

Criteria for Inclusion on RICS Panels of Construction and Engineering Arbitrators

1.0 Introduction

- 1.1 RICS has two Panels of Construction and Engineering Arbitrators, referred to as the Select Panel and the Fast Track Panel.
- 1.2 Select Panel: This panel comprises arbitrators who are appointed to arbitrate construction and engineering disputes other than disputes coming within the scope of the Fast Track Panel.
- 1.3 Fast Track Panel: This panel comprises arbitrators who are appointed to arbitrate construction and engineering disputes under the Fast Track Arbitration Service.

2.0 Minimum criteria for inclusion on the Select Panel

- 2.1 The following are the minimum criteria for inclusion on the Select Panel:
 - a. The candidate will normally be expected to be a Fellow of the Chartered Institute of Arbitrators (Arbitrator Pathway) OR have passed the RICS Diploma in Arbitration; and
 - b. The candidate must have held his or her primary professional qualification for at least 10 years; and
 - c. The candidate must have substantial experience as a dispute resolver in construction and engineering disputes; and
 - d. The candidate must have complied with the relevant CPD requirements set out below.
- 2.2 *“The candidate will normally be expected to be a Fellow of the Chartered Institute of Arbitrators (Arbitrator Pathway) OR have passed the RICS Diploma in Arbitration”*
 - a. Candidates must provide a copy of their CI Arb Fellowship Certificate (Arbitrator Pathway); or
 - b. Candidates must provide the RICS Diploma in Arbitration certificate or provide details of candidate numbers to enable RICS to track records.
- 2.3 *“The candidate must have held his or her primary professional qualification for at least 10 years”*
 - a. Candidates must provide a copy of their certificate or other evidence of their professional qualification.

2.4 *“The candidate must have substantial experience as a dispute resolver in construction and engineering disputes”*

- a. It is up to the candidate to demonstrate that he or she has “...*substantial experience as a dispute resolver in construction and engineering disputes...*”, however as a minimum candidates will be expected to:-
 - i. Have acted as a dispute resolver in construction and engineering disputes (arbitrator, construction adjudicator, dispute board member or expert determiner) on a minimum of 30 occasions in the past five years where the process ended in an award (arbitration), decision (construction adjudication) recommendation/decision (dispute board) or determination (expert determination). **A minimum of three of these appointments must have been as arbitrator (domestic or international) and at least one of the three awards must have been a reasoned award.** For the avoidance of doubt, specific industry arbitration schemes (e.g. travel schemes) do not count, and nor do non-statutory consumer adjudication schemes such as the JCT Homeowner, FMB and tenancy deposit schemes; and
 - ii. Held oral hearings/meetings in the above proceedings totalling not less than 10 days; and
 - iii. Be on one or more of the panels of arbitrators, adjudicators, dispute board members and/or or expert determiners maintained by the professional bodies.
- b. Evidence in support of “...*substantial experience as a dispute resolver in construction and engineering disputes...*” must include the following:-
 - i. A brief description of at least 30 appointments as a dispute resolver over the past five years, **including a minimum of three arbitration appointments for which awards have been produced.** For each appointment the candidate must include: the date and type of the appointment (arbitrator, adjudicator, etc.), a description of the dispute, the form of contract, the directions, decisions, awards, etc. that he or she has issued, etc.; and
 - ii. Copies of the following, suitably anonymised: [1] one reasoned arbitration award; [2] one set of arbitral directions; and [3] a total of two of one or more of the following: an award (in addition to the reasoned award referred to at [1]), a decision, a recommendation/decision and/or a determination; and
 - iii. A brief description of oral hearings/meetings held totalling not less than 10 days; and
 - iv. Details of panel memberships and contact details for at least one panel manager who can provide a reference; and
 - v. Contact details of at least two parties and/or representatives who can provide a reference.

2.5 *“The candidate must have complied with the relevant CPD requirements”*

- a. The candidate must provide records of at least 40 hours per annum over the previous two years in any of the following categories, counting a maximum of 20 hours in any one category:
 - i. Acting as a party representative in third party proceedings;
 - ii. Acting as an arbitrator or other dispute resolver;
 - iii. Attending or presenting at relevant events.

3.0 Minimum criteria for inclusion on the Fast Track Panel

3.1 The following are the minimum criteria for inclusion on the Fast Track Panel:

- a. The candidate will normally be expected to be a Fellow of the Chartered Institute of Arbitrators (Arbitrator Pathway) OR have passed the RICS Diploma in Arbitration; and
- b. The candidate must have held his or her primary professional qualification for at least 10 years; and
- c. The candidate must have significant experience as a dispute resolver in construction and engineering disputes; and
- d. The candidate must have complied with the relevant CPD requirements set out below.

3.2 *“The candidate will normally be expected to be a Fellow of the Chartered Institute of Arbitrators (Arbitrator Pathway) OR have passed the RICS Diploma in Arbitration”*

- a. Candidates must provide a copy of their CI Arb Fellowship Certificate (Arbitrator Pathway); or
- b. Candidates must provide the RICS Diploma in Arbitration certificate or provide details of candidate numbers to enable RICS to track records.

3.3 *“The candidate must have held his or her primary professional qualification for at least 10 years”*

Candidates must provide a copy of their certificate or other evidence of their professional qualification.

3.4 *“The candidate must have significant experience as a dispute resolver in construction and engineering disputes”*

- a. It is up to the candidate to demonstrate that he or she has “...*significant experience as a dispute resolver in construction and engineering disputes...*”, however as a minimum candidates will be expected to:-
 - i. Have acted as a dispute resolver in construction and engineering disputes (arbitrator, construction adjudicator, dispute board member or expert determiner) on a minimum of 20 occasions in the past five years where the

process ended in an award (arbitration), decision (construction adjudication) recommendation/decision (dispute board) or determination (expert determination). For the avoidance of doubt, specific industry arbitration schemes (e.g. travel schemes) do not count, and nor do non-statutory consumer adjudication schemes such as the JCT Homeowner, FMB and tenancy deposit schemes; and

- ii. Held oral hearings/meetings in the above proceedings totalling not less than five days; and
 - iii. Be on one or more of the panels of arbitrators, adjudicators, dispute board members and/or or expert determiners maintained by the professional bodies.
- b. Evidence in support of “...*significant experience as a dispute resolver in construction and engineering disputes...*” must include the following:-
- i. A brief description of at least 20 appointments as a dispute resolver over the past five years. For each appointment the candidate must include: the date and type of the appointment (arbitrator, adjudicator, etc.), a description of the dispute, the form of contract, the directions, decisions, awards, etc. that he or she has issued, etc.; and
 - ii. Copies of the following, suitably anonymised: [1] one set of directions; and [2] a total of two of one or more of the following: an award, a decision, a recommendation/decision and/or a determination; and
 - iii. A brief description of oral hearings/meetings held totalling not less than five days; and
 - iv. Details of panel memberships and contact details for at least one panel manager who can provide a reference; and
 - v. Contact details of at least two parties and/or representatives who can provide a reference.

3.5 “The candidate must have complied with the relevant CPD requirements”

- a. The candidate must provide records of at least 40 hours per annum over the previous two years in any of the following categories, counting a maximum of 20 hours in any one category:
 - i. Acting as a party representative in third party proceedings;
 - ii. Acting as an arbitrator or other dispute resolver;
 - iii. Attending or presenting at relevant events.

4.0 Interview Selection

- 4.1 When RICS opens the panels to new members, candidates who comply with the minimum criteria may apply to be interviewed for inclusion on the relevant panel. Successful candidates will be invited to join either the Select Panel or the Fast Track Panel, but not both panels.

- 4.2 Candidates will be required to send to RICS:
- a. A completed skills form (DRS 12CA); and
 - b. Evidence of compliance with the relevant minimum criteria set out above.
- 4.3 A committee of at least three senior members of the construction and engineering industry with substantial experience of arbitration (“the Selection Committee”) will consider the applications and select candidates to be invited for interview. The selection process will be based on the following criteria:
- a. Compliance with the relevant minimum criteria set out above;
 - b. Evidence in the application form that:
 - i. The candidate’s appropriate skill areas have been identified; and
 - ii. The candidate is recognised in the market place as experienced in all areas set out in the skills form.
 - c. The overall suitability of the candidate including:-
 - i. The candidate’s standing in the industry; and
 - ii. The standard and professionalism of the documentation and communications submitted with the candidate’s application; and
 - iii. Any complaints against the candidate upheld by RICS; and
 - iv. Any known judicial criticism or comment.
 - d. The suitability of the candidate compared to other candidates; and
 - e. The need for panel members of the particular professional background of the candidate; and
 - f. The need for panel members in the particular geographical location of the candidate.
- 4.4 The Selection Committee reserves the right to make any decision in its absolute discretion and shall not be required to provide reasons. Candidates not selected for interview will have no right of appeal.

5.0 Interview

- 5.1 Candidates invited to apply for interview will be required to pay an interview fee, presently set at £450.00 plus VAT.
- 5.2 Written references will have been obtained by RICS prior to the interview and will be forwarded to the Interview Board. A member of the Interview Board will usually speak to the referees prior to the interview.
- 5.3 The Interview Board will comprise a chair, one assistant who will normally be a member of the Select Arbitration Panel, and one assistant who will be a lay member. The

interview will be a rigorous test of the candidate's suitability as a construction and engineering arbitrator. Candidates will be questioned on their submissions demonstrating they comply with the minimum criteria set out above, as well as the following:

- a. Knowledge and understanding of the RICS Customer Charter; and
- b. Knowledge and understanding of involvements/conflicts/bias and perceived bias; and
- c. Managing the process, including standard of documentation; and
- d. Knowledge, application and understanding of the law, including dealing with jurisdictional challenges; and
- e. Preparing an award, including identifying the issues and analytical reasoning; and
- f. Knowledge and understanding of costs; and
- g. CPD/relevant experience.

4.9 The Interview Board may also consider overall suitability including the ability and aptitude of the candidate as assessed at the interview and the candidate's standing in the industry.

6.0 Possible outcomes of the interview process

- 6.1 Pass, Select Arbitration Panel: the candidate is eligible for admission onto the Select Panel.
- 6.2 Pass, Fast Track Arbitration Panel: the candidate is eligible for admission onto the Fast Track Panel.
- 6.3 Fail: The candidate does not meet the relevant criteria for either panel or is considered otherwise unsuitable. Feedback will be given.
- 6.4 Candidates who pass will be asked to sign the RICS Service Level Agreement and invited to join either the Select Panel or the Fast Track Panel.
- 6.5 Arbitrators on the Fast Track Panel who, since joining this panel, have gained substantial experience of acting as a construction and engineering arbitrator may apply for admission onto the Select Panel. Such applications will only be considered when RICS opens the Select Panel to new members.

7.0 Appeals

- 7.1 Candidates who fail the interview will have a right of appeal. The following procedure will apply:
 - a. Any appeal must be made in writing within 28 days of the candidate receiving the feedback advising why he or she failed the interview. Failure to comply with this requirement will result in a loss of right to appeal;

- b. The appeal must include reasons why the appellant considers the original Interview Board's decision is incorrect;
- c. An appeal interview will normally take place within two months of receipt of the appeal;
- d. The Appeal Board will comprise an independent member (who will be Chair), a member of the Select Arbitration Panel and a professional from the industry who is not a panel member;
- e. The Appeal Board will be given the documentation from the original interview, including the Interview Board's reasons for deciding the candidate failed;
- f. Applicants may introduce any new documents to support their appeal, limited to addressing the reasons for failure. The new material will add to the existing material but will not replace it.
- g. The Appeal Board will make a recommendation to RICS to either confirm or vary the decision of the Interview Board. The Appeal Board may also suggest a second appeal interview, subject to the candidate first obtaining more experience, further skills and/or undergoing mentoring.
- h. Candidates who fail the appeal process will have no further right of appeal.

8.0 Re-Assessment

- 8.1 Continued listing on the Select Panel and Fast Track Panel is subject to passing re-assessments carried out at intervals of not less than three years.

RICS reserves the right to amend these criteria from time to time. In that event details will be notified to candidates.

RICS may implement charges for training and/or panel membership.