



RICS Dispute Resolution Service DRS

Covid-19 Commercial Rental Independent Evaluation Service.

Request for the appointment of an Independent Evaluator to negotiate rental issues arising out of the Covid-19 crisis.

Introduction

The government’s Code of Practice for landlords and tenants requires them to act responsibly in negotiating ways forward after the covid-19 crisis. The code suggests that landlords and tenants use a third-party mediator to help with these negotiations.

RICS has consulted with both landlords and tenants and what emerges is:

- A wariness of traditional mediation which is seen as insufficiently incisive to deal with the detail of these negotiations
- A pressing need from tenants for a ‘safe space’ in which to articulate their difficulties and to have these recognised by their landlords
- A need from landlords for a dispute resolution process rigorous enough to separate tenants who genuinely cannot pay from those using the crisis as an excuse for not doing so.

Information about the property

We need to know the nature and location of the property to aid the selection of an appropriately qualified and experienced dispute resolver. You must provide the full postal address including the postcode (even if its only the first half of the code).

Address: _____

Town/city: _____ Post code: _____

Brief description of the property (e.g. prime retail/offices/restaurant). Also include details of the permitted use and any other relevant information:

Information about the lease

Date of the lease: _____ Alleged date of review: _____

Amount of passing rent: £ _____

How many month has rent been forfeited? _____



Please indicate any **special requirements** relating to the proposed appointee. For example: experience, qualifications and any time restrictions:

Information about the parties and their representatives

RICS is required to take reasonable steps to ensure that the Expert Evaluator can negotiate the dispute in question and is free from conflict of interest. It is therefore essential that you provide details of the Landlord and Tenant (including any parent and/or subsidiary companies or related entities that a prospective nominee would need to consider in their conflict checks).

Landlord

Firm name:	
Address:	
Town/City:	
Postcode:	
Email:	
Telephone:	
Parent/subsidiary:	

Landlord representative

First name:	
Last name:	
Firm name:	
Address:	
Town/City:	
Postcode:	
Email:	
Telephone:	
Mobile:	

Tenant

Firm name:	
Address:	
Town/City:	
Postcode:	
Email:	
Telephone:	
Parent/subsidiary:	

Tenant representative

First name:	
Last name:	
Firm name:	
Address:	
Town/City:	
Postcode:	
Email:	
Telephone:	
Mobile:	

Conflicts of interest

If there are any panel member(s) who in your view would have a conflict of interest in this case, you should list them below. Please also provide for each such person, brief but clear reasons for this statement.

Your attention is drawn to the decision in Eurocom Ltd -v- Siemens Plc [2014] EWHC 3710 (TCC) to effect the misrepresentation in this statement could vitiate the process in its entirety, rendering any award made unenforceable.

Name	Firm	Reason

Please note: While the President/Chairman will give careful consideration to any representations, he/she will reach his/her own decision as to who is appointed

Information about the issues for evaluation

It is essential RICS receives enough information about the nature of the dispute to enable an appropriate evaluator to be identified and appointed. Please provide details of the nature of the dispute including relevant details and any remedies sought. (No more than a page of A4)

Issues which could be considered include:

- Tenant's ability to pay rent – including projections of turnover
- Landlord's capacity to absorb non-payment
- Calculation of rent reduction or abatement during and post Covid-19 pandemic
- Agreeing to a formal written rent payment plan
- Alternative concessions

(Please note this is not an exhaustive list)

How to pay

RICS charges an administration fee dependant on the amount in dispute. This payment is non refundable whether or not the President/Chairman makes the appointment (e.g. if the matter is settled by agreement and the application is withdrawn).

Properties where the annual passing rental is:	Guide duration of Independent Evaluation session	Hourly rate	RICS administration fee – Inclusive of VAT*
less than £50,000	Up to 4 hours	£150 + VAT	£180
£50,001 - £150,000	6 hours	£250 + VAT	£300
greater than £150,000	8 hours	By agreement	£425

You can choose to pay by the following:

- A card payment. One of our advisors will contact you to arrange payment. Please tick this box:
- By using your bank or building society to pay the application fee.

RICS Bank account details:

Account number: **30786339**

Sort code: **56-00-45**

Swift Code: **NWBK GB2L**

You must provide your name and the postcode of the property in dispute. This will ensure that your payment is correctly allocated and your application is processed. Please email a copy of the remittance to **drs@rics.org**

- Debit my RICS trade account number:

Account holders will be invoiced by our finance department. To apply for an account please email **drs@rics.org**

RICS is unable to accept credit or debit card details by email due to PCI compliance regulations. Please be aware the applicant has responsibility to ensure that payment is complete. Applications are unable to be processed without full payment.

Application submitted by:

Name: _____

Firm name: _____

Are you applying on behalf of the landlord or the tenant?: _____ Date: _____

Submitting this application to RICS Dispute Resolution Service confirms that you have read and understand the explanatory notes contained in this application form. Your application is accepted on this basis.

Please send your completed application form to **drs@rics.org**

Your privacy:

RICS takes the privacy and security of the personal information you provide very seriously. Your details are held in a secure database with authorised access only. We apply data processing policies in compliance with the Data Protection Act 1998 and the Privacy and Electronic Communications Regulations (EC Directive 2003). RICS will not use the information you provide in this application to contact you with offers of products and services. Nor will RICS share your information with third parties for the purpose of sending you details of offers of products and services.

Explanatory notes:

- RICS has a duty to act independently and transparently when appointing a dispute resolver. On receipt of a request, DRS will select a suitably qualified dispute resolver who is free from conflicts of interest normally from the President's/Chairman's panel of dispute resolvers. Details of your application will be sent to prospective third parties to help them decide whether they are able to take on the appointment.
- After checking that the dispute resolver meets the criteria an appointment is confirmed on or on behalf of the President/Chairman and the parties and the dispute resolver is notified.
- The application form contains sections to obtain information about the property, the lease and the parties. To help DRS select someone who will have the confidence of the parties we rely on the information given in your application. An incomplete or incorrect application can result in an inappropriate appointment. It is vital that you complete all sections of the application form; incomplete sections may result in delays.
- RICS is by law not required to provide a copy of the application form and/or related correspondence to the non-applicant party and does not do so automatically. However, as a matter of good practice, RICS will provide a copy of the form and/or correspondence to the non-applicant party on request. As a matter of policy, RICS may forward the information contained in an application form, and any supplementary documentation in the case details, to the non-applicant party in the dispute and/or their Representative. Details of the case will also be sent to prospective dispute resolvers to help them decide whether they can or can not take on the appointment.
- If the dispute is resolved before the President/Chairman makes an appointment, you must notify RICS as soon as possible.
- Parties are reminded that by completing this application they agree that they maybe jointly and severally liable, under contract of statute, for payment of the dispute resolvers' reasonable fees (including abortive fees for any work undertaken if the matter is settled before a decision is given).
- Your application is processed on the basis that appointments are often made on behalf of the President/Chairman of RICS by one of the duly appointed agents.