

Your monthly  
commercial  
property guide

**SHINING STAR**  
Industrial property is the standout performer for the commercial property market in the East

**ROADS TO SUCCESS**  
How new and upgraded transport links can boost local prosperity

# COMMERCIAL *property*

Centrum, in the Norwich Research Park, is a hub for knowledge exchange and networking, providing high quality office and laboratory space, meeting rooms and event space.  
Picture: SUPPLIED



AT THE  
HEART OF  
RESEARCH

Opening  
SOON

## Picture this – you're open for business

Whether you are searching for your first premises or considering expansion into a new business space, we are here to deal with all of your legal needs. Whatever your ambition, our experienced and proactive team of lawyers is here to help you.

Castle Chambers, Opie Street, Norwich NR1 3DP  
Tel: 01603 724676 [www.cozens-hardy.com](http://www.cozens-hardy.com)  
email [business@cozens-hardy.com](mailto:business@cozens-hardy.com)

**Cozens-Hardy** LLP  
SOLICITORS

SPONSORED BY **Cozens-Hardy** LLP  
SOLICITORS

# 'It was like that when we moved in...' dilapidations

**D**ilapidations are repairs or maintenance that need to be carried out by a tenant at the end of (or occasionally during) a lease in order to comply with obligations under the lease. Commonly underestimated, dilapidations can be a significant unanticipated expense – and are often a cause of disputes.

When assessing the risk of taking on a new lease, the obvious areas that spring to mind are payment of rent and service charges. Liability for the state of the building is all too often underestimated and dismissed on the misguided assumption that (aside from any obvious work needed immediately to make it fit for use) as long as it is returned in the same condition it was in at the beginning of the lease, then that's fine. It's not.

The first step in managing your liability for dilapidations is to understand your liability in the lease, preferably before you sign it! There are three main areas in a

**Emma Raspin, commercial property solicitor at Cozens-Hardy, says ignoring liability for dilapidations can be costly.**



lease that yield liability for dilapidations: repair, decoration and the obligation "to comply with statute".

Time and again clients come to us with disputes about the condition of their property at the end of their lease saying, "but it was like that when we moved in". Unfortunately it's just not that simple...

The words "to keep in repair" may sound innocent, but there are deeper implications. To "keep in repair" means "to put and keep in repair" – that is, to bring the property up to the required standard. The words "good condition" add yet a further layer of obligation to repair defects, even if they are not actually

causing damage to the fabric of the building.

A covenant to "yield up the premises in repair" in its usual form will require the tenant to remove any works he/she has done (such as partitioning) and make good or reinstate the property. The cost of all this may be significant. We have dealt with clients facing hundreds of thousands of pounds worth of liability on a £20,000 a year lease.

A tenant can even be required to repair damage caused by inherent defects (in the design or construction of the building) by a repairing covenant, and the repair required may go so far as to include remediation of the defect itself.

It's important to clarify if you are taking on repairing responsibility for less obvious elements such as roof tiles, chimneys, basements or structural issues which may not be apparent on a visual inspection of the property.

The Pre-Action Protocol for Claims to Damages in Relation to the Physical State of Commercial Property at Termination of a Tenancy (otherwise known as the "Dilapidations Protocol") sets out a process for dealing with dilapidations claims, with a view to facilitating settlement of disputes before they proceed to court action. Even if the disputes escalate, the court will view compliance with the protocol favourably and may even impose sanctions for non-compliance.

The protocol sets out a procedure to follow before the commencement of formal legal proceedings. It sets out a process and timetable for the exchange of information relevant to the dispute, and sets standards for the

quality and content of that information, and pre-action negotiations. It provides that the landlord should send a schedule of dilapidations and a Quantified Demand (in a specified form) to the tenant within 56 days of the end of the tenancy.

The tenant should serve a response within a further 56 days from receipt of the quantified demand. Both parties will then disclose any relevant documents, and meet to negotiate within 28 days from the date of the response. The parties will then consider whether there is anything else they can usefully do to avoid court proceedings.

The thought to take away from all of this is clear: simply paying rent is not enough to discharge your obligations under a lease. Repair obligations in a lease may be deceptively simple, and can seem reasonable or innocuous – but it is too easy to take these at face value without appreciating the true liability they impose. And the cost may be substantial.

## The perfect place for your **life sciences business**



- A truly networked location, **Norwich Research Park** is home to 80 businesses and brings together 4 world-renowned institutes alongside the University of East Anglia and the Norfolk and Norwich University Hospitals NHS Foundation Trust with clinical trials facilities.

**The Park offers world-class research facilities, a thriving life sciences community and cost-effective rent. This unique combination of flexible accommodation combined with access to skills, services and equipment can add value to your business and deliver competitive advantage and growth.**



Office & laboratory units from 13 sq m & Serviced plots for development with Enterprise Zone status

Shared laboratory from £695 per month

Shared office from £210 per month

Free business coaching & grant signposting

On-site services & equipment