

RICS Dispute Resolution Service

Criteria for Reassessment of Rural Arbitrators on the President's Panel



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These criteria focus on the knowledge, skills, experience and qualifications required to undertake the role of an arbitrator and remain on the RICS President's Panel in this capacity, and so to be eligible for appointments by RICS DRS.

In remain on the Panel of Rural Arbitrators, you must satisfy the following requirements:

- Recognition in the market, as reflected in your skills form and referees' reports, of your active involvement and expertise in your sphere of professional practice
- Minimum of 40 hours of relevant CPD per calendar year in the last five years
- Successful completion of the reassessment interview
- Payment of the fee £450+VAT

The standard of performance will be assessed by reference to the abilities and qualities that would normally be expected of a member on the RICS panel. The test is the standard of the ordinary skilled man exercising and professing to have that special skill.

Guidance to the criteria

Documentation

Prior to the interview you will need to send to DRS:

- Completed skills form
- Professional references
- Set of Directions
- A reasoned Award (preferably the one following the Directions)
- A Costs Award
- Summary of relevant experience
- Evidence of compliance with CPD requirements for previous five calendar years with dispute resolution topics highlighted
- The appropriate fee

RICS skills form

In the skills 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 an arbitrator. Your skills form 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 is 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 arbitrator. You should only include only skills in the areas where you wish the President to consider you for appointments as an arbitrator.

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

- You have identified appropriate skills in the field of arbitration;
- You are recognised in the market place as experienced in all areas set out in your skills form.

Professional references

Your skills 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 an arbitrator. 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.

Award and Costs Award

You will need to submit one reasoned Award and one Award on Costs that you prepared in the last five years. (Please note, we cannot accept a draft Award from a live case). If you have not prepped a reasoned Award or Costs Award in the last five years, you will be required to critique a mock award provided by RICS.

CPD

You will need to submit evidence that in the last five calendar years, you complied with the requirement to undertake 40 hours of CPD per calendar year. In addition to this, you may be asked to submit records of any CPD that you undertook during the year when you are being assessed.

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 an arbitrator.

For the purposes of the panel reassessment, this should include and be spread over the following areas: acting as a party representative in third party proceedings; acting as an arbitrator or other dispute resolver; attending or presenting at relevant events (e.g. Arbrix); attending workshop type events; private study, etc.

The interview board will discuss your CPD records and their relevance with you.

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

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 two years. For details please see Appendix 1.

Assessment interview

The interview board will refer to your skills form, assignment, awards and your other submissions and have a discussion with you and question your knowledge on *inter alia*:

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

You must be able to:

- able to demonstrate an understanding of involvement;
- able to explain when an involvement becomes a conflict;
- 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 arbitration. 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 arbitration 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 a 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.

Award, 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;
- 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.

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 skills form.

For the possible outcomes of the assessment and other information about the 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.

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 1

Summary of relevant experience for inclusion on the President's Panel of Arbitrators

The feedback received from customers of DRS has emphasised the importance of appointees, being actively involved in the market place. Customers who ask us to appoint a third party expect the appointee to not only have the technical skills to carry out a third party appointment, but also to be recognised in the market place as someone actively involved in their skill or geographical area. 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 his/her 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) Arbitrators will be expected to demonstrate continuing (rather than historic) participation in his particular market place relevant to the stated skills given on the Skills 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 market place.
- (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 point out what professional colleagues have also been dealing with in the surveyor's office or firm. For example, it is possible that a surveyor will have dealt with approximately 40 rent reviews, three investment purchases, five rating appeals, four completed Determination through DRS appointments, but no lettings. In this instance it may be relevant that his two colleagues in the Bradford office deal exclusively with retail agency throughout Yorkshire.
- (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 his/her skills form. While this may be interesting and relevant background information, obviously it has to be stressed that the nomination of an arbitrator 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 Summary of relevant experience

My name is Jonathan Withers FRICS and I am Director in Charge 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 I have received approximately 15 invitations to act as independent expert from DRS but have turned down 10 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.

I attach herewith come 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.