ST. BRIDE'S
sb MANAGERS

The Navigator

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Sixteen Short Stories

Articles

All the contributors above are lead-advisers to St Bride’s Managers and hence ‘qualify’ as members of the St Bride’s ‘Navigator Club’.

Introduction

This edition of the Navigator is all about change… change in our legal and regulatory rules, change in market forces, technology, risk management, building design and management. And change in the way we all work.

It is only when you pause to think about it, or perhaps when you see an old photograph, that it dawns on you just how dramatic the changes have been over our working life-times.

For instance, I was sharing an anecdote with one of our younger members of staff recently about the revolution that brought in the IBM golf-ball typewriter / word-processor. Not only had she never seen a 'golf-ball', she had never heard of it either. And it is only 30-40 years ago that no self-respecting typing pool would have been seen without one!

And what about the world of real estate investment management? Well, for starters it didn't exist 50 years ago. That's a pretty big change, isn't it? In fact, pension funds only started dipping their toes into the murky water in the late 60's and 70's in what became an unwavering belief that property represented a great hedge against inflation… which was absolutely rampant at the time. So what changes stand out for me?

- Transparency and Compliance – Here, I am talking about the now iron grip of the Compliance Officer, the discipline of frequent external valuations, IPD, benchmarking and the breakthrough in the late 80's of investors awarding discretionary mandates. Broadly… it seems that the more professional we became, the more we were trusted. And the more we were trusted, the more business came our way. Hmmh! There's a lesson there.
- Asset types – It is hard to believe, unless you are at my age (60), that retail warehouses, supermarkets, enclosed shopping centres, office parks, logistics sheds, student hostels, air conditioning, REITS and derivatives (amongst others) are all new boys on the UK property block… and remember we have been largely world leaders in property innovation.
- Social and Human – The last 40 years has seen the arrival of BScs, MBAs, specialisation into fund, asset and property management, co-investment, six-figure bonuses and (sadly) the demise of heavy drinking sessions at lunchtime, even if there was a deal to negotiate in the afternoon.
- The players – In terms of investors, there used to be a straight-forward 3-way 'carve-up' between domestic insurance companies, pension funds and property companies. And who were the leading advisers? There were two. Jones Lang Wootton and Richard Ellis. To put the past into context, when I joined the investment department of RE in 1973, I was their first graduate recruit and the total team amounted to no more than 15 people who covered buying / selling, portfolio management and research. And believe it or not, we were the biggest investment team in the world!

So what needs to change for the UK property investment industry to really flourish again. In my judgement, there are 5 key areas.

- Recognition that the UK population is going to grow by another 10 million people over the next 20 years or so. And the world's urban population is going to explode over the same time frame too. These people need to live and work somewhere. It is our industry that will have to make that happen.
- Residential property just has to be embraced by our investing institutions. It is absolutely ridiculous that they are so far behind the curve on this.
- Sustainability measures will have to be re-doubled to accommodate the imminent burst in population and 'green policies' will need to be embedded into the very psychi of our property industry.
- There needs to be much more joined-up and robust thinking about portfolio asset allocation. Quite simply, current strategies are way past their 'sell-by' date.
- And lastly, the re-lighting of our industry's spirit of adventure. My advice is to 'Go West Young Man'… and East and South. There is no doubting that the UK is still a great place, but our skills and ingenuity are now needed elsewhere too.

But what I find most interesting is what has **not** changed. And more than anything it seems to be our ability to get things spectacularly wrong. And the latest financial crisis is just one of a long string of catastrophes triggered by collective thoughtlessness and short-termism. Food for thought? Plus ça change, plus c'est la même chose.

ROBERT HOUSTON – ST. BRIDE'S MANAGERS

How many hats will you wear tomorrow?

These days everything is in a continual state of change. Clients have changed; they're now much more savvy and have a greater choice. The industry itself demands a much wider range of legal skills and the speed of business if now much faster, and more international than ever before. How you embrace this changing world will determine your future success.

CHARLES MARTIN – SENIOR PARTNER – MACFARLANES

The expertise required of lawyers operating in the real estate market has changed beyond recognition over the last 25 years. For instance:

- The industry demands a much broader range of legal skills. Often even the most straightforward development or investment transaction is going to need tax advice (VAT, SDLT as well as more complex structuring addressing the varying needs of investors), financing input, M&A or corporate expertise and possibly funds, insolvency or restructuring specialist advice. That is in addition to construction, planning and environmental expertise of a much more specialist nature. The days when these could be all offered by a single lawyer have long gone. The challenge for law firms is to develop these areas to a high level and then to join up these specialist areas of expertise, to deliver them in a cohesive and cost effective way. Both boutiques and very large firms find this a particular challenge, for different reasons.
- Clients are much more savvy and demanding. Clients have a great deal of choice available to them and will be much more discriminating about which elements of their property work (and indeed even which elements of an individual job) are essentially straightforward and commoditised and which are genuinely premium areas, where the highest level of expertise is needed.
- Real estate is international and real estate lawyers need to be able to adapt to the complex requirements of overseas investors. They need to be able to manage foreign law firms in multiple jurisdictions and even transfer their skills to being able to help their clients to invest overseas.
- The speed of business. Of course, this is linked to the growth of IT and telecommunications – a little dull and obvious for The Navigator. But one, possibly more interesting aspect of it, is the premium that it places on face to face meetings with clients and creating high quality communication in an age in which there is an awful lot of background noise.
- The changing roles of professionals over the period. Agents have of course become much more complex organisations with fund management, corporate finance and other offerings serving the real estate market. Investment banks have taken much more specialist interest in the sector and some have become investors themselves. Accountants now dominate the market for some areas of tax advice (SDLT and funds work are amongst the exceptions) and several have entered the real estate market in their own right: e.g. Deloitte / Drivers Jonas.
- Fees: Over the period the chargeable hour has all but disappeared in relation to property work. Fixed fees are more ubiquitous in the industry than they are in the corporate world at large. And with clients having more choice of advisors and becoming more savvy about spending less on more vanilla work (as mentioned before), fee pressures are mounting.

So how might things change yet further over the next years?

1. Client expectations will continue to increase as the market becomes increasingly competitive.
2. The pressure to be efficient and deliver value for money will also increase.
3. Internationalisation will become genuine globalisation, posing challenges for advisors that are not themselves global in scale.
4. The Legal Services Act will mean that some lawyers will offer a wider range of services to real estate clients and some non-legal advisors, such as the large agencies, that do not currently offer legal services may begin to do so.
5. Clients may feel the pinch in terms of attention and service standards as the largest law firms concentrate increasingly on markets that are growing more rapidly than the UK and Western Europe.

All of this means that the legal industry has long ceased to be the staid, passive thing that it was. Clients are getting far more choice and the profession will continue to be an exciting, if challenging, environment.

We've come a long way with square feet

Somehow, despite more than four decades of decimalisation, we've managed to retain the sq ft. It hasn't held us back; today the UK has evolved the most sophisticated investment property market in the world, as well as arguably the most technically competent construction industries.

DAVID TUFFIN – CONSULTANT TO ST BRIDE'S MANAGERS

Having commenced training to be a Chartered Surveyor as long ago as 1964, the first significant change to my working life occurred in 1967 when the UK construction industry 'went decimal' and structural calculations, carried out using a slide-rule, seemed instantly more complicated. Floor loadings suddenly involved Kilogrammes per square metre rather than pounds per square foot, although thanks to a splendidly luddite attitude by our agency and investment colleagues over the intervening years, the use of sq ft has been valiantly saved for the Nation.

Slightly less significant, but no less important, was the introduction in 1965 of The Building Regulations that replaced the Building Bye-laws used by local authorities and led to the disappearance of highly confusing regional and local differences in Building Control regulation (still lovingly retained by some European nations like France!). From relatively simple, though mostly ugly, structures of the 1950's and 1960's, buildings have become more sophisticated and complicated thanks to innovative techniques and new materials that provide designers with almost unlimited scope to make mistakes! As a result, the regulatory framework in which we operate has grown hugely and with it the vast army of 'clip board jockeys' in the field of compliance… one of UK's largest employment sectors and one that contributes greatly to the cost of construction by which we are all affected.

Before readers mentally form the phrase 'grumpy old man', let me say that despite promises by politicians, of every hue, to free our economy from the burden of unnecessary 'red tape', the exact opposite has happened and inadvertently required surveyors to achieve a wider and more complicated skill set in our everyday working lives and this has led to a sustained rise in demand for the services of Building Consultants. Far from making our lives more difficult, this unintended consequence of legislation and regulation has provided a more interesting workload, a wider variety of skills and the need for better technically educated and professionally qualified people.

The UK has easily the most sophisticated investment property market in the world and one of the most technically competent construction industries. The combined experience and expertise in these sectors is readily exportable and in my view will see our future work continue to expand into other global economies. Some early pioneers may have had their fingers burned along the way, but the expansion of our services, together with our ethical standards, transparency and focus on sustainability, will be in demand in all parts of the world, especially if English continues to be the universal language of business. My senior citizen's Travel Card currently only covers Greater London, but the future will certainly mean trading in some air miles!

The future for Property and Facilities Management

It seems an obvious thing to say, but feudal landlord and tenant relationships are a thing of the past. Today we have a much more customer-focussed mentality, with the economic uncertainty making tenant retention a huge priority. The future heralds more legislation, statutory compliance and a greater emphasis on green issues like recycling and reducing carbon emissions.

NIGEL MAPP – MANAGING DIRECTOR – M J MAPP

The last two decades have seen huge changes to the way in which property and facilities management have evolved. Twenty years ago property management was considered a 'poor relation' when compared to the areas of property investment, development and agency. Today, it is viewed by almost all property investors as a key service, vital to ensuring tenant retention, collecting rents and service charges on time and that assets are being proactively managed to maintain and enhance value.

At the same time, there has been a steady and significant increase in the amount and the range of statutory compliance required. Examples of changes in legislation include:

1. Fire certificates being abolished and replaced with the Fire Safety (Regulatory Reform) Order 2005 thereby moving the burden of emphasis and responsibility onto the owner and occupier;
2. The 2004 Disability Discrimination Act to ensure buildings are accessible for all; and
3. Energy Performance Certificates (EPC's) to help with the benchmarking of energy efficiency in buildings.

Furthermore, we have seen the advent of stricter accounting compliance with a move to accreditation (like AAF) and further regulations in respect of non resident landlords.

The last decade has also seen a significant focus on sustainability, spawning a massive increase in data collection, particularly in electricity consumption and recycling. Additionally the deregulation of utility companies has meant owners and occupiers have much more choice when choosing which supplier provides their gas and electricity.

The advent of the Carbon Reduction Commitment (CRC) scheme has resulted in large numbers of commercial property owners needing to comply with the requirements of the scheme and to capture and benchmark data.

Recycling initiatives also form a key part of the sustainability drive. Twenty years ago little focus or importance was placed on recycling waste whereas today almost all building owners and occupiers are keen to demonstrate that they are taking recycling seriously.

The RICS first introduced a Service Charge Code in 2006 which was revised in 2011. The code sets out what is considered to be best practice for managers of commercial property. The principal aim of the code is to ensure that service charges are being administered in a transparent way, that value for money is being obtained and that there is open communication with occupiers. Whilst the code cannot override leases already in place, new leases are increasingly referring to compliance with the code.

The code represents a significant step forward and further improves the level of compliance, transparency and professionalism needed to run a multi-let commercial building.

But most significantly over the last twenty years we have seen a movement away from the feudal landlord and tenant relationship towards a more customer focused position. This is really valuable now.

Any recession means that fewer occupiers need less space and tenant retention has become paramount. Understanding occupiers' needs and business models is therefore prerequisite.

And for the future? Inevitably more legislation, statutory compliance, risk assessing and benchmarking of energy efficiency and sustainability. And of top of that, this will be supported by further legislation and penalties imposed on owners and organisations which fail to show a commitment to reducing carbon emissions or the amount of refuse sent to landfill.

The continued sophistication of IT will see further changes too... particularly the way in which we communicate with clients and occupiers in addition to the delivery of real time reporting and data collection.

One thing is for sure, owning and managing property will continue to be a challenge.

Is less sometimes more?

Does striving for the widest cover or the latest technology really help the very people insurance is meant to protect?

JULIE PARMENTER – DIRECTOR – AQUILLA INSURANCE BROKERS

Before the 'age of improvement' it was necessary for property owners to purchase at least two insurance policies and this was prior to the age of terrorism cover even being born!

The discerning property owner would previously have purchased one policy to protect the buildings, rent and service charges then at least a second to cover the property owner's liability aspect, with any thought of contents or engineering covers only increasing the policy count.

There were previously two levels of cover. The first was a Fire and Specified Perils policy where you selected the cover you wanted from a standard list of perils available so you could tailor this to fit your purpose or budget. And if you were feeling flush you could always add extra covers such as Accidental Damage, Theft and Subsidence at an additional cost for the full belt and braces.

The second was the 'Rolls-Royce' option referred to as the 'All Risks' policy. Apart from the price difference, the main benefit of the policy was that in the event of a claim unless the cause of the actual damage was excluded within the policy, then it was deemed to be included and the claim was paid. Under the Fire and Specified Perils option, damage had to fit within a defined peril and also not be excluded, a subtle yet very valuable difference.

So what has changed? There are no longer two levels of cover to choose from. It's just basically down to the All Risks option, which now automatically includes Subsidence, Theft and Property Owners' Liability. This is often considered the bare minimum protection, and there is an impressive suite of optional clauses which can be added to the policy. The standard clauses do invariably differ from insurer to insurer and selecting extras can cost additional money. Some brokers now have their own wordings and initially the cover looks vast, but often the insurer has further endorsed the policy to take out the extensions to restrict the cover, thus giving you nothing extra!

But are these clauses really enhancing the traditional All Risks policy? Sometimes yes, such as the contract works extension which alleviates the additional hassle and cost involved in arranging CAR cover every time works are undertaken. It would appear though that some clauses are there for cosmetic purposes only and can often make it easier for the insurers to avoid a claim. So it is really questionable whether these changes are really serving the best interests of the policyholder.

Nowadays insurers are also looking to restrict Flood and Subsidence covers wherever possible. For decades they have been aware of where the 'hot spots' are for these risks, and in years past, even if your property was in a target area, the worst you could expect was an increased excess and that rarely occurred. Even if terms were applied generally after a good few claim-free years, you could normally negotiate these down or remove them completely.

Now however, insurers have very sophisticated data-bases which are post code driven and the technology behind these provide specific details of the likelihood of flood or subsidence occurring in an area, what the widespread effects could be and the impact on them as an insurer of properties in that area. As a result of this improved technology we are seeing a greater number of risks where insurers decline to quote or increased premiums and excesses are applied, even if there has never been an incident in that area. In short, the onus to prove the property is not a high risk lies with the owner.

Surely these high catastrophe events are the very reason every property owner buys insurance? Otherwise what is the point?

So is change always for the better – I would suggest sometimes not!

Doing Dilapidations differently

Dilapidations never looked less dilapidated. The way claims are handled has changed significantly in the past few years, and the fluctuating economy has contributed towards a flow of claims. More tenants now take early advice on likely claims and the cost of reinstatement is changing the way claims are dealt with. Will the future see green leases that include the ability to act more sustainably? Let's hope so.

DAVID MANN – PARTNER – TUFFIN FERRABY TAYLOR

Over recent years I have seen the way in which surveyors treat terminal dilapidations claims change considerably, and for the better. Long gone are the days of protracted negotiations leading to financial settlements made on the basis of the schedule of dilapidations alone. Now, the concept of actual loss and of the landlord's intentions for the property at lease expiry take precedent.

Commercial leases being entered into now have also changed considerably. My dilapidations surveyors have been kept very busy during the economic downturn with a steady stream of terminal dilapidations claims arising from the expiry of long leases, and of more recent shorter leases, and where tenants wish to surrender leases, exercise tenant breaks, or either sublet or assign leases; all are the causalities of the recession and the need for tenants to take stock of their portfolios, and make changes. The continuation of the granting of shorter leases with more frequent break options will keep dilapidations surveyors busy in the foreseeable future.

Whilst the age old requirement for dilapidations surveyors to maximise claims for landlords and minimise claims for tenants remains at the forefront during a recession, RICS Guidance Notes on Dilapidations, and the Dilapidations Protocol by the Property Litigation Association (PLA) encourage a fairer, less adversarial approach to dilapidations best practice. Either party can be at risk on costs if courts witness blatant disregard for these documents.

I am encouraged to see more tenants taking earlier advice on likely dilapidations claims, by commissioning Dilapidations Assessments to enable compliance with the Financial Reporting Council's accounting standard FRS12. Putting a strategy in place early on, even as early as signing the lease, can help to mitigate liability, and avoid any unpleasant surprises at lease end. For example, tenants should carefully consider the design of fit out versus the cost of reinstatement, and instigate a programme of planned maintenance to address not only lease end dilapidations, but also the more widespread threat of landlords' repairs notices during the lease term.

The cost of reinstatement, not only financially but also environmentally, will change the way in which dilapidations claims are dealt with in the future, with the gradual introduction of greener leases. I hope that such leases will take a reasonable approach to reinstatement obligations, that have historically focused on the shift of liability for an alteration made to a premises, without a thought to the waste generated by such reinstatement. Often landlords insist on tenant alterations being removed, only for a similar alteration to then be made by an incoming tenant; surely this is not sustainable from economic and environmental perspectives.

It may be wishful thinking, but I would hope that landlords and tenants that sign up to green leases will consider upgrades to failed landlord's fixtures and fittings such as boilers, that have a longer life expectancy, lower running costs, and other positive impacts (such as improving the overall energy performance certificate rating of a building) with the additional cost of such upgrades being shared between the two parties. The tenant would benefit immediately, and during their lease. The landlord would see benefits in the longer term following lease expiry or if they decide to sell his investment. Current fully repairing and insuring (FRI) leases do not allow such future proofing to take place. Memoranda of Understanding (MOUs) do and we are beginning to see forward thinking landlords taking this approach.

Repair versus renewal of building components has always been a source of debate and often dispute between parties to a lease, but the environmental implications of renewal where a component can be economically repaired must be considered more fully. It is simply not sustainable for components to be replaced if they can be repaired.

The specialist area of dilapidations has changed and continues to change to meet the demands of the commercial property market and the requirements to comply with best practice. Green lease terms present an opportunity to act more sustainably during a lease, but will also change lease end negotiations, hopefully for the better.

2020 vision? Massive emission reductions

By law, the UK is obliged – by the year 2050 - to have cut 1990 emissions levels by 80%. By 2020 we must have achieved reductions of 20%. With commercial buildings responsible for an estimated 20% of carbon emissions, it is clear that the cost of future energy efficiency improvements will soon be impacting the value of today's commercial properties.

CHARLES WOOLLAM – PARTNER – SIAM

When Margaret Thatcher revealed herself as the 'friend of the Earth' in October 1988, it will have come as a great surprise to most of her colleagues. Whilst global warming and the need to embrace a lower carbon economy are now firmly established as mainstream political issues, the 1980s are better known as a decade of excessive consumption and rapid economic growth, all fuelled by an apparently endless supply of cheap energy from the North Sea and beyond. 'Greed is good', said Gordon Gekko and the most popular programme on television was about a dysfunctional family made filthy rich by the oilfields of Dallas...

Public attitudes towards the environment have changed radically over the last two decades. Most people now accept the existence of global warming and are looking towards a more sustainable future. 192 states, including the European Union have signed the Kyoto Treaty and made a commitment to reduce their emissions of greenhouse gases. In the United Kingdom, the last Government enshrined our national targets in the Climate Change Act 2008, thereby ensuring that the successors to the Iron Lady were not for turning. As a matter of statute, the UK must cut emissions of carbon dioxide by 80% from 1990 levels before 2050 and, as an interim target, must achieve a 20% reduction by 2020.

As it is widely reported that nearly 20% of emissions relate to commercial properties, most of it from heating and lighting, it is simply not possible to meet these targets without making significant improvements to the energy efficiency of standing stock. Whilst new standards have been applied to new developments and major refurbishments, very little attention has been paid to existing buildings.

Today, the Government is working on a plan to provide energy users with a carrot in the form of easy access to finance for energy efficiency improvements but, as quid pro quo, will later introduce some sticks, which they will use to punish excessive consumption and enforce mandatory improvements to the worst performing buildings.

> 'No generation has a freehold on this earth. All we have is a life tenancy – with a full repairing lease. This Government intends to meet the terms of that lease in full'.
>
> Margaret Thatcher PM, October 1981

Under current proposals, it will be unlawful to let unimproved buildings after 2018 with F- or G-rated Energy Performance Certificates which, according to SIAM's research, could affect over 1 in 10 investment properties. There is unlikely to be a return on these costs by way of higher rents or keener yields.

Bearing in mind the statutory reduction targets, the future is not that hard to predict. Mandatory improvements to existing buildings will get tougher over time, trigger points will become more frequent and there will be fewer lawful exceptions. All owners of commercial properties need to be aware of the potential liability attached to their current investments. Whilst the details are still hazy and the actual liability may take some time to crystallise, the impact of the risk of future compliance on transaction prices could emerge much more quickly.

The bar will rise on the required level of minimum standards as time goes by but extensive interrogation of the present day cost of bringing buildings up to current standards shows us three interesting things. First, the cost varies enormously between different types of buildings according to their age, specification, location etc. Secondly, the cost – as things stand - is rarely justified by energy cost savings or by any provable improvement in rental or capital value. Thirdly, the prospect of generating a positive return on the cost of mandatory improvements varies a great deal from one property to another.

This must surely make the value of properties in 2011 sensitive to the relative cost of future energy efficiency improvements in a way that was unimaginable when Margaret Thatcher proclaimed herself 'the guardian of future generations' in 1988.

The Future of Work

I opened the envelope with bated breath, the results were not good, the hopes of a university place were dashed – where was my life going to go next? Ironically the situation faced by many young people over the last couple of months was the same as my own many years ago.

DAVID BAILEY – MANAGING PARTNER – AUGENTIUS FUND ADMINISTRATION

In those bygone days a mere 10% of school leavers went to university, jobs were plentiful and I had offers of employment from 3 banks within 2 weeks. I received my results in mid-August and started work with a UK bank in early September. This wasn't just a job – it was a career, a job for life – you were expected to retire from the Bank. I stayed with the organisation for 20 plus years and the training, development and experiences set me up for my business life.

So when did it all change? Why the world over are there young, bright intelligent people with armful's of degrees and qualifications doing "Mac" jobs? And what effect will this have on the society we live in?

The biggest employment revolution took place in the UK during the 1980's and 90s. Employers suddenly decided that the over 50's were too "old" to work and they were downsized out of organisations. Almost overnight the concept of a job for life disappeared, employees had to openly compete to keep their own job – and along with it went all employee loyalty. Alongside these changes the politicians slowly and discreetly removed all the major benefits of company final salary schemes, in an attempt to make short-term financial savings, thus destroying one of the most envied pension environments throughout the world.

In addition technology has taken a substantial toll on the number of jobs available. I used to speak to an insurance broker to arrange my house and car insurance – now I do it on-line and the majority of the local insurance brokerage industry has disappeared. We used to have ticket offices in stations and inspectors on trains – now we have barrier machines. This march of technology is by no means bad but the reality is that despite many of us working longer and harder than we have ever done before the number of jobs available to the working population is being decreased by the day. The number of long term career jobs are decreasing even faster. I know of employers who employ rafts of 'temporary staff'. The focus is purely on the bottom line with little thought towards the human element of employment.

But people need to work longer to achieve a reasonable pension and finance themselves through an extended life expectancy – hence the removal of the enforced retirement rules. Housing continues to increase in cost in real terms – as do food and fuel – often requiring both partners in a relationship to work. The demand for work is increasing – but the opportunity to work, let alone to work in a 'growth' environment decreases, not only in the UK but on a global basis.

Such a scenario can only lead to social unrest, primarily amongst the young who are headstrong and vociferous in their feelings. And this has been vividly exhibited in recent weeks in the UK. The poor the world over are jealous, the 'have nots' want what the 'haves' have got and see no way in getting it other than through criminal activity. I do not condone the actions of the rioters but we have to try to understand what has happened and why if we are to stand any chance of preventing our society from falling into despair and unrest.

So when did it all change? Why the world over are there young, bright intelligent people with armful's of degrees and qualifications doing "Mac" jobs? And what effect will this have on the society we live in?

As employers we have a duty to our employees. To provide them with long term work and a future career. Not all of our organisational structures allow for regular promotions and the like – the ‘pyramid’ is very flat for many of us. But we all have a responsibility to train, develop, motivate and encourage. Do we all just seek university graduates to fill our positions? Are they the best for the role? Do we encourage and assist our employees with further professional training – or do we just keep them in the role they were employed for, until they move on? Are there people within our business, who with our support and assistance, could grow into the role – or should we recruit over their heads? Do we really seek to support and grow our staff in their careers and their futures or do we merely try to give them jobs?

Whilst employers complain about red tape and difficulty of doing business, many just hire and fire at will without having recourse for the human being underneath. Enormous investment is made in technology and machinery – but little in people. Sadly that is where the management textbooks and gurus of recent times have taken us. A few organisations have created collegiate organisations and businesses – but not many.

As always there is no one solution to the problem but should we now be starting to think more about people and the society we are creating, in addition to the bottom line?

The deal, the whole deal and nothing but the deal

The information technology available to Asset Managers has changed and evolved out of recognition since my early days in Asset Management. But there are two underlying elements of success that will never change. The appetite to make deals, and the fact that we all like to deal with people we like.

ASTON WOODWOOD – DIRECTOR – OXYGEN ASSET MANAGEMENT

I was fortunate to be employed before finishing my exams due to the luck of knowing someone, who knew someone. There is a reason people harp on about 'not what you know… yeah you've heard it!

I looked forward to the day and in my suit and tie felt very smart. So off I headed to the top floor of 6 St Paul's Road, a beautiful Victorian building in Bristol. My role as a graduate surveyor was to help one other at Donaldsons Chartered Surveyors in the very stuffy top floor of the building.

During week one, I found myself calling agents regarding stock and availability, a thankless task especially when one so junior can end up speaking to partners in competing firms. Not surprisingly a number of calls were not met with sympathy. On the whole though most people were very friendly. I had an employee do the same for me a year ago and it was a nail biting experience listening to someone out of his depth.

We had no computers in those day (ouch, that makes me feel nearly as old as Stephen Pyne) although there were a few in the office - this was the privilege of the shopping centre asset management teams... strange intellectual looking creatures that habited the basement of the building looking at reams of rent collections. For me however, I was tasked with meeting people, taking them out to lunch and getting to know them, usually over a beer and telling them how I had a massive deal coming up. It was a dream job, albeit my salary could have been a little bit more!

> If you take a stroll in the Malvern Hills and find yourself looking with a sinking heart at the sight of the golden arches blighting the landscape and wonder what evil people could have conjured up such a hideous plan, then look no further.

My path seemed clear, even then I wanted to do deals and was desperate to get my first kill. This was to happen within 12 months. If you take a stroll in the Malvern Hills and find yourself with a sinking heart at the sight of the golden arches blighting the landscape and wonder what evil people could have conjured up such a hideous plan, then look no further. But it felt great at the time. With a love for rural Herefordshire I now find myself closing one eye and looking away when ever I am anywhere near the Malvern Retail Park.

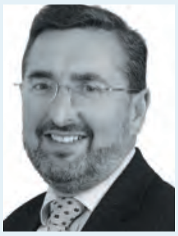
With a deal in the bag and an increasing hunger, the loss of many friends to the 'bright lights' of London was too much of a calling to resist. Entering 70 Jermyn Street, I found myself in Donaldsons London office that bustled with noise and people. It was both fun and exciting but it lacked the office camaraderie of the Bristol days. I will always remember the closeness of the agency world in Bristol, the dislike for the London office interfering in their territory and the fact you could to drive to work and park outside. What luxury!

There have been many changes since those days, technology has moved on and so has my career. Running your own company brings fresh challenges. However if there is something that I feel will stand the test of time, it's the appetite to work on deals. We all love it. Whatever form they come in. With limitless technology there was initially fear that the old agency days may diminish. But the fact remains - we like to buy from people we like.

My business with Mike Harris was founded on the principle that with the right approach, careful stock selection and attentive management of assets, delivering the returns is not as difficult as some make it out to be. So be sure to have that beer with your contacts as it is good for the passage of information, we need the human touch, work should be fun and the economy really needs your money.

Dilapidations and the new world

How times are changing. In the old world a dilapidations claim against a tenant incorporated everything including, literally, the kitchen sink. There has since been a shift in dilapidations practice and law. In the new world a landlord cannot issue endless, spurious claims for items of dilapidation if the need for them has fallen away.



ROGER WATTS – CHAIRMAN – TRIDENT BUILDING CONSULTANCY

A peculiar area of English Property Law is lease end dilapidations. In most leases, tenants have an obligation to reinstate, repair and redecorate at lease end. Over recent years, this area of law has seen some very radical changes in approach both from a legal and from a philosophical point of view.

For years, the views of landlords and their surveyors was that at the end of a lease a claim against a tenant relating to dilapidations should include everything and the kitchen sink, allowing the landlord to remarket the property straightaway. Fundamentally, this was always wrong. Tenants' liabilities are generally to deliver up in repair but rarely to improve. The gap between leaving a building in repair and having it refurbished for re-letting is often great and the cost of those improvements should have been borne by the landlord. However, while the opportunity existed to try it on with the tenants it was always worth 'having a go'. The downside was that this led to very long, complex and expensive legal cases.

With the additional pressure on resources and costs within the legal system, the scene was set for a major shift in dilapidations practice and law. In the first instance, the reforms of Lord Justice Woolfe led to changes in the Civil Procedure Rules. The concept of early disclosure and engagement with the parties was adopted to reduce the number of disputed issues before legal action is required.

The second step was the development of the Pre-action Protocol which is in its third edition, yet is still in draft form. Interestingly, it is likely to be the case that the Protocol may be fully adopted as the only way to proceed within the course of the next 12 months.

The Protocol is intended to improve pre-action communication and establish timescales and standards to be achieved. This is the first major shift in dilapidations practice over recent years.

Surprisingly, the Protocol is generally quite brief, easy to read and logical. The challenge is that it reduces the more skilful negotiation which might have previously occurred with 'wily old building surveyors' taking less well versed surveyors to the cleaners. It is a shame perhaps, that the general cut and thrust of open negotiation has been replaced with more formal rules, but in the event that this reduces the overall cost of litigation then it has to be positive.

It remains the case that in the first instance it is the tenant's liability to deliver the property up in repair. However, there is no enforcement of this and the challenges arise when tenants fail to do anything by lease end.

After lease end, the matter is in the control of the landlord and they really now have only two options. Either they must undertake works and seek to recover the relevant costs or if no works are to be undertaken, then the only way they can progress a claim is to have prepared a Valuation under Section 18(1) of the Landlord & Tenant Act 1927. This is a Valuation which deals with damage to the value of the reversion. In effect, the value of the property in repair as opposed to its value out of repair.

The second big change in dilapidations law has been the approach to the preparation of schedules generally. Previously, and taking the view that surveyors should include everything and the kitchen sink, schedules were often very long and fulsome. A landlord surveyor could reasonably produce a schedule having no regard to what the landlord was really intending to do. An important part of Section 18(1) of the Landlord & Tenant Act 1927 is that a landlord cannot make a claim for an item of dilapidations if at or shortly after the end of the lease the need for that would fall away.

From a surveyor's point of view this is quite a change in our attitude towards the preparation of schedules and in particular how surveyors advise landlord's of their likely recovery. This is important as the Courts have made it very clear that they will penalise parties if their claims are considered to be inflated or fraudulent.

Back to the future

Earlier in my career the preoccupation was with embedding specification codes into construction drawings and manually digitalising product information. High tech glass boxes with air conditioning, 100% solar shading, electrically retractable and auto-tilting blinds controlled by solar sensors came later.

RICHARD BENNETT – EXECUTIVE DIRECTOR – SHOR ASSOCIATES

Navigator's editor-in-chief asked for a response from a few of the older partners in our businesses. I qualify, as I entered the workforce of the UK property and construction industry for the first time in September 1971, some 40 years ago, working as a Part 1 architectural graduate for a year between my first degree and post graduate degrees.

The internationally renowned architectural practice that I was working for was YRM - Yorke Rosenberg & Mardall – with its purpose-built, white-tiled offices in Greystoke Place, just 400 yards from where I am sitting today. Now a listed building, with offices occupied by Farebrother, the chartered surveyors.

Not only my first introduction to work, but also my first experience of designing workplaces for other people, most notably the operating theatres, laboratories and support areas of the United Oxford Hospital. There were three deep-plan lower podium floors, each approximately 1 acre floor plate, and was therefore largely windowless. And above, eight stories of wards in a cruciform layout, occupying shallow depth floors with light wells. Are we any more adventurous now?

Our editor also asked us to avoid clichés about internet, e-mails, tablets and cloud computing. He is too young to mention electric typewriters, photocopiers and fax machines. They were before his time. But I will avoid them as well. So leave out the means, focus on the ends.

At YRM the preoccupation was with embedding specification codes into construction drawings, in effect digitalised the production information, albeit manually. Which was why YRM could offer work experience to numerous otherwise unemployable architectural graduates, churning-out design drawings. What's changed?

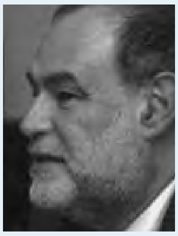
Five years later I found myself designing and winning an office-of-the-year-award. A single storey, open-plan glass box in Derbyshire, parked in front of an enormous white aluminium extrusion factory. When I say open-plan, the ground floor had no partitions whatsoever. A see-through workspace, with senior executives set in a landscaped 'Burolandschaft' environment. Actually, the building wasn't single storey, it had a basement, with downstairs meetings and conference rooms, toilets, showers, print room, stationery and plant.

A glass box, maybe, but an air-conditioned glass box with 100% solar shading, provided by electrically-operated, retractable and auto-tilting venetian blinds on the outside (yes, on the outside, not the inside). All controlled by solar sensors to block solar gain whilst minimising artificial lighting. And we are talking 1975.

Back to the future?

A German Perspective

Unlike the UK, but in common with much of Europe, less than half of the people in Germany owned their own homes back in the 1970s and investment in commercial property was barely in its infancy. Tax advantages on real estate in the 1980s began to make a difference and the political events of the 1990s began a real estate boom. Since the introduction of the Euro in 2002, German real estate investors have not looked back.



DR EBERHARD WALZ – CONSULTANT TO ST BRIDE'S MANAGERS

The German Property Market has seen dramatic changes over the past 60 years, not least in reaction to the massive rebuilding programme and the need to house 12 million immigrant refugees after World War II. And then, of course, there was the re-unification of the East in the nineties. The chronology puts the current industry into context:

1970's

- 57% of Germans rented their homes. Politicians saw them as a 'soft' target for votes and introduced tenant-friendly laws with regulated rents to win over their favour.
- Investment in commercial property was in its infancy. For instance, insurance companies' portfolios mainly comprised their own corporate premises and some High Street assets.

1980's

- The main motivation for real estate was tax advantages. New close-ended funds were launched to capture private investors' appetite. Not surprisingly, yields were driven down.
- Higher yields being offered in the Netherlands, Belgium and the UK were irresistible. However, the impact of currency fluctuations and very different tax regimes abroad were seriously under-estimated.

1990's

- Growing confidence in investing abroad brought a shift from direct to indirect real estate vehicles. By investing indirectly, debt financing of 50% of the market value was allowed. This could guarantee at least a partial currency hedge and some tax shelter.
- A lack of common definitions led to inconsistent practices. For example, the basis of insurance companies reports to the regulatory board were the book value of the portfolio and the book value of yields. No mention of market value anywhere!
- Given the unclear ownership structures in the East, a massive gap appeared between the two parts of Germany, with rents in the West often three times that in the East.
- As a consequence, the real estate industry had to become more professional. And it did.
  - In 1990, the first training course was founded and there are now over a thousand chartered surveyors.
  - In 1998, IPD launched its service in Germany initially with 7 institutional investors. They insisted on a common set of definitions providing the bedrock for today's disciplines.
- Reunification meant an economic boom for the re-united country. However the city planners were no match for ruthless real estate sharks.

This Millennium

- This Millennium has brought a boom in indirect vehicles, particularly of specialist funds. Following the boom… came the well known problems of the open-ended funds.
- Though welcomed, the introduction of REITs has not been anywhere near as successful yet in Germany as they should have been because political quarrels have constrained their activities. In fact, there are only three German REITs at the moment.
- The introduction of the Euro in 2002 has been very beneficial to German real estate investors. In particular it was no longer necessary to ponder the advantages of higher yields abroad versus the permanent revaluations of the D-Mark. However, this prompted a German-led boom in France, Spain, Portugal and later in Italy.
- On the domestic front, the real estate industry, which had been mostly marked by regional influences has opened itself to international players… both to its advantages and disadvantages.

And now in 2011? Well, all in all, the Germans have come to love real estate and the signs are that this is not going to end soon.

Investment. Dark art or uncertain science?

The decisions associated with buying or selling are complex and revolve around the perceptions, skills and expertise of the individuals involved. This has not changed in decades, and will not change noticeably in the future. What will evolve is the way we go about supplying our expertise.

TREVOR MORGAN – MANAGING PARTNER – MORGAN CAPITAL PARTNERS

My career has been built on advising on Central London real estate, encompassing investment, letting and development and asset management advice. I am not sure that my area of expertise has changed during the 38 years. I have, I hope, learnt a lot over that time and therefore my expertise has improved and will continue to improve. It is the way that we go about our business that has seen the most dramatic transformation.

The increase in available information and research over the past 40 years has made the markets much more transparent. This has allowed advisors to offer greater amounts of detailed advice. Our business is an Art and not a Science and therefore all the decisions associated with buying or selling is based on the skill and expertise of the individual and firm. It could be argued that the general level of individual skill has reduced over the years because of the ease and speed of obtaining information and research as well as the ability to analyse transactions through the software programmes available. Decisions today are more technically based rather than through feel and judgement. All of this information and greater ease of analytical software has made business a more even playing field allowing less able people to enter the market and compete whether it be advisors or principals.

With the requirement for greater detailed and specific advice, it has become necessary to become more specialised. If you take the City of London as an example of this, it is interesting to note that most investment advice in the 70s and part of the 80s was provided by investment departments located in the West End as many of the larger and medium companies did not have a representation in the City. Jones Lang Wootton and Richard Ellis were the exception. During the late 70s and early 80s large advisory companies such as Healey & Baker, Hillier Parker, Strutt & Parker, Edward Erdman, Knight Frank, Savills and others opened City offices for the first time but none of them I recall had an investment department in the City. That came later.

Investment departments were created in the City when the investment broker came into existence. Broking investments transactions prior to the mid 1980s was frowned upon. Introductions of investment ideas were done by a partner who had a good connection with the principal and this was followed up by a detailed report. All of this was done at a more genteel pace. Today, broking is first past the post i.e. the broker that introduces a property first expects to be paid if that property is bought by the purchaser whose introduction he has made.

Between 1974 and 1987 I specialised in vacant possession agency work. In January 1987 I created Morgan Pepper which, within 3 years, became one of Central London's most successful niche advisory practices dealing with Investment, major letting work, development advisory work and professional services. As principal, I was the partner that straddled all of these disciplines. This multi disciplined work has been instrumental in enabling me to create a successful asset management business today.

Looking to the future, the expertise of our asset management and investment advisory business will remain the same as it has always been – to develop a clear investment rationale, to identify suitable opportunities in the market, to possess both the funds and the credibility to secure the opportunities, to enact a business plan that delivers the required returns and, most importantly, to sell at the most opportune time. As I have noted above, the way we might go about doing this will continue to evolve, but in the end the expertise remains the same.

The increase in available information and research over the past 40 years has made the markets much more transparent and has allowed advisors to offer greater amounts of detailed advice.

The upside of meltdown

With institutional investors burned, the financial markets in meltdown and the recession continuing apace, many investors think carefully before parting with their money. Regulation and accounting standards are seen as the way forward, but bring with them their own price.

MATT PRICE – PARTNER – ERNST & YOUNG

Numerous regulatory and accounting changes are currently being negotiated that could impact fund returns.

Institutional investors burned in the financial crisis and the recession have been pushing for greater disclosure and transparency, which is helping fuel the changes.

The financial market meltdown, in particular, served as a wake-up call for investors, who are now looking closer and seeking more disclosure before investing. While the track record of returns still matters most, investors are now paying significant attention to the processes and control environment from which those returns are generated.

> Overall, the regulatory and accounting changes could be time-consuming, costly and cumbersome, especially for small to medium-sized fund managers.

Accounting standards are continuing to undergo substantial development, partly in response to the financial crisis but also to improve the level of harmonisation between United States Generally Accepted Accounting Principles ('US GAAP') and International Financial Reporting Standards ('IFRS').

Such changes will impact the way that funds financially report their real estate assets, with the classification criteria around operating versus finance leases and investment versus development properties often at the centre of these debates. Under other proposals, greater disclosure of the rental income receivable and taxation suffered at the underlying property level may be triggered.

While any improvement and harmonisation exercise imposes further compliance costs, albeit mostly skewed towards an initial period of implementation, these changes are laudable if they achieve the aim of giving investors greater insight into the property risks being managed, especially those arising at the tenant level.

In addition to the accounting standards developments currently being discussed there is the ongoing and well publicised raft of regulatory changes to be dealt with. AIFM and Solvency II in Europe and the Dodd-Frank Act in the US will, along with the many other regulatory developments faced by fund managers, result in additional paperwork and regulatory oversight. This could be particularly cumbersome for smaller funds.

All of this is taking place during a period when market dynamics are allowing institutional investors worldwide to apply pressure to reduce fees, both in terms of the amount and types of fees they are willing to pay. This represents a double hit, as many funds are under pressure to cut fees at a time when costs of complying with regulatory requirements will increase. Many funds will look to offset these costs by driving further efficiency into their operations and we expect to see an increase in the outsourcing of back office operations.

Overall, the regulatory and accounting changes could be time-consuming, costly and cumbersome, especially for small to medium-sized fund managers. It is likely that they will add costs and lower returns, but not to the point of undermining the economics. If anything, it has the potential to cause funds with strong asset selection and management backed by equally strong processes and controls to stand out like never before.

The views reflected in this article are the views of the author and do not necessarily reflect the views of other members of the global Ernst & Young organisation.

From bowler hats to virtual clouds

Some aspects of the property industry have changed dramatically whilst some fundamentals have remained constant. Location, for example, is still majorly important in decision-making. Nowadays virtual cloud technology gives us 360° information, but the traditional skill and judgement of the real estate advisor has never been more important.

PETER DANDY – SENIOR SURVEYOR – CB RICHARD ELLIS

When I started my admittedly fledgling property career in 2004 with work experience at a niche City firm I was amused by a story from one of the 'consultants' about his early days at JLL or Jones Lang Wootton as it was then. In their City office he had just missed the compulsory bowler hat era but the white shirt only policy was still very much in force!

For this article, given my relatively short time in the profession, I have sought the insight of John Symes-Thompson and Robin Sutton who have 30 and 40 years experience respectively in the industry.

Although of course it's impossible to cover all the major changes in the world of property over that time we opted to pick out a few themes. It was interesting to note though that while some aspects of the industry have changed dramatically some of the fundamentals remain the same. It may seem trite but whilst locations may change over time its importance in decision-making hasn't.

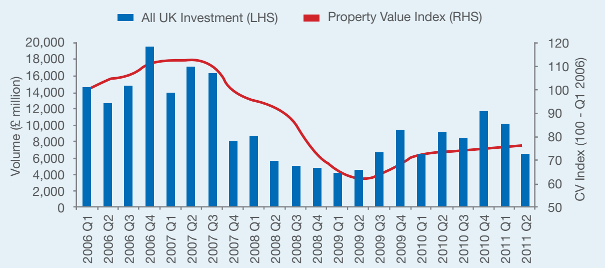
One obvious observation is how the industry has globalised in recent years with cross border capital flows and international investors. The firms of gentlemen capitalists in the surveying profession have consolidated and continue to do so, in order to form global professional services businesses, capable of advising on international transactions and servicing corporate occupiers like CBRE's client HSBC (who have a worldwide estate of 73 million sq. ft. in 86 countries). The outsourcing of services is a key trend of the last 10-15 years and looks set to continue to grow.

With regard to the investment market it's amazing to think that this only really emerged in the late 1970s. At the height of the last boom in 2006/07 commercial property was hailed as an 'asset class' in its own right, with the 'man in the street' able to invest in bricks and mortar through unitised funds. Reputedly certain funds even took out adverts in 'Hello' magazine to tap into a new segment of the retail market as commercial property appeared to be a one way bet. What happened next with redemptions is therefore a matter of public record! Property investment expanded and then contracted over the cycle as values declined as demonstrated opposite.

The last property boom was driven by the availability of cheap debt, which reached £196.2 billion by December 2007 and historically low interest rates where transactions were characterised by complex financing models. In tougher economic conditions some of those deals are starting to unravel as the high rents charged to the operating companies split off from the property assets are not sustainable.

Property remains a relatively illiquid asset and while technology has created some market efficiencies with the vast array of information and data available at the touch of a button from a virtual cloud, the skill and judgement of the real estate advisor to interpret that material has never been more important.

A final observation to conclude with is how super prime commercial and residential property in London has become a 'safe haven' investment for rich individuals around the world, a trend which seems to underline how London has become detached from the rest of the UK and a truly international centre. Much has been made of the stellar performance of gold in recent years and prime property seems to hold similar appeal in an environment where governments have resorted to printing money and debasing their currencies. A tangible asset seems to have a timeless appeal!



Source: CB Richard Ellis, Property Data

FIGURE 1: INVESTMENT VOLUMES AND ALL PROPERTY VALUE

Managing information. The informed view

From storing information on coloured strips of carbon paper held in loose-leaf folders, to the early computers, our main focus was on recording the financial footprints of past events. Suddenly, we find ourselves in an age of almost limitless computerised information and our emphasis is now on how to best utilise it.

GEOFF SINGLETON – CONSULTANT TO ST BRIDE'S MANAGERS

It so happens that I am writing this piece on the anniversary, the 48th anniversary to be exact, of the day that I started work.

In September 1963 I turned up in my best, blue, suit (my only suit!) to start work at the local council offices. I was to train as an accountant and, while computers did exist, they were the preserve of the largest, most forward looking councils and required a carefully controlled environment in a room that would have enabled my council's entire staff to host a dance and tea party for their partners. Impressive though they seemed, these magnificent beasts had significantly less computing power than a modern laptop hitched up to the Internet. Nor were we alone.

Much of local government was reliant on primitive methods of recording information, in our case it was through coloured carbon strips into large loose leaf ledgers, but early accounting machines were not unknown. Although, in retrospect, it was the end of an era, and computerisation progressed quite quickly, for many years the emphasis was on recording the financial footprint of past events which required accuracy and patience and gave little thought to using the information thus created. Indeed there was little time left so to do. Creating the historic record consumed most of our energies, and so it was, I imagine, in many other fields of endeavour. In contrast, in all of the fields that I can call to mind, we now live in an age where information is an almost limitless asset – indeed we sometimes feel that the surfeit of information makes it less of an asset and more of a thicket obscuring the view. The skill sets now required are much more abstract. Exercising discernment over the selection of those gobbets of information to be utilised, systematically managing the selected pieces of information and then interpreting the result so that it shapes opinion and informs subsequent action are essential contributors to success in many fields.

It used to be said when I was a boy that our grandparents had lived through more change, social and technological, than all previous generations. The pace hardly seems to have slowed but it is flowing out from the developed to the less developed world while at home inequality appears to be on the increase and we are experiencing the impact of a rapidly integrating Europe. Understanding, responding to and managing the conflicts that will arise as different perspectives collide will become an important tool in the tool box of today's young men (and women!).

> …while computers did exist, they were the preserve of the largest, most forward looking councils and required a carefully controlled environment in a room that would have enabled my council's entire staff to host a dance and tea party for their partners.

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