

Application for the appointment of a Neighbour dispute specialist

General Information

The neighbour disputes service (NDS) is designed to help neighbours resolve a dispute without the need for intervention by the courts. The service generally lends itself to boundary matters. However, it is also available to provide an alternative method of resolving other issues that may arise between neighbours.

It focusses where differences of opinion clearly exist. Like any other alternative dispute resolution procedure it requires the co-operation of both parties, in that each must agree to use it. The main benefits include informality and privacy, and it offers a significantly quicker and cheaper alternative to the courts.

The service falls into three stages, parties will aim to reach a settlement at each stage. However, if agreement cannot be reached they will move onto the next stage:

Stage 1 – Expert evaluation - This involves the appointment of a chartered surveyor whose independence is assured. The surveyor is employed by both parties and RICS DRS will appoint him/her after making careful checks to ensure the surveyor has no personal or other interest in the outcome of the dispute. The surveyor will produce an expert evaluation with brief reasons in a written report. The evaluation will draw on written statements (if any) made by one or both parties and an inspection of the disputed issue if the surveyor feels it is required. The parties may settle at this stage, but if the dispute continues they can choose to move to stage two.

Stage 2 – Negotiation and compromise - This is not intended to be full-blown mediation, although surveyors appointed under the NDS have been trained in conciliation techniques. The surveyor will act as a facilitator in their attempts to obtain a settlement. Before any meeting is conducted both parties are invited to provide written statements giving individual perspectives on the current position. The objective is to identify the different needs of the neighbours and look at ways to break any deadlocks. If a compromise is not reached they move to stage three.

Stage 3 – Expert witness report – Stages one and two are intended to resolve disputes and prevent escalation to the courts. However, some matters may require referral to court. This stage is intended to help courts decide disputes and speed up the litigation process. The expert evaluation report, previously undertaken by the appointed surveyor, who is a professional in the field, can inform the court, reduce time spent on litigation, and help prevent the dispute escalating to higher courts.

Notes to consider before completing the application:

RICS DRS reserves the right to copy the application and/or any accompanying documentation to the responding party and/or representatives. This is on the basis that your application is accepted.

The application form is the contract between the applicant and the President/Chairman and we will rely entirely upon the information contained herein. The information submitted on this application is accepted as being accurate and complete. Neither RICS nor the appointed Independent Expert accepts liability in relation to the appointment if information provided is inaccurate or incomplete.

Your application will proceed on the basis that appointments are often made on behalf of the President/Chairman of RICS by one of the duly appointed agents.

Authority to appoint

Do you require an appointment by:

RICS President (England & Wales) RICS Chairman (Northern Ireland)

Is this a joint or unilateral application?

Joint

Unilateral

If this is a unilateral application, are the other party/parties aware of this contact with RICS?

Yes

No

Please note: Part of the process of an application includes RICS Dispute Resolution Services notifying all parties involved.

Information about the dispute

It is essential RICS receives sufficient information about the nature of the dispute to enable an appropriate NDS specialist to be identified and appointed. The specialist will require sufficient information to satisfy him/herself that the dispute is within the areas of his/her own normal professional expertise.

Please provide brief details of the nature of the dispute, to appoint a suitably qualified neighbour dispute specialist we need to know the issues in dispute (e.g a boundary dispute, right to light or right of way etc.) please also provide details of any relevant byelaw or legislative provision you are aware of:

How long has the dispute been in progress?

Have there been any previous attempts to negotiate a settlement of this dispute?

Yes

No

If yes, please provide details below:

Have litigation or arbitration proceedings commenced in respect of this dispute?

Yes

No

If yes, please provide details below:

Party details – Party one

The parties' representatives must be stated. Where a party is unrepresented, please ensure contact numbers and email addresses are included. RICS DRS will forward all relevant correspondence to them. Normally communications from DRS are sent by email. Therefore, it is important you provide email addresses.

Title:		
Surname:		
Forename(s):		
Telephone (home:)	Mobile:	
Email:		
Home address:		
Postcode:	County:	Country:

Party two

Title:		
Surname:		
Forename(s):		
Telephone (home:)	Mobile:	
Email:		
Home address:		
Postcode:	County:	Country:

Party one representative

Title:	
First name:	Last name:
Designation:	RICS membership Number: (if applicable)
Firm name:	
Address:	
Town/city:	Post code:
Telephone:	Mobile:
Direct line:	Email:

Party two representative

Title:	
First name:	Last name:
Designation:	RICS membership Number: (if applicable)
Firm name:	

Address:	
Town/city:	Post code:
Telephone:	Mobile:
Direct line:	Email:

Are there any other parties to this dispute?

Yes

No

If yes, please detail the parties below:

Party three

Title:

Surname:

Forename(s):

Telephone (home:)

Mobile:

Email:

Home address:

Postcode:

County:

Country:

Party four

Title:

Surname:

Forename(s):

Telephone (home:)

Mobile:

Email:

Home address:

Postcode:

County:

Country:

Professional background of the Neighbour dispute specialist

Please indicate succinctly any specific requirement or what qualities in your view should be taken into account when appointing a neighbour dispute specialist relating to the potential dispute resolver for example: (experience, qualifications, time restrictions or if the decision requires reasons).

(Please note: DRS will aim to give careful consideration to reasonable requests, but the president will reach his/her own discretion as to who is appointed.)

(If there are no requirements please state none):

Conflicts of interest

RICS will take reasonable steps to ensure that the appointed Independent Expert 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 dispute resolver would need to consider in their conflict of interest checks.

The dispute resolver is required to disclose involvement or potential conflicts of interest to RICS prior to nomination. RICS will never knowingly nominate a dispute resolver who has a conflict of interest.

If in your view there are any individuals 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 appointment process in its entirety, rendering any decision/award made unenforceable.

Name	Firm	Reason

Please note: while RICS will give careful considerations to any representations the approver will reach his/her own decision as to who is appointed.

How to pay:

RICS charges an administration fee of **£240.00** inclusive of VAT to make a nomination. This payment is non-refundable whether or not the appointment is made (e.g. if the matter is settled by agreement and the application is withdrawn). Parties are encouraged to share the cost of the application.

You can choose to pay by the following:

- Providing a cheque made payable to RICS. Please detail your name and postcode on the reverse so that the payment can be allocated.
- A card payment. One of our advisors will contact you to arrange payment. Please tick this box:

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.

Please see explanatory notes for further details on the fees of the appointed specialist.

Application submitted by:

We jointly agree to appoint a Neighbour Dispute Specialist through the RICS Neighbour Dispute Scheme.

Submitting this application form to RICS DRS confirms that you have read and understand the information contained in this application. Your application is accepted on this basis.

Neighbour signature: _____ Date: _____

Print name: _____

Neighbour signature: _____ Date: _____

Print name: _____

*(The signature of the responding party is only necessary if there is no other agreement between the parties and you are making a joint application giving the President or Chairman Power to appoint).

Please return the completed application form by email or post to:
RICS Dispute Resolution Services, 55 Colmore Row, Birmingham B3 2AA
Email: drs@rics.org Tel: +44(0)207 334 3806

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 suitability qualified dispute resolver who is free from conflicts of interest normally from the President/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.
- 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 DRS reserve the right to copy the application form and/or any accompanying documentation to the responding party and/or representatives. This is on the basis that your application is accepted. RICS by law is not required to provide a copy of the application form and correspondence to the non-applicant party. As a matter of good practice RICS will provide this to the non-applicant party on request.
- As a matter of policy RICS may forward the information contained in an application form and supplementary documentation in the case details, to the non-applicant party in dispute and/or the representatives. Details of the case will also be sent to prospective third parties to help them decide whether they can or cannot take on the appointment.
- If the dispute is resolved before the President/Chairman makes an appointment, you must notify RICS as soon as possible.
- If it is a unilateral appointment, RICS does not have the duty or power to interpret the document that gives the parties the right to apply for a dispute resolver to decide whether or not your application is valid.
- If it is a joint agreement between the parties, both parties (not their representatives) must sign the RICS application form to consent. If both parties do not sign RICS has no authority to appoint.
- RICS DRS acts in an administrative capacity and will make an appointment in accordance with your application. It is important that you check carefully to ensure that you have the right to make the application, and that your application is made in accordance with the requirements of the contract.
- Parties are reminded that by completing this application they may be jointly and severally liable, under the contract of statute, for payment of the dispute resolver's reasonable fees (including any abortive fees for any work undertaken if the matter is settled before a decision is given).
- Your application will be processed on the basis that that appointments are often made on behalf of the President/Chairman of RICS by one of his/her duly appointed agents.
- RICS DRS will not always seek comments from the parties on disclosures made by potential appointees. In some cases the President/Chairman may decline to appoint someone, even if they are satisfied that the potential dispute resolver has no conflicts of interest. Before an appointment is made RICS DRS will take into account a range of factors including representations made by both parties.

The Scheme

- The service has three distinct stages, each one is designed to resolve a dispute and prevent it escalating further
- The appointed specialist will make their own investigations and rely on market/professional knowledge and expertise to reach a decision. The parties may feel they can rely on this expertise and not instruct

their own Specialist, which will reduce costs. However, the scheme allows for these specialists to submit evidence if required, but the appointed specialist will not be bound to rely on this information.

Neighbour Dispute Scheme fees

- Unless otherwise agreed, the maximum fee payable to the specialist will be £2200 plus VAT, exclusive of any reasonable out of pocket expenses incurred.
- Fees are set and payable for each stage
- Responsibility for the specialists fees should be shared equally between the two neighbours

Details of the fees for each stage are below:

RICS Dispute Resolution appointment under the NDS	The administration charge for the appointment is £200 plus VAT made payable to RICS
Stage 1 only	£1,500 Plus VAT
Stage 1 & 2 only	£1950 Plus VAT
All three stages	£2200 Plus VAT