



MARSTON'S

Pubs Code Dilapidations Protocol

On taking a pub business with Marston's you will become responsible for a certain amount of repair to the building and to its decorations; the exact extent of these will be confirmed within your particular agreement – and can be found within section 4 of that agreement.

Marston's have full repairing liability within Retail and Franchise agreements, your liability being limited to maintaining the residential accommodation in no worse condition than as at the commencement of your agreement as recorded by the Schedule of Condition attached to your agreement so as a result you will have limited dilapidation liability if you take one of these agreements. However, Marston's tenancies, leases and foundation agreements do have varying degrees of repairing liability for which you would become responsible for should you take one of these agreements.

It is very important that your business plan takes account of this commitment to repair and decorate the building and that these works are planned over the course of your agreement.

Within your own due diligence prior to taking on an agreement with Marston's your independent professional legal and, if obtained property advice should make you aware of the agreements repairing requirements and the likely dilapidation liability over the course of the agreement. To help you to understand and plan these works we will discuss the liabilities with you in more detail during the Property Induction meeting, which would normally take place when your agreement is between 3 to 6 months old.

If you have taken a 3 or 5 year agreement with Marston's we will write to you at midterm reaffirming your repairing liability and offering support which will help you to understand the liabilities that have arisen through your responsibility to repair and decorate the building, giving you time to plan any work that is required well before your agreement ends.

If your agreement with Marston's is longer than 5 years we will carry out an interim dilapidation inspection every 5 years whereupon you will be asked to carry out the dilapidation work within 12 months of the inspection date, except where the work presents a danger to the building and its occupants in which case the work will need to be carried out much sooner and the terms of the agreement set out the process that will be followed.

When your agreement is coming to an end, however it is terminated, Marston's will arrange for a terminal Schedule of Dilapidation to be carried out which will make you aware of any repair and decoration work needed to make sure you've complied with the terms of your agreement.

Where your agreement ends naturally, the terminal Schedule of Dilapidations will be carried out at least 6 months before the end of the agreement; and where your agreement does not reach their natural termination date for whatever reason, or where your agreement is assigned, the Schedule of Dilapidation will be carried out as soon as possible after you've let us know of such an event.

An interim or terminal dilapidation schedule will involve a Building Surveyor inspecting the property and setting out any breaches of repairing and decorating liability, together with information on how to fix that breach. This report will be sent to you electronically by email, or by postal recorded delivery; within which there will be information on how to proceed and where you can find support. When the Building Surveyor carries out the Schedule of Dilapidation, they will refer to the Schedule of Condition that was carried out at the start of your agreement if your agreement began during or after 2011, and this will limit your repairing liability so that you don't have to return the building back to us in any better condition than it was when your agreement started. Please note however – the Schedule of Condition doesn't affect decorations as these have to be carried out at defined intervals within the agreement, and this is regardless of their condition at the start of your agreement. If your agreement began before 2011 it is unlikely that your repairing liability was limited by a Schedule of Condition.

The cost of preparing and administering the Schedule of Dilapidation will be payable by you, and at the time of writing this is £600 plus VAT.

Because the Schedule of Dilapidation is typically carried out well in advance of your agreement ending it allows you plenty of time to carry out the work. Should you choose to carry out or arrange this work yourself, this is usually the cheapest and easiest way to deal with the repairs and decorations that are needed. Once you have completed these works the Surveyor will return to your pub and check the work so that they can be removed from your dilapidation liability. If you choose not to carry out the dilapidation work, then Marston's will arrange for their own contractors to price the work and you will be charged for the loss created. The contractor's costs may well vary from the Surveyors estimated costs within the schedule so you should be aware that the initial schedule costs may go up or down if you do not choose to carry out the work yourself. You should also note that Marston's costs will also include contractor's preliminaries, project management fees, Health & Safety co-ordination fees and any statutory fees which the work may require the benefit of.

If you dispute any of the work that the Surveyor thinks is required, you can confirm the details and your reasons within the Schedule of Dilapidations and return them to the Surveyor, where your concerns will be reviewed. In the unlikely situation where an agreement can't be reached between us, we will follow the process set out within the RICS Dilapidation protocol for dispute resolution.

Further information and guidance regarding dilapidations, including the RICS Dilapidations Protocol is published by the Royal Institution of Chartered Surveyors and can be found on their website www.rics.org.