality, climate change and inadequate assessment of highway impacts.

Borden Parish Council, which registered as an interested party under part 6 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, had commissioned advice from Peckham when the matter was before the borough council, and submitted his critical commentary on the developer's air quality assessment.

The appeal scheme promoted a new spine road through the housing estate to relieve traffic and air quality elsewhere in the borough, with an estimated 1.4m vehicles per year likely to use it. Peckham identified adverse health impacts from traffic on road users and local residents, which would exacerbate poor air quality in existing air quality management areas.

Peckham also linked the increased traffic emissions arising from the vehicle movements to problems with meeting national air quality targets in the borough's south-east area action plan, which arose from the Department for Environment, Food & Rural Affairs' 2015 air quality plan following Client Earth litigation. The message is simple: car-dependent development would put the borough council at risk of meeting its air quality targets and create unacceptable risks for the wider population.

My clients Borden Residents Against Development (BRAD), another rule 6 party, hired urban designer John Burrell of Burrell Foley Fischer architects as their witness to the inquiry. He criticised the developer's masterplan for continuing to promote car-dependent schemes and identified numerous missed design opportunities to have fewer roads and car movements. He maintained that modern urban design principles can be applied to design large housing estates in ways that do not promote reliance on cars for commuting, in a direct challenge to the sustainability of the appeal scheme.

Many local communities, including the 1,200 Borden residents for whom I acted, welcomed the Court of Appeal judgment. They now have case law to enable their councillors to refuse housing growth that increases health risks to their families from air pollution and car emissions.

In their final submissions, BRAD argued that the appeal scheme failed to tackle the housing crisis in the community by building the wrong mixture of housing – low-density suburban sprawl – in an overly simplistic and outdated mode of urban design where the car was dominant. The group successfully argued that Gladman failed to promote sustainable transport modes and would thereby exacerbate the climate emergency, outweighing any housing benefits from the development.

Lisa Foster is a partner at Richard Buxton Solicitors lfoster@richardbuxton.co.uk

Related competencies include:
 Planning and development
 management, Sustainability

A question of expertise

The skills of the building surveyor and the valuer must both be used to achieve the best outcome in dilapidations

Paul Raeburn

All occupiers and owners of leased commercial and leisure properties will encounter dilapidations claims. In fact, the frequency of such claims is increasing as lease lengths have shortened and break clauses become common.

Laws in most jurisdictions around the UK and Ireland cap damages in dilapidations claims to the lower of the cost of remedial works or to the impact, if any, on the property's value (see box, opposite). Effective resolution of dilapidations claims therefore requires two distinct chartered surveying disciplines: first, the chartered building surveyor, who identifies breaches and prices their remedies; then, the chartered valuation surveyor, who assesses the impact on the property's reversionary value, which is often far less than the price of the remedy and sometimes zero.

For those unfamiliar with the process, dilapidations claims usually commence with a schedule being served by solicitors for the landlord on the tenant. This is prepared by the building surveyor, and

identifies breaches of covenants to repair, decorate and reinstate alterations, along with priced remedies. The total, plus fees and consequential losses such as rent, rates and insurance, is the amount of damages claimed. The tenant appoints their own building surveyor to negotiate.

More often than not, a settlement on a cost of works basis is successfully negotiated. Fewer than one per cent of cases go to litigation, with those that cannot be agreed usually resolved through a mediation approach. The diminution in value (DV) defence that applies under various statutes and in common law around the UK and Ireland is, when used, invariably successful in reducing settlement figures for tenants. This is often mistakenly excluded, though, as the judgement is left to a building surveyor who, understandably, has limited knowledge of the open-market valuation factors in play.

The law has long since recognised that damages should compensate for the true loss by restoring properties to the condition

in which they would otherwise have been; we are familiar with this in the context of insurance claims, for example. There is therefore no set rule that damages for a breached covenant to repair must be quantified at the cost of the remedial works. Instead, the consideration is what loss the landlord has truly suffered. Not every item of repair cost equates to the same amount lost in market value.

While the training and discipline of chartered building surveyors enables them to identify breaches and to price remedies to these, it is the chartered valuation surveyor, or valuer, who is in turn qualified to assess whether and to what extent those breaches have an impact on the property's open-market value.

Cost and value are not one and the same thing, though. For most tatty second-hand properties, a point is reached in objectively targeted remedial expenditure beyond which spending can continue without adding anything to value; the law of diminishing returns applies.

Preparing diminution valuations is, in theory, simple, subtracting from valuation A – representing the property in its covenanted state, in repair – valuation B, that of the property in its actual state of disrepair. Valuation A is fairly straightforward to derive, as there is usually ready access to comparable transactions involving full repairing leases, assumed to be in good repair. Preparing valuation B could be argued to be near impossible, however, as it would require contemporaneous transactional evidence involving similar properties with all but precisely the same breaches to repair, decoration and reinstatement.

What has thus evolved in practice is that valuation A is prepared and then, absent true comparables in the actual condition, valuation B is determined by deducting the cost of works, plus consequential losses such as rent, rates, funding costs and so on. It will therefore be appreciated that, rather than finding the diminution in value, if any,

Jurisdictional distinctions

In England and Wales, the cap on damages for disrepair was codified in section 18(1) of the Landlord and Tenant Act 1927. Similar principles apply at common law to cap breaches of clauses for redecorating and reinstating tenants' alterations.

On the Isle of Man, this is repeated all but verbatim in section 12 (1) of the Conveyancing (Leases and Tenancies) Act 1954, as it is likewise in Ireland by way of section 65 of the Landlord & Tenant (Amendment) Act 1990.

In Scotland, however, there is no such statutory cap, but common law and RICS guidance notes have evolved to provide an alternative measure of loss by way of DV in some cases. In Northern Ireland meanwhile, there is no cap, either statutorily or at common law.

Effective resolution of dilapidations claims requires two distinct chartered surveying disciplines

this exercise only determines a valuation B. The valuations are therefore effectively superfluous, when it is the aggregate of the deductions from valuation A that is the amount by which the property's value has been diminished.

The skill of the valuer is therefore required to assess objectively the components that aggregate to the deduction from valuation A. To do so effectively, the valuer employs their open-market transacting experience and local research to assess what the most likely hypothetical purchaser would do with and to the property; this determines which works are likely to remain in place to affect value.

The valuer is effectively applying two filters to the building surveyor's costed schedule of works. The first is termed supersession and applies to claimed items that would likely be overridden, or removed, by works required to bring the property up to the best requirements of the modern open market. Examples range from decorating floors above a high-street shop that are likely to be converted to residential use, to repairs and decorations inside dated offices that in fact require gutting and upgrading to offer any chance of reletting.

The second filter requires the valuer to apply experience to judge which costs are, and which are not, likely to affect value, by reference to the condition and presentation that the local market shows is required and expected of similar properties.

A common example is repairing moderately dented cladding panels of a 40-year-old industrial or warehouse building and painting its steels and floor. Although such breaches may well affect the lettable and value of the modern equivalent, where the likely tenant reasonably expects these to be at or about new condition, a far lower expectation

applies to the older building. This is also the case for a claim requiring a vacated shop to be reinstated to its original shell, when in practice the most likely occupier might be a temporary trader requiring a turn-key unit. The standard of repair commonly described both judicially and by valuers as being required in the open market is that which fits with the age, character and locality of the property in question.

Consequential losses of rent, void rates and so on comprise a distinct head of claim. It therefore tends to follow that, where market evidence shows that a landlord would have been unlikely to achieve a reletting within the works period – even if handed back in repair – then no loss of rent will be recoverable.

While this situation might appear biased towards the tenant, there are in fact often cases in which landlords require DVs – not least to rebut a seemingly opportunistic DV from a tenant. Under the Dilapidations Protocol 9.4, which applies in England and Wales, a landlord carrying out few works must also establish loss with use of a DV (bit.ly/DilapsPro). In other jurisdictions, a DV similarly helps substantiate a claim where works are not being done.

Tenant and landlord need both building surveyor's and valuer's input to be sure that dilapidations cases are not over- or under-settled. Neither has sufficient knowledge of the other's expertise to make dispensing with one a sensible economy.

Paul Raeburn heads Radius Consulting, Dilapsolutions and Dilapps (the Dilapidations App) paul@radius-consulting.com

Related competencies include:
Asset management, Valuation
Further information:
isurv.com/dilapidations

Talk of the towns

Case studies of high-street regeneration in England presented at a recent conference reveal current priorities – but also suggest issues these areas need to anticipate

Claudia Conway

In October, the High Streets Development Conference, run by Built Environment Networking, brought together representatives of six British towns, cities and regions – Barnsley, Bolton, Kirklees, Shropshire, Swansea and Wakefield – and built environment professionals working with them to give presentations on how they are reinvigorating their town centres.

Some, such as Barnsley or Shrewsbury in Shropshire, are building on already successful centres; the former has improved its popular market, and the latter has a strong heritage market that attracts visitor footfall. Other areas such as Wakefield are facing a more challenging climate of retail decline. Despite these differences, there were a number of common points among the respondents.

- **Events:** the increase in internet shopping means that a visit to the town centre is no longer a necessity, so regular events are seen as essential to improve footfall. Bolton is aiming to further capitalise on the Iron Man and Iron Kids sporting events already held in the town, as well its successful food and drink festival.
- **Culture:** Wakefield's Hepworth Gallery draws visitors, but it is still somewhat isolated from the rest of the city. The vacant Rutland Mills site adjacent to the gallery is being developed by City & Provincial Properties to restore the listed

Victorian buildings, which will provide an entertainment and culture offering, encouraging visitors to stay in the city for longer; while Swansea is investing in high-end design for its new 3,500-capacity indoor events arena. Capitalising on historic assets through restoration and improving access is also important.

- **Residential:** some areas do not have the residential capacity in their centres to create the essential footfall to sustain their economies; Bolton is one local authority investing in central housing developments.
- **Opening up waterfronts:** many towns and smaller cities are built on rivers that were historically used for industrial purposes or have over time been made inaccessible by roads. Bolton Council, Shrewsbury Town Council and other local authorities are aiming to create attractive waterfronts as a place for locals and visitors to dwell.
- **Placemaking at arrival points:** a number of locations have the challenge of unattractive train or bus stations or dilapidated buildings around these arrival points; for example, there is an empty theatre next to one of Swansea's main stations. Improving the surroundings and replacing or bringing back into use empty sites around stations can make a great difference to the way locals and visitors feel on arrival. Other areas such as Huddersfield

in Kirklees need to improve accessibility and walkability from the station to the town centre.

Delegate questions provided some telling pointers about what issues to look for in the future. It was notable, for instance, that not every location seemed to have robust policies in place to address the following key problems for regeneration projects.

- **Sustainability:** are local authorities creating the infrastructure for a more sustainable future, in terms of walking, cycling and enabling electric vehicles? Shrewsbury, with its very constrained centre, is already looking at improving routes through the town and the possibility of electric vehicles to take visitors from outlying park-and-ride facilities.

- **Ageing population:** older people could make significant contributions to town centres if they were able to live or get there easily. Martin Ellerby of residential letting company Placefirst discussed the low-rise urban village housing it is designing for Bolton's town centre, which is intended to be attractive to all generations.

- **Financial sustainability:** the question of whether a funder would query how one place's offering differs from another's was raised. Would the local demographic support food and drink, leisure and cultural activities in the long run if a large proportion of people there are already struggling to get by?

- **Measurement:** do local authorities have measurable success criteria and targets in place? Shropshire is looking at what return the local economy gets on public investment, whether the council receives more business rate income, and increases in employment and apprenticeships.

Time will tell which of these strategies succeed and where opportunities may have been missed. What is not in question, however, is that every local authority with a struggling high street needs to be proactive in rethinking what it offers.

Claudia Conway is editor of RICS Property Journal claudiaconway@rics.org

Related competencies include:
Management and regeneration of the built environment

LEADING THE WAY AHEAD



LDS offer a National Non Destructive Leak Detection Service to finding leaks in any pipe work



Homeowners



Commercial



Industrial



Insurer



Facilities & Property Management



International

There are many Leak Detection Companies but we are the Specialists

Acoustics
Correlation
Tracer Gas
Thermal Imaging
Inspection Cameras
Dye and Salt Testing
Moisture Detection

For more information please contact LDS

Tel: 0333 2074450

www.leakdetectionspecialists.co.uk

info@leakdetectionspecialists.co.uk

Property Portfolios
Buy to Let
Unoccupied Property
Block of Flats
Multiple Tenure
Commercial Property
Renovations
Holiday Homes
And more...



CIR

WINNER
COMMERCIAL
INSURANCE
AWARDS 2019

REGIONAL BROKER
OF THE YEAR

WHO IS PROPERTY QUOTE DIRECT?

Property Quote Direct has been providing thousands of customers with competitive Landlord Insurance Quotes for over 50 years as a part of the Bedford Insurance Group.

Winners of
‘Regional Broker of the Year’ at the
Commercial Insurance Awards 2019

Your Landlord
Insurance Specialists

Quote Reference: ‘PQD001’
www.propertyquotedirect.co.uk
Call our team on - 0800 515 381

