

## RICS Dispute Resolution Service (DRS)

Request for the appointment of a construction adjudicator in the United Kingdom.

Most forms of construction contract, particularly standard form contracts, provide for adjudication. If a construction contract does not provide for adjudication, then Section 108, Housing Grants, Construction and Regeneration Act 1996 [the Act] gives any party to a construction contract a statutory right to have a dispute decided by an adjudicator.

RICS is an Adjudicator Nominating Body (ANB). RICS may be named in a contract as the nominator of an adjudicator. Alternatively, the referring party may unilaterally decide to apply to RICS to nominate an adjudicator in the absence [or unavailability] of any particular nominator or ANB being named in the contract. To help you complete this application, please refer to the explanatory notes contained in this application for guidance.

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### Notes to consider before completing the application:

- Valid applications must be made on the standard application form (DRS2C) and include payment of the appropriate fee and a copy of the Notice of Adjudication.
- Applications should be emailed to RICS Dispute Resolution Service ([drs@rics.org](mailto:drs@rics.org)) and must be accompanied by the appropriate fee or contact details so payment can be collected by credit or debit card or by completion of a BACS transfer, see payment section of application. Your application will be acknowledged.
- RICS has **five** days from the date the application is received (including weekends but excluding Bank Holidays) to nominate an adjudicator. In order to ensure RICS has sufficient time to nominate an appropriate adjudicator, the application should be submitted as soon as possible after the Notice of Adjudication has been served.
- Normally, the referring party has **seven** days from the date of the Notice of Adjudication to refer a dispute to an adjudicator. Once RICS has nominated, the dispute must then be referred to the adjudicator within the stipulated period
- RICS reserves the right to copy this application to the responding party
- This application form is the contract between the applicant and RICS and we will rely entirely upon the information contained herein. The information submitted on this application is accepted on being accurate and complete. Neither RICS nor the adjudicator can accept liability in relation to the nomination, if the information provided is inaccurate or incomplete.
- Your application is processed on the basis that nominations are often made on behalf of the President or Chairman of RICS by one of the duly appointed agents.

## Information about the dispute

To assist in nominating a suitable adjudicator, please provide information, including where and what the works are, what the dispute is and the amount.

Address of the project: \_\_\_\_\_

\_\_\_\_\_

Town/city: \_\_\_\_\_ Post code: \_\_\_\_\_

Brief description of the dispute: \_\_\_\_\_

\_\_\_\_\_

The amount in dispute: (If applicable) £ \_\_\_\_\_

Is the application made under:  Scheme  Contract

If the application is made under a contract, please state the form of contract and whether any specific rules apply:

\_\_\_\_\_

\_\_\_\_\_

If the application is made under a contract and requires the nomination to be made by an individual or office bearer (e.g. Chairman or President), please specify: \_\_\_\_\_

A copy of the notice of adjudication **must** accompany the application form as part of the application.

## Information about the parties and their representatives

Please ensure the full names of the parties are correctly stated. Errors in this information may lead to an inappropriate nomination or unsuccessful referral. Incorrect information will prevent the proposed adjudicator carrying out a thorough check for any potential conflicts of interest. The parties' professional representatives must be stated. RICS DRS will forward all relevant correspondence to them. Normally communications from RICS are sent by email so it is important you provide email addresses and contact numbers. Where a party is unrepresented, please ensure contact numbers and email addresses are included.

### Referring party

Firm name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Town/city: \_\_\_\_\_ Post code: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

### Responding party

Firm name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Town/city: \_\_\_\_\_ Post code: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

## Referring Party representative

Title: \_\_\_\_\_ First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Designation: \_\_\_\_\_ RICS Membership Number (if applicable): \_\_\_\_\_

Firm name: \_\_\_\_\_

Address: \_\_\_\_\_

Town/city: \_\_\_\_\_ Post code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile: \_\_\_\_\_

Direct line: \_\_\_\_\_ Email: \_\_\_\_\_

If you are completing this form as a party representative, please state in what capacity you are acting e.g. as a company official, a surveyor or solicitor.

## Responding Party representative

Title: \_\_\_\_\_ First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Designation: \_\_\_\_\_ RICS Membership Number (if applicable): \_\_\_\_\_

Firm name: \_\_\_\_\_

Address: \_\_\_\_\_

Town/city: \_\_\_\_\_ Post code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile: \_\_\_\_\_

Direct line: \_\_\_\_\_ Email: \_\_\_\_\_

If you are completing this form as a party representative, please state in what capacity you are acting e.g. as a company official, a surveyor or solicitor.

## Professional background of the adjudicator

Sometimes it is clear from the details of the matter in dispute what sort of professional background would be appropriate. This section should only be completed if additional skills are required to assist the adjudicator in understanding and giving a decision on a dispute. Many RICS adjudicators are dual qualified and care should be taken not to define the type of expertise too narrowly.

Please list the professional skills required [e.g. surveyor, lawyer, architect etc.]:

**Please note:** RICS will give careful consideration to any special requirements and, will do its best to comply. Where the requirements are drawn too tightly, RICS reserves the right to use its discretion to make an appropriate nomination.

## Conflicts of interest

RICS will take reasonable steps to ensure that the nominated adjudicator is free from conflict of interest. It is therefore essential that you provide details of the parties involved (including any companies or related entities that a prospective adjudicator would need to consider in their conflict checks). Adjudicators are required to disclose involvement or potential conflicts of interest to RICS prior to nomination. RICS will never knowingly nominate an adjudicator who has a conflict of interest.

If in your view there are any adjudicators who would have a conflict of interest regarding this matter, you should list them in the box below. Please also provide for 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 the effect of misrepresentations in this statement could invalidate the nomination process in its entirety, rendering any decision made unenforceable.

Name	Firm	Reason

**Please note:** While RICS and/or the President/Chairman will give careful consideration to any representations, he/she will reach his/her own decision as to who is nominated. Notwithstanding any such statements, the RICS and/or the President/Chairman of RICS always retains an unfettered discretion to nominate any adjudicator he/she regards as suitable. RICS sometimes receives representations as to the identity of an adjudicator. However, each case is considered on an individual basis and RICS will not be bound by representations made.

## How to pay

RICS charges an administration fee of £425.00 inclusive of VAT to make a nomination. 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). If RICS is requested to make a further nomination because of a technical error by the referring party, a charge of 50% of the application fee will be payable.

### You can choose to pay by the following:

- Providing a cheque made payable to RICS. Please detail your name and the parties involved in the adjudication on the reverse so that the payment can be allocated. If a cheque has not been received by the fourth day of processing, DRS will contact the referring party direct for alternative payment.
- 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, your firm name and the date of your application. This will ensure that your payment is correctly allocated and your application is processed. Please email a copy of the remittance to **bacs@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 referring party has responsibility to ensure that payment is complete.

## Application submitted by:

Name: \_\_\_\_\_

Firm name: \_\_\_\_\_ 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.

## 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 nominating an adjudicator. On receipt of a request, DRS will select a suitably qualified adjudicator who is free from conflicts of interest normally from the RICS panel of adjudicators. Details of your application will be sent to prospective third parties to help them decide whether they are able to accept the nomination.
- After checking that the adjudicator meets the criteria the nomination is confirmed on or on behalf of the RICS and the parties and the adjudicator is notified.
- RICS has taken note of the helpful observations made by Mr Justice Akenhead in *Makers UK Limited and the Mayor and Burgesses of the London Borough of Camden* [2008] EWHC 1836 (TCC) on the role of nominating bodies. Following this case, RICS has reviewed its policy. The application form and accompanying documentation, may be copied to the responding party. This is the basis on which an application is accepted. RICS recommends the referring party copies the application details to the responding party representative. RICS has five days to make a nomination so will not enter into a dialogue concerning representations made. If representation is received before a nomination is made, they will be carefully considered but RICS will exercise its own discretion as to the identity of the adjudicator.
- RICS is by law not required to provide a copy of the application form and/or related correspondence to the responding 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 responding party on request.
- If the dispute is resolved before a nomination is made, you must notify RICS as soon as possible.
- Parties are reminded that by completing an application form they may be jointly and severally liable, under contract or statute, for payment of the adjudicators reasonable fees [including abortive fees for any work undertaken if the matter is settled before a decision is given].
- Please be aware that holiday and/or work commitments may prevent an adjudicator accepting a nomination.
- Where this is one or a series of adjudications on the same contract, normal policy is to nominate the same adjudicator because of potential savings in costs and time. Each application is treated on an individual basis and there may be circumstances where it may not be appropriate to nominate the same adjudicator. These could include:
  - The availability of the adjudicator
  - Court action by one of the parties relating to the adjudicators previous decision
  - Different type of dispute
  - Other reasons which RICS considers make a nomination inappropriate
- RICS retains discretion which will always be exercised fairly.