

CRITERIA FOR INCLUSION

Criteria for Inclusion on the President's Panel of Independent Experts

RICS Dispute Resolution Service



These criteria focus on the knowledge, skills, experience, and training required to undertake the role of a commercial independent expert and to be included on the RICS President's Panel in this capacity, and to be eligible for appointments by RICS DRS.

Criteria

In order to be considered for inclusion on the Panel of Independent Experts, you must satisfy the following entry requirements:

- Minimum 10 years post qualification experience in primary profession
- Be able to demonstrate active involvement in dispute resolution as either advocate or dispute resolver
- Recognition by the market, as reflected in your referees' reports, of your active involvement and expertise in your sphere of professional practice
- Attendance at and successful completion of the Independent Expert Training Course including the associated written assignment
- Compliance with CPD requirements of your principal professional body/bodies in the last three calendar years
- Successful completion of the online RICS ethics test: DRS Professional Ethics and the Diversity and Inclusion e-learning module
- Successful completion of the panel assessment interview
- Payment of the applicable fee

Guidance to the criteria

Independent Expert Training Course

Before the assessment interview, all prospective panellists must attend in person and successfully complete the Independent Expert Training Course. The training consists of a two-day course and is run only as a part of the recruitment process. The course covers areas such as: how to respond to DRS' invitation to act, involvements and conflict of interest, the difference between independent expert and arbitrator, the contract/lease and the expert's authority, procedural matters, the role of expert witnesses and expert's own enquiries, reasoned determination, how to deal with legal points, dealing with the parties, Privilege and Without Prejudice correspondence, form and content of the determination, jurisdictional

challenges, negligence, fees, costs, calderbanks etc. At the end of the training course, you will be given an assignment. The assignment helps DRS to test whether you understood the topics discussed during the course. For example, you may be given a scenario and asked to respond to DRS' invitation explaining why you would or would not accept the invitation to act, whether you would disclose any involvements and why etc. Candidates who successfully complete the assignment will be invited to a panel interview.

Documentation

Prior to the interview DRS will need:

- A completed application form
- Professional references
- A summary of recent experience
- A draft of procedural instructions that you intend to use when acting as independent expert
- Evidence of compliance with CPD requirements of your principal professional body/bodies in the last three calendar years
- Evidence of successful completion of the online RICS Professionalism Module and of successful completion of the Diversity and Inclusion e-learning
- The appropriate fee

Application form

Before attending the Independent Expert Training Course, you will be asked to send to DRS your application. In the application form, you should indicate your skills, geographic coverage, the value, complexity and types of disputes in which you submit you are qualified to act as independent expert. Your application form will be initially reviewed by DRS, taking into account the current or anticipated shortage of independent experts with specific skills, experience, and/or in particular geographical areas.

After your successful completion of the training course, the application will be provided to the interview board and during the interview it will help them assess whether you have identified your skills correctly and whether the skills you list are commensurate with your experience in practice. It should be clear from the information provided that your professional knowledge and experience continues to be recognised in the market and is such as to allow RICS to hold you out as an expert in your field of primary professional practice as well as being able to

competently discharge the role of an independent expert. You should only include skills in the areas where you wish RICS to consider you for appointments as independent expert.

The interview board will have a discussion with you to establish that:

- You have identified appropriate skills in the field of expert determinations;
- You are recognised in the marketplace as experienced in all areas set out in your application form.

Professional references

Your application form must include contact details and signatures of two referees who can support your application. Your referees must have a significant standing in the dispute resolution field but cannot be from your own firm. DRS will obtain written references prior to the interview and will forward these to the interview board. The referees will be asked to comment on your standing in the profession, your knowledge, expertise and experience as independent expert. A member of the interview panel may speak to the referees prior to the interview. RICS also reserves the right to make wider enquiries among your colleagues or clients etc where it regards this as appropriate.

Procedural instructions

You will need to submit a draft of procedural instructions that you intent to use when acting as Independent expert. This topic will be discussed during the training course. Additional useful information can also be found here:

[Surveyors Acting as Independent Experts in Commercial Property Rent Reviews, 9th edition \(rics.org\)](https://www.rics.org/insights/articles/2017/07/surveyors-acting-as-independent-experts-in-commercial-property-rent-reviews-9th-edition)

CPD

CPD is important for keeping up to date with practice and procedure. During your initial assessment to join the panel, you should be able to demonstrate compliance with CPD requirements of your principal professional body/bodies in the last three full calendar years. You may also be asked to provide information about your CPD activities in the current calendar year. The interview board will discuss your CPD records and their relevance with you.

Your CPD records should include breakdown of your CPD and should cover CPD relevant to your field of expertise as well as the role of a party representative or a dispute resolver.

CPD records should be spread over the following areas: acting as a party representative in third party proceedings; acting as independent expert or other dispute resolver; attending or presenting at relevant events, attending workshop type events; private study, etc.

(Please note: Copies of CPD records, including the RICS online records, must be provided with dispute resolution matters highlighted. RICS members can access and download their RICS CPD from their on-line records at www.rics.org/cpd)

Once you join the President's Panel of Independent Experts, in addition to your 20 hours of CPD as a member of RICS, you will be required to demonstrate a minimum of additional **20 hours** of CPD per annum that is relevant to Dispute Resolution.

Summary of relevant experience

You will need to provide a brief summary of your working circumstances and type of work you dealt with over the last three years. For details, please see Appendix 1.

RICS Professionalism Module and Diversity and Inclusion e-learning

After the appropriate fee has been paid and after successful completion of the training course, you will be enrolled onto the e-learning modules and send a link to access the modules free of charge. Prior to your interview, you will need to send a copy of the certificates you receive after successful completion of the modules to DRS. (If you completed the courses in the last three years, you do not have to complete them again. We will accept certificates that are less than three years old.)

Panel interview

During the panel interview, the interview board will ask probing questions and test your knowledge on inter alia:

Independent Expert Training Course

The interview board will be provided with a copy of your assignment and the feedback you receive. The assessors may discuss with you your answers in more detail, in particular, your answers to the questions which achieved lower marks.

RICS professional standards

You must be able to demonstrate that you are familiar with the applicable RICS professional standards such as *Conflicts of Interest for Members Acting as Dispute Resolvers*, *Surveyors Acting as Independent Experts in commercial Property Rent Reviews*, *Independent Expert Determination*, *Surveyors Acting as Advocates* etc. (RICS professional standards are available on [Dispute Resolution Standards \(rics.org\)](https://www.rics.org/standards))

Knowledge and understanding of involvements/conflicts/bias and perceived bias

You must be able to:

- demonstrate an understanding of involvement;
- explain when an involvement becomes a conflict;
- demonstrate that you are aware of the risks of both real and apparent bias and the steps that could be taken to avoid reasonably foreseeable difficulties;
- understand the need to operate within the boundaries of natural justice, commensurate with the process of expert determination. There must be an understanding of the overall importance of fairness in allowing the parties to present their case.

Managing the process, including standard documentation

You must be able to demonstrate the ability to:

- manage the expert determination in a transparent, efficient and expedient manner;
- control the process, apply judgmental skills and produce appropriate documentation throughout the process;
- and have sufficient standing, gravitas and flexibility of attitude to manage the process (including hearing if appropriate).

Knowledge, application and understanding of the law including dealing with jurisdictional challenges

You must:

- have the ability to deal effectively with jurisdictional problems and challenges;
- have a clear understanding of the criteria to be considered when determining whether and how to proceed and the need to clearly communicate to the parties any jurisdiction determination;

- be aware of relevant statutes and caselaw, particularly in respect of contract, evidence and legislation sufficient to understand the context of legal arguments, so that a rational, reasoned decision can be made.

Determination, including identifying the issues and analytical reasoning

You must be able to demonstrate the ability to:

- identify, express and analyse the issues and sub-issues that need to be considered in reaching a decision;
- apply judgmental skills throughout the process;
- decide when reasoned determination can be given;
- provide concise, clear and logical reasons for your decision;
- communicate in a structured, fluent and logical manner.

Knowledge and understanding of costs

You must be familiar with the general principles of deciding costs including Calderbank offers and the principle of 'near misses'.

General

The interview board will also consider your overall suitability. This will include:

- your ability and aptitude;
- the standard and professionalism of any documentation and communications;
- any upheld RICS complaints against you;
- any judicial criticism or comment;
- any disclosure made in your application form.

Please be aware that RICS DRS reserves the right to review and decline applications where a concerning disclosure has been made.

For the possible outcomes of the assessment and other information about the panel interview, please refer to the RICS Interview Guide for Candidates available from DRS or on rics.org/drs.

All panellists must sign and comply with the Service Level Agreement between DRS and the panellist. A copy is available from DRS upon request.

Reassessment

To remain on the panel, you will have to undergo regular reassessments. For further information about reassessments, please refer to the Criteria for Reassessment.

Please note:

Joining the President's Panel as independent expert will make you eligible for appointments by RICS DRS but it is not a guarantee that you will receive appointments from RICS.

These criteria are monitored and their effectiveness is reviewed on regular basis. DRS reserves the right to update/modify the criteria at any time.

For further information contact

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Appendix A

Summary of Relevant Experience for inclusion on RICS Panel of Independent Experts and/or Arbitrators.

The feedback received from customers of DRS has emphasised the importance of appointees, particularly independent experts, being actively involved in the market place. Customers who ask us to appoint a third party expect appointees to not only have the technical skills to carry out a third-party appointment, but also to be recognised in the market place as being actively involved in their skill or geographical area.

Candidates who are invited to attend a training/assessment course must successfully complete both the training course and subsequent interview. The interview panel will be testing that the candidate not only has technical ability to act as a third party but also has the appropriate aptitude.

Candidates who wish to be considered for a panel appointment should provide a brief summary of their working circumstances and type of work dealt with over the previous two years. While mention can be given to work received from the DRS or other RICS panels the emphasis will be on the work which has been dealt with as part of the surveyor's day to day work particularly that which demonstrates active involvement in the market. The summary, typically not more than around 500 words (although more information can be provided if the surveyor requires) should cover the following topics:

- (1) A comment on your role in the organisation you work for, i.e. sole practitioner, director, Consultant or other (what your title or job description is).
- (2) A brief explanation of your role in the context of the organisation you work for e.g. perhaps you are the head of commercial office, which is part of a larger organisation with offices in different locations across the country dealing with a variety of matters ranging from residential to agricultural work or consultant working from the office for one day a week.
- (3) Independent experts will be expected to demonstrate continuing (rather than historic) participation in his/her particular marketplace relevant to the stated skills given on the application form.

- (4) Reference to completed work over the previous 2 years. Ideally the work should include involvement with acquisitions and lettings and/or rental negotiations such as rent reviews and lease renewals. A rough indication of the number of such negotiations dealt with should be given with a few examples:

e.g. dealt with rent reviews and lease renewals on parade of eight shops in Ripon on behalf of landlord and retained by Smith Shoes to deal with their professional work throughout Yorkshire. Six rent reviews dealt with in various towns on shops with the rentals varying from £10,000 per annum exclusive to £35,000 per annum exclusive.
- (5) Reference should also be made to other work undertaken such as rating, investment purchases or sales and valuations. While the emphasis should be on transactional work, information on work done in these other sectors also give a good indication of the surveyor's awareness of general rental values in his/her particular marketplace.
- (6) It is quite possible that you may have an involvement in a market, e.g. supermarkets, by virtue of development rather than transactional work. However, as this can take a number of years to come into fruition it is quite possible that no actual lettings have been completed by you within the time period considered. In this instance the background and preparation work may still be of relevance.
- (7) Whilst *personal* experience is paramount, it may also be relevant to provide information about the extent to which your personal experience is enhanced by support from professional colleagues working alongside you and/or within your firm. For example, it is possible you will be regularly dealing with rent reviews, purchases, arbitrations (e.g. through DRS appointments), but have less day-to-day involvement in lettings.
- (8) Client Confidentiality is obviously appreciated but indications of the size of rents dealt with can be given, e.g. "four shops in a parade of around £12,500 per annum exclusive each" or a "rent review on a small supermarket let to Lidl of around 15,000ft²".
- (9) Submissions made by you in connection with the above will also be considered in conjunction with the marketing material including websites which advertise your or your firm's expertise. However, where a firm's website refers solely to their expertise in one specific field, the surveyor will be expected to justify why s/he should still be viewed as having expertise on other areas included on their application form. While this may be interesting and relevant background information, obviously it has to be stressed that the nomination of an independent expert is a personal appointment rather than a corporate one.

- (10) In addition to the personal involvement in the market concerned, you will be expected to have complied with RICS Regulations relating to CPD and provide details in accordance with the guidelines.

Example of a Typical Summary

My name is Jonathan Withers FRICS and I am Director of the Skelmersdale office of Ramsbottom Price where I am based five days a week. My company has four offices overall, three of which deal with residential and my two colleagues and I deal with the commercial side of the business.

I deal with a wide variety of commercial work involving retail office and industrial premises although my firm's traditional strength has been in the retail sector. This continues to this day with approximately 70% of our income coming from this sector, 20% from office work, 5% from industrial agency and the rest valuation work.

Over the previous 18 months I have deal with the letting and acquisition of approximately 10 properties throughout Lancashire and Yorkshire ranging from a prime commercial property in Commercial Street, Leeds (rent £95,000 per annum exclusive) to an extension of an existing unit in secondary Selby where the rent was £5,000 per annum exclusive. In addition to this I have dealt with some 25 rent reviews and lease renewals on retail property with the largest shop being an £85,000 per annum exclusive lease renewal in the Merion Centre.

I have dealt with five rating appeals on behalf of clients and I am currently involved in a compulsory purchase situation where my client's property is being acquired by the Local Authority for a road extension.

I have dealt with two Expert Determinations which have been referred to me by agreement of the parties, details can be provided if requested and have made six Awards as Arbitrator, having received approximately 20 invitations to act from DRS. I have turned down five instructions as Arbitrator from the DRS due to conflicts of interest.

While I have historically dealt with rent reviews on small convenience stores I have not personally dealt with any rent review or letting work on these premises over the time period being considered. However, my colleague John Barnaby is retained by Scratch Book Stores to acquire units throughout Yorkshire on their behalf and he has completed approximately 25 deals on stores of between 2,000ft² to 3,500ft² and disposed of five stores due to relocation.

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I attach herewith some corporate marketing information which we send to our clients which will give you a further idea of the work which my company and I personally, deal with and you are welcome to consider the contents of the firm's website which is

www.brillianturveyors.com.