

DISPUTE RESOLUTION SERVICE



RICS Simplified Arbitration Service

A simple and cost effective way
to resolve disputes in the rural
sector



Introduction

RICS has developed a low-cost, quick and easy arbitration procedure to help rural landlords and tenants resolve disputes.

For many years, arbitration has been the normal way to resolve disputes between rural landlords and tenants. The process is underpinned by the Agricultural Holdings Act 1986 (AHA 86) and the Agricultural Tenancies Act 1995 (ATA 95). However, the way arbitrations have been conducted in recent times has led to increasing criticism from landlords and tenants, who feel it is becoming too slow and expensive.

Under the Agriculture Act 2020 (AA 2020) tenants can now request their landlord's consent for variation of the terms of their tenancy to enable them to access sources of funding and/or to comply with a statutory duty. The AA 2020 also provides a mechanism for resolving disputes that may arise following the making of such a request. This is in addition to established rights to dispute resolution of disagreements about rents and other matters that have existed since the enactment of the AHA 86.

If these matters arise the tenant or landlord can apply for a dispute resolver (an arbitrator, mediator or independent expert) to be appointed to help resolve the dispute.

RICS has developed the Simplified Arbitration Service (SAS) to give parties a more simple and cost-effective way to settle disputes. This new service is designed to be a cheaper and more informal method for determining rent and other disputes than has been applied in recent times through arbitration under AHA 86 and ATA 95.

SAS does not contravene AHA 86 or ATA 95. It is designed to support the legitimate right of parties to use arbitration, by providing a structure and timetable that ensures disputes are dealt with quickly and inexpensively.

SAS is an alternative to the current arbitration process, which parties can choose to use, or not.

To address particular concerns about delays and costs resulting from the way some parties conduct themselves in arbitrations, SAS provides a structure and defined timetable. This gives arbitrators greater ability to deal with parties whose actions, or inaction, might add to delay and increased costs.



Why use the RICS Simplified Arbitration Service (SAS)?

The RICS Simplified Arbitration Service is:

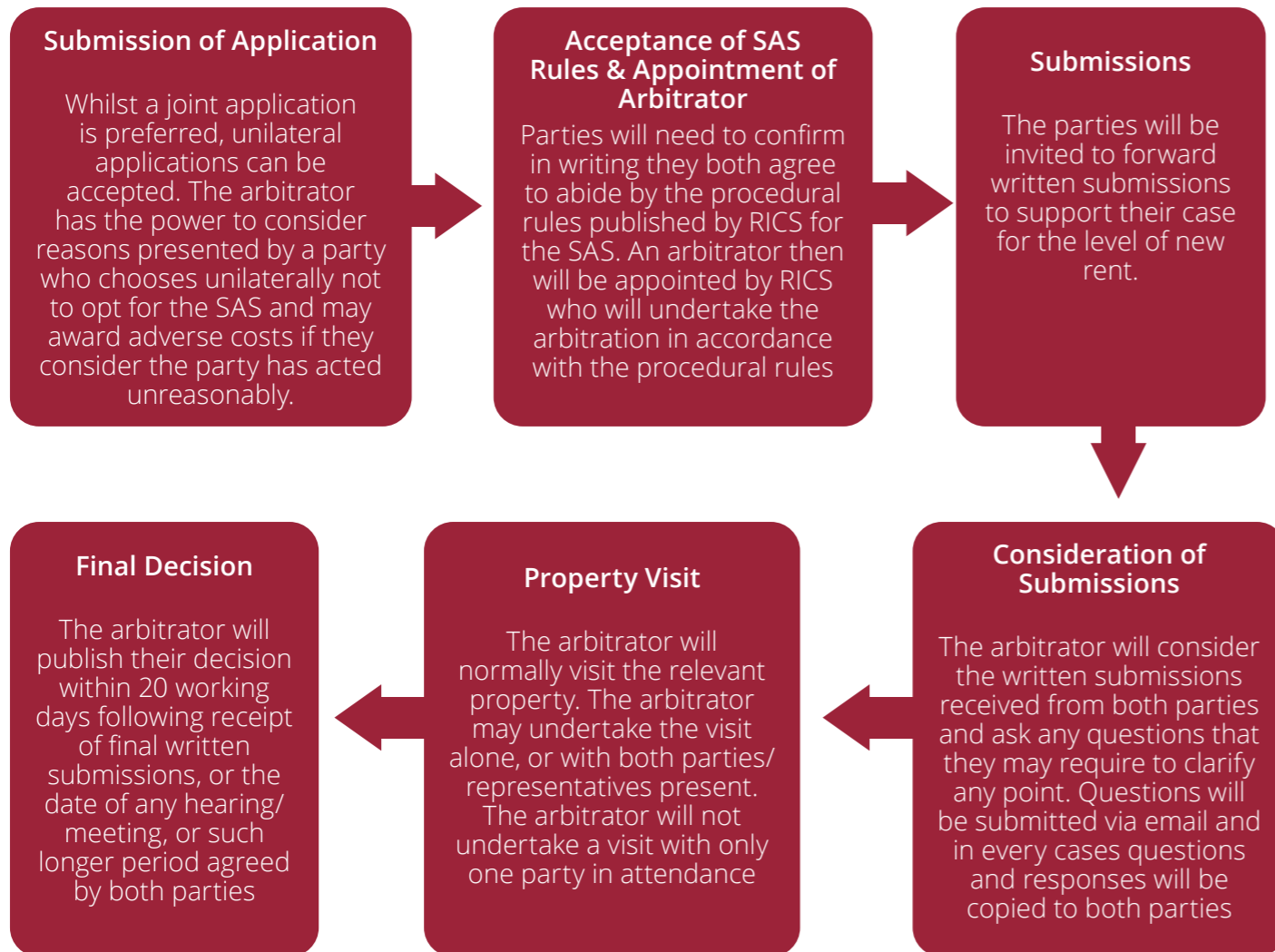
- a much more relaxed and informal procedure for dealing with disputes compared to courts and traditional approaches to arbitration.
- an uncomplicated and straightforward process, which still allows both parties a reasonable opportunity to have their say.
- speedy, transparent and low-priced. The parties will know how long it is going to take to get a decision, and how much they will have to pay.

When appointing arbitrators, RICS undertake robust checks to ensure that those we appoint are:

- Suitably qualified in the subject matter which is in dispute.
- Independent of the parties and have no conflicts of interest.
- Knowledgeable on the law and practice of arbitration.



The Process



Submissions

The Arbitrator will set the number and type of written submissions which can be submitted. These can include; statements of case and skeleton arguments and then rebuttal, lists of comparables, lists of agreed facts, and lists of non-agreed facts.

Meetings/Hearings

Unless both parties agree otherwise, the arbitrator will normally undertake the rest of the arbitration on a documents only basis. They will not hold a meeting/hearing unless both parties agree otherwise, and are advised of additional costs that may be incurred. Any meeting/hearing may be held at the arbitrator's offices or, if both parties agree, at the property which is the subject of the rent review.

External Professionals and Experts

The parties are free to engage surveyors or other professionals, at their own cost, to prepare evidence, make submissions to the arbitrator and advocate on their behalf.

The arbitrator will use his/her own discretion to decide whether there is any need for expert opinion evidence. (The default position is that expert evidence will only be required if issues are raised, or evidence is submitted on any matter which falls outside the arbitrator's personal knowledge and experience, and expert evidence is required by the arbitrator to help inform his/her decision on a substantive matter in the dispute).

Any expert(s) attending the meeting/hearing will be examined by the arbitrator. There will be no process of formal examination and cross-examination of experts by professional representatives acting for the parties.

Fees

There is an application fee of £195 for the appointment of an arbitrator. This is payable to RICS by either party.

The arbitrator will only charge for 3 days work at £1000 per day (plus VAT), as long as the parties abide by the procedural rules and any directions made by the arbitrator.

If the parties choose to have a hearing/meeting, the arbitrator may charge an additional fee up to £1000 (plus VAT).

The costs of the arbitration will be shared equally by the parties (i.e. £1500 per party, or £2000 (plus VAT) if there is a meeting/hearing) and each party will pay their own costs regardless of the outcome.

Delivering confidence

We are RICS. Everything we do is designed to effect positive change in the built and natural environments. Through our respected global standards, leading professional progression and our trusted data and insight, we promote and enforce the highest professional standards in the development and management of land, real estate, construction and infrastructure. Our work with others provides a foundation for confident markets, pioneers better places to live and work and is a force for positive social impact.

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