

RICS Dispute Resolution Service (DRS)

These notes are intended to help those applying to RICS for the appointment of a dispute resolver to complete the relevant application form correctly. These notes are for information only.

General

1. All references in this document to “appointing” and “appointment” of dispute resolvers also applies where dispute resolvers are “nominated”, “referred” or such term as may be set out in the contract, lease, legislation, order or other document which gives the applicant the right to apply for an appointment.
2. The appointment of dispute resolvers is administered by the [RICS Dispute Resolution Service](#) (DRS).
3. It is the responsibility of the party completing the application form to ensure that the information they provide is correct and that all sections of the application form are completed in full.
4. DRS is not required to provide a copy of the application form and/or related correspondence to the non-applicant party (and/or their representative). However, as a matter of courtesy and good practice, DRS will normally do so and at that time invite them to notify DRS if they believe the information set out in the application form is inaccurate.
5. If the dispute is resolved before RICS makes an appointment, the applicant must notify DRS as soon as possible.
6. DRS owes a duty to both parties in a dispute to act independently and transparently when appointing a dispute resolver.

Administering the appointment process

7. Upon receipt of a completed application form, DRS will commence the process to identify and appoint a suitable dispute resolver.
8. A copy of a completed application form (and additional documents where required) may be sent by DRS to one or more dispute resolvers being considered for the appointment to help them decide whether they can accept the appointment.

9. DRS will carry out checks to ensure a selected dispute resolver is suitably qualified, is willing and able to act, and will act impartially. Once satisfied, DRS will arrange for the dispute resolver's appointment to be signed off on behalf of the RICS President/Chair.
10. The parties and the dispute resolver will then be formally notified of the appointment usually by email.
11. Dispute resolvers are normally appointed from the RICS panel of dispute resolvers. However, DRS has complete discretion as to who is appointed in individual cases, subject to taking reasonable care to ensure any appointee is suitably qualified and independent. This discretion will always be exercised fairly and in the interests of both parties.

Disclosure of information by dispute resolver

12. In some cases, a dispute resolver being considered for an appointment may disclose information to DRS which will preclude them from being appointed. Such information may include, for example, current or recent involvement with the parties and/or other matters relevant to the dispute which amounts to a clear conflict of interest. In this instance, DRS will swiftly source an alternative dispute resolver.
13. There may be occasions when DRS chooses to seek comments from both parties about information disclosed by a dispute resolver being considered for appointment. Such information may include, for example, historic and/or remote involvement with the parties and/or other matters relevant to their dispute, which may not give rise to an obvious conflict of interest.
14. Whether or not DRS has obtained comments from the parties on the information disclosed by a dispute resolver being considered for an appointment, DRS retains discretion as to whether to proceed with the appointment or to source an alternative dispute resolver.

The role of DRS in the appointment process

15. The role of DRS in the appointment process is administrative.
16. DRS will make an appointment upon receipt of a completed application form and in accordance with the information provided by the applicant.
17. RICS will carefully consider representations received from either party as to who should, or should not, be appointed, but will not be bound by them. The President will make their own decision as to who will be appointed.
18. It is the applicant's responsibility to ensure they have the right/authority to make the application, and that the application is made in accordance with the relevant agreement

between the parties (which may be set out in a contract, lease, or other agreement), statute, regulation, or order.

19. DRS does not have the authority to determine a legal challenge raised by a non-applicant party about the validity of an application or any appointment subsequently made.
20. Any questions concerning the validity of the appointment and/or the authority of the appointed dispute resolver to proceed should be referred, in the first instance, to the appointed dispute resolver.

Additional information relating to different types of application

Rent Review and Ground Rent Assessment

21. A commercial lease may contain a clause that gives one or both parties the right to apply to RICS for the appointment of a dispute resolver to determine a rent review dispute (usually an arbitrator or independent expert) or a ground rent assessment. DRS does not have the authority to decide whether an application is made in accordance with the lease and is valid. DRS acts in an administrative capacity and will make an appointment in accordance with the application. It is important that you check carefully to ensure that you have the right to make the application, and that the application is made in accordance with the requirements of the lease.
22. The applicant must confirm whether the lease requires the appointment of an Arbitrator or Independent Expert or other capacity.
23. The lease should be read carefully to ensure the applicant has authority to apply for the appointment of a dispute resolver. Some leases, for example, contain a clause that only the landlord can make the application and/or decide whether the appointment is for an Arbitrator or Independent Expert.
24. The lease may list specific requirements, such as specific experience that the dispute resolver must possess, and/or prescribe a timeframe within which the dispute must be resolved. This information must be set out in the application form to help DRS identify an appropriate dispute resolver.

Construction adjudication

25. DRS recommends that the Referring Party forwards a copy of their application for the nomination of an adjudicator to the Responding Party (and/or their representative). DRS may also forward a copy of an application form and accompanying documentation it receives to the Responding Party.

26. DRS must communicate the name of the nominated adjudicator to the Referring Party within five days after receiving an application.
27. If any representations are received from either party before a nomination is made, they will be carefully considered, but DRS will exercise its discretion as to who will be nominated as the adjudicator.
28. Where an application is one of a series of adjudications on the same contract, DRS will normally nominate the same adjudicator for each adjudication. This will often offer savings in costs and time. DRS is not bound to do so, however, and there may be circumstances where it is not appropriate to nominate the same adjudicator, including:
 - The adjudicator may not be available
 - Court action by one of the parties relating to the adjudicator's previous decision
 - The dispute requires specific knowledge and experience
 - Any other reason which would make a nomination of the same adjudicator inappropriate

Rural

29. If an application to appoint a dispute resolver has been made in order to comply with a statutory time limit (term date) and there is potential for the dispute to be settled without the involvement of an appointed dispute resolver, an application can be withdrawn or placed on hold with the agreement of both parties before the appointment is made.
30. The applicant must submit a DRS5 form request for the appointment of an arbitrator/independent expert to be withdrawn or placed on hold. This form can be downloaded online at www.rics.org/drs