

COMBINED DOCUMENT



Surveyors acting as expert witnesses and Additional guidance for surveyors acting as expert witnesses combined document

Global

5th edition, July 2026

Surveyors acting as expert witnesses

RICS professional standard, Global

5th edition, July 2026

Effective from 30 November 2026

This document is provided for those who find it convenient to have both documents in one pdf. It is provided for reference only. The professional standard *Surveyors acting as expert witnesses* and practice guidance *Additional guidance for surveyors acting as expert witnesses* published by RICS are the only official versions of this document and will be the definitive reference for regulatory purposes.

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This document applies globally. If any of the requirements contained in this document conflict with national legal requirements in the country or region in which the regulated member is operating, those national legal requirements take precedence and must be applied.

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RICS standards framework

RICS' standards setting is governed and overseen by the Standards and Regulation Board (SRB). The SRB's aims are to operate in the public interest, and to develop the technical and ethical competence of the profession and its ability to deliver ethical practice to high standards globally.

The [RICS Rules of Conduct](#) set high-level professional requirements for the global chartered surveying profession. These are supported by more detailed standards and guidance relating to professional conduct and technical competency.

The SRB focuses on the conduct and competence of RICS members, to set standards that are proportionate, in the public interest and based on risk. Its approach is to foster a supportive atmosphere that encourages a strong, diverse, inclusive, effective and sustainable surveying profession.

As well as developing its own standards, RICS works collaboratively with other bodies at a national and international level to develop documents to aid professional practice, such as cross-sector codes, guidance and standards. The application of these collaborative documents by RICS members will be defined either within the document itself or in associated RICS-published documents.

Document definitions

Document type	Definition
RICS professional standards	RICS professional standards set mandatory requirements that govern the manner in which RICS members and regulated firms conduct their profession or business in order to protect clients and other stakeholders. They use the word 'must' to indicate a requirement. Non-compliance with a requirement constitutes a breach of the standard.
RICS practice guidance	RICS practice guidance provides information to support the practice, knowledge and performance of RICS members and regulated firms. It supports consistency or improvements in professional practice. It uses the word 'should' to describe expected practice. It is recognised that there may be acceptable alternatives to expected practice that achieve the same or a better outcome.

An RICS document may include both mandatory requirements and expected practice, which will be differentiated by the use of the words 'must' and 'should' as defined above.

RICS will take into account relevant professional standards and may take into account relevant practice guidance documents when deciding whether an RICS member or regulated firm acted appropriately and with reasonable competence, including in regulatory or disciplinary proceedings. It is also likely that during any legal proceedings a judge, adjudicator or equivalent will take RICS professional standards and practice guidance into account.

Glossary

Term	Definition
Adviser	A person employed to give technical professional advice to a client.
Case manager	A person who, acting on behalf of a party, is responsible for the general conduct, management and administration of the case, marshalling and coordinating that party's team (if any) and liaising as appropriate with the tribunal and opposing party. Usually a heavily regulated role and unqualified persons acting in the role may face sanctions.
Conditional fee	Any arrangement where remuneration – however fixed or calculated – is to be made conditional upon the outcome of proceedings or upon the nature of evidence given. Other labels in common use are 'incentive fee', 'speculative fee', 'success fee', 'success-related fee', 'performance fee', 'no win, no fee' and 'contingency fee'.
Direction	A requirement laid down by a tribunal.
Disclosure	The production and inspection of documents in accordance with applicable rules and/or directions of a tribunal.
Evidence	This may be evidence of fact, expert (opinion) evidence or hearsay evidence. The weight to be attached to evidence by a tribunal will depend on various factors, the importance of which may vary from case to case.
Expert witness	A witness called by a tribunal to give expert opinion evidence by virtue of experience, knowledge and expertise of a particular area beyond that expected of a layperson.

Term	Definition
Hearsay	Evidence by way of the presentation of the oral statements of a person other than the person who is testifying, offered to prove the truth of what is stated. May be by way of statements in documents, and it includes work done by others or tests carried out by others, including material generated through artificial intelligence. There are usually rules about admitting hearsay evidence and the weight to be given to it, and the law is developing on the use of artificial intelligence in court processes.
Joint statement	A document produced by experts jointly (often following a meeting or discussion between them) showing the expert issues they agree on and those that they do not agree on, and the reasons why they cannot agree.
Legal professional privilege (or legal advice privilege)	Legal professional privilege attaches to and protects communications (whether written or oral) made confidentially, passing between a lawyer (acting in their professional legal capacity) and their client, and solely for the purpose of giving or obtaining legal advice.
Litigation privilege	Where litigation is in reasonable contemplation or in progress, litigation privilege protects written or oral communications made confidentially between either a client and a lawyer, or either of them and a third party, where the dominant purpose is for use in the proceedings, either for the purpose of giving or getting advice in relation to such proceedings, or for obtaining evidence to be used in such proceedings.
Negotiator	A person appointed to negotiate a resolution of disputed matters.
Single joint expert	An expert witness appointed pursuant to an order of a tribunal, and instructed jointly by parties to a dispute.

Term	Definition
Surveyor-advocate	A person who presents to the tribunal a client's properly arguable case as best as they may on the evidence and facts available; a spokesperson for a client who, subject to any restrictions imposed by the surveyor's duty to the tribunal, does for their client all that the client might properly do for themselves if they could. The advocacy role is markedly different from the role of an expert witness or a negotiator, and the role is strictly limited to certain tribunals with established rules and protocols.
Tribunal	Any body, such as a court, whose function will include receiving evidence, determining disputes, and reaching or reviewing conclusions or findings of fact and/or law or matters of public record (whether or not any decision is permanently or temporarily binding). See section 1.2, paragraph 2 for further details.
Those instructing	A traditional catch-all phrase to describe all people, practices or firms providing an RICS member with instructions to give expert opinion – whether lawyers, other professionals, an employer or lay clients (whether represented or not).
'Without prejudice'	The 'without prejudice' rule will generally prevent statements made in a genuine attempt to settle an existing dispute, whether made in writing or orally, from being put before a tribunal as evidence of admissions against the interest of the party that made them.
Witness of fact	A person who, usually under oath or solemn affirmation, gives evidence before a tribunal on a question of fact.

1 Introduction

1.1 Scope

1 This professional standard sets requirements for RICS members providing expert evidence to be relied upon in civil proceedings before a wide range of tribunals. It covers the key aspects of providing such a service by setting requirements for terms of engagement; managing conflicts of interest, fees and fee structures; and providing written reports. It also provides clarity on different roles involved in proceedings and on different roles that may be encountered by the expert witness.

2 This standard is supported by a formal practice guidance document entitled *Additional guidance for surveyors acting as expert witnesses*, which sets out supporting information and expected practice for RICS members. The two documents are to be read together.

1.2 Application of this standard

1 This standard applies when RICS members act or purport to act as expert witnesses. This will usually be in contemplation of proceedings before some form of tribunal.

2 For the purposes of this standard, the term 'tribunal' is construed widely. It includes every court in a jurisdiction, but it is not limited only to the courts and is used to mean any body whose function will include receiving evidence, determining disputes, and reaching or reviewing conclusions or findings of fact and/or law or matters of public record (whether or not any decision is permanently or temporarily binding). It is not intended to be interpreted restrictively and therefore includes but is not limited to:

- a the courts: including all civil, criminal and coroner's courts or courts of enquiry and inquest of any level (i.e. any courts of appeal as well as courts of first instance)
- b tribunals: including all tribunals whether set up by statute or government decree
- c arbitration: processes before arbitrators/arbiters or arbitral panels/tribunals however styled
- d adjudication proceedings: whether or not the decision imposed is temporarily or permanently binding, including construction adjudication and dispute boards whether under statute (such as the UK's Housing Grants, Construction and Regeneration Act 1996, as amended) or under contract (whether express or implied)
- e dispute resolution committees: including rent assessment committees and valuation appeal committees

- f hearings before inspectors, commissioners and reporters: for example, in planning proceedings, inquiries, parliamentary hearings, select committees, examinations in public and before independent panels
 - g independent examinations and proceedings
 - h independent expert processes: including independent expert determination or early neutral evaluation (whether court- or non-court-led), and
 - i arbitration or tribunal or similar decision-making panels set up by community or faith-based institutions.
- 3 This standard applies to RICS members irrespective of:
- a their contractual obligations to their client
 - b the form of tribunal in which they are appearing, but subject to the rules applying at that tribunal (whether or not the tribunal has formal rules of evidence or procedure, and whether or not those extend to expert evidence)
 - c whether or not the parties accept the jurisdiction of that tribunal
 - d the form in which their evidence is given (whether, for example, it be by written report, orally or otherwise), and
 - e the nature of their practice or employment.
- 4 This standard applies for the duration of an RICS member's appointment as an expert witness unless legislation or an order of the tribunal says otherwise.
- 5 If an RICS member fails to discharge their duty properly, whether by act or omission or misrepresentation, that could be a criminal offence and a contempt of court. A court may impose a custodial sentence and/or a fine, and the conduct may well expose them to legal liability to all the parties, in addition to any sanction imposed by RICS.
- 6 Sanctions for breaching the mandatory requirements of the professional standard could include a caution, fine, conditions or expulsion from membership of RICS.
- 7 RICS members **must** outline any instance of their departure from the requirements of this standard to the tribunal and to those instructing at the earliest opportunity and in accordance with any procedures or arrangements agreed in advance, unless the departure is required by local laws or procedural rules. In the first instance, this will be in correspondence with those instructing.
- 8 This standard **does not** apply to RICS members if they are appearing in a tribunal where they are not an expert witness, for example if they or their practice are a party to proceedings or where they are a witness of fact whose evidence as to what they saw or did is relied upon in the normal course of a hearing. Examples include:
- a participating as a witness in a formal dispute resolution process for a project they were working on where the employer and contractor are in dispute

- b if they witnessed a criminal offence and are called to give evidence of what they saw
- c if they are involved in a civil dispute or are witness in a civil dispute (for example where they are seeking payment of an unpaid bill or a dispute concerning a road accident)
- d an argument over the provision of services and action to recover their professional fees, and
- e an employment law case.

In those instances, RICS members are not giving expert opinion evidence, even if they have some experience in matters that may be relevant to the dispute.

9 Expert witnesses frequently attend conferences with those instructing and sometimes attend mediations to assist decision-making. On any and all such occasions the standard still applies, and the RICS member **must** maintain their ability to act as an independent expert witness rather than as a member of the 'advocacy' team. That might mean excusing or absenting themselves from certain discussions by simply leaving the room for a short period.

1.3 Jurisdiction

1 This standard applies to RICS members globally. It has been principally informed by the law and practice relating to expert witnesses in England and Wales as well as in Scotland and Northern Ireland, but its principles will also support RICS members outside these jurisdictions.

2 RICS members **must** satisfy themselves as to the compatibility of the provisions in this standard with the local laws and procedural rules of the jurisdiction in which they act as an expert witness, as those local laws and rules may require a different approach to be taken.

3 If provisions of this standard conflict with any local laws or procedural rules, the local laws or rules take precedence.

4 RICS members may wish to discuss this standard with those instructing, including the lay-client's lawyers, or may want to take their own legal advice from a lawyer in the jurisdiction in which they are practising as expert. Many procedural rules make provision for the expert to ask questions and seek guidance or directions from the court or tribunal directly, and this is frequently best done sooner rather than later.

See [section 4.5.2](#) of *Additional guidance for surveyors acting as expert witnesses*.

1.4 Effective date

1 This professional standard becomes effective on 30 November 2026.

2 Key concepts

2.1 Overriding duty and related duties

- 1 The primary duty of an expert witness is not to a client or person instructing them but to the tribunal itself.
- 2 Members providing expert evidence have an overriding duty to the tribunal and **must** give truthful, impartial and independent opinions, covering all relevant matters, whether or not they favour the witness's client, and whether or not the evidence is given in writing or orally, either under oath, affirmation or by reference to a statement of truth.
- 3 Misleading by silence, by omission, by failing to correct, by implication or by providing incomplete answers is as culpable as failures of commission, i.e. by making expressly incorrect or misleading statements.
- 4 Members **must** demonstrate that they have full knowledge of the duties relating to the role of an expert witness when giving evidence.
- 5 Members should fully understand the fundamental distinction between assisting the tribunal to establish relevant facts and expressing a professional opinion as an expert witness. An expert witness (or person with expertise) may also be a witness of fact, but **must** keep the two roles separate from each other.
- 6 If a member becomes unable to meet a deadline or unavailable to attend a hearing, they **must** inform those instructing and if necessary the tribunal of that fact as soon as possible.
- 7 Lawful orders and directions of the tribunal override any contractual duty to those instructing. If a member is unable to comply with an order or direction of the tribunal, that member **must** as soon as practicable:
 - a produce a written record of the reason(s) for such non-compliance and be prepared to provide any further explanation required by the tribunal and
 - b give copies of that record to those instructing and to the tribunal before the date for compliance has expired.

See [section 2.1](#) of *Additional guidance for surveyors acting as expert witnesses*.

2.2 Conflicts of interest

- 1 Members **must** be continuously astute to any conflicts that may arise between their role as an expert witness and any other capacity in which they operate.
- 2 Members **must** disclose any conflict of interest in their report. Refer to the current edition of RICS' [Conflicts of interest](#).

- 3 Potential conflicts of interest include regular reliance on the same instructing party for multiple instructions, particularly where the member derives a significant proportion of their income from that party. Any such financial dependence **must** be disclosed in the expert's report in order that it can be understood by the tribunal and the parties, and its relevance assessed. Failure to do so is likely to compromise the impartiality (or at least perceived impartiality) of the expert evidence and could have legal and regulatory consequences.
- 4 Members **must not** act if there is an undeclared conflict of interest nor permit any conflict of interest to arise without a declaration when engaged as an expert witness, including when acting as a single joint expert. This may arise in relation to conflicts of interest from older commercial interests or relationships when new instructions are given. Members **must** identify and then declare the conflict, so that the tribunal and parties may use judgement as to whether or not it is material. Declaring the conflict allows the party considering its expert to choose another who does not have such a conflict of interest.
- 5 If an actual or potential conflict of interest comes to the attention of a member, that member **must** immediately disclose that conflict to those instructing and:
- a take steps to remove the cause of the conflict without delay or
 - b consider withdrawing from the engagement or
 - c if proceedings have already commenced, consider whether a written request to the tribunal for directions on the matter would be more appropriate.
- 6 If a potential conflict of interest comes to the attention of a member, that member **must** take steps to ensure that they can comply with the overriding duty to the tribunal.
- 7 A member acting as an expert witness **must** demonstrate that the overriding duty to the tribunal will be fully satisfied in circumstances where that member is currently acting, or has previously acted (including in the course of pre-action negotiations), for those instructing on a matter for which that member is to provide expert evidence.

See [section 2.2](#) of *Additional guidance for surveyors acting as expert witnesses*.

3 Taking on the role of expert witness

3.1 General considerations, including case management disclosure

- 1 Members **must** only undertake to act as an expert witness and give expert evidence in circumstances where they have:
 - a the ability to act impartially in the assignment
 - b the ability to act with competence in the assignment
 - c the appropriate experience, knowledge and expertise for the assignment and
 - d the resources to complete the assignment within any of the required timescales and to the required standard.
- 2 Members **must not** accept instructions to express an opinion outside the scope of their field of expertise.
- 3 A member acting as a case manager (when permitted in certain specific tribunals) in addition to acting as an expert witness **must** make a clear disclosure to the tribunal of this role being taken on.
- 4 Members **must not** offer legal advice to those instructing, but should recommend that those instructing seek advice from a suitably qualified independent legal professional.

See [section 3.1](#) of *Additional guidance for surveyors acting as expert witnesses*.

3.2 Instructions

3.2.1 Before accepting instructions

- 1 Members **must** investigate and verify instructions before accepting them, and **must** only accept them where they are able to carry out the role of expert witness in accordance with this standard.
- 2 Prior to accepting instructions to act as an expert witness, members **must** confirm in writing without delay to those instructing:
 - a the role of the expert witness
 - b that this standard and the rules of the relevant tribunal will apply

- c that their overriding duty as an expert witness in giving evidence is to the tribunal and that they can only act in accordance with this duty and
- d that their firm's complaints-handling procedure (CHP) (if the firm is an RICS-regulated firm) will **not** apply to their engagement as expert witness, because the member's duty is to the tribunal.

3 Members **must** also:

- a ensure that there is a written record, held by the member and sent to those instructing, as to the matters on which expert evidence is required
- b confirm in writing if they propose that any part of the assignment is likely to be undertaken by a person other than the member or via a different decision-making process (including artificial intelligence and similar tools or techniques – refer to the current edition of RICS' [Responsible use of AI in surveying practice](#)) and that this will be unequivocally identified in the finished expert report.
- c carry out a check to satisfy themselves that no conflict of interest arises and report any potential or actual conflict to those instructing as soon as it becomes apparent (see [section 2.2](#)). If the member considers that the tribunal might attach less weight or no weight to their evidence as a result of such circumstances, they **must** advise those instructing accordingly, as this may affect their choice of whom to instruct.

4 If a member has any doubt regarding the acceptance of instructions to act as an expert witness for any reason, they **must** advise those instructing accordingly.

5 A member accepting instructions from their practice or firm to give expert evidence on behalf of that practice or firm **must**, before accepting such instructions, satisfy themselves that their practice or firm understands that the member's primary duty in giving evidence is to the tribunal and should record in writing their practice's or firm's acknowledgement of the member's duties as an expert witness.

See [section 3.2.1](#) of *Additional guidance for surveyors acting as expert witnesses*.

3.2.2 Accepting instructions

1 Members **must** confirm to those instructing without delay whether or not they accept instructions to act as an expert witness.

2 The member's acceptance **must** cover their terms of engagement, the fee information requirements set out in section 3.3 and any specific mandates regarding important or contentious matters.

See [section 3.2.2](#) of *Additional guidance for surveyors acting as expert witnesses*.

3.2.3 Reviewing instructions

- 1 Members **must** retain a proper record of their instructions, including documents and communications received from those instructing or others in connection with the subject matter of those instructions.
- 2 Members **must** review the instructions from time to time throughout the course of the engagement and note any change or supplement to the instructions in the record. Any issues or causes for concern **must** be raised with those instructing without delay.
- 3 If a member decides at any point that part of their instruction requires assistance from another person, the reasons for needing assistance **must** be set out clearly to those instructing.

3.3 Fees

3.3.1 General considerations

- 1 Members **must** only provide a fee estimate, if requested, once they have a good understanding of the case and the scope of their appointment within it. Note that the rules of the specific tribunal may be such that an inaccurate budget estimate could have significant consequences on cost recovery and settlement negotiations.
- 2 Members **must** confirm in writing the scope, basis and responsibility for payment of the member's professional fees and expenses.

See [section 3.3.1](#) of *Additional guidance for surveyors acting as expert witnesses*.

3.3.2 Conditional and deferred fees

- 1 Members **must not**, except in exceptional circumstances, undertake independent expert witness work where their remuneration is based on the outcome of the case, however that might be defined or structured.
- 2 Members **must not**, except in exceptional circumstances, undertake expert witness work where their practice or firm is appointed on any form of conditional fee, deferred fee, incentive or success-based arrangement, however that might be defined or structured.
- 3 The exceptional circumstances in which a member may enter into an agreement of the type described in paragraphs 1 and 2 of this subsection are when the following four conditions are each satisfied:
 - a The first condition is that the rules and practice of the tribunal at which the member is appearing to give expert evidence do not prohibit surveyors having conditional fee arrangements under the terms of this standard.
 - b The second condition is that the member or their practice or firm has a pre-existing relationship with the client that contains an element of remuneration on a conditional

fee agreement. This exception does not permit entry into new arrangements that cover the giving of expert evidence. Its purpose is to allow for some flexibility in circumstances where the member or their practice or firm has acted before the matter required expert evidence.

- c The third condition is that the member has explained to the client before acting as an expert that the existence of the conditional fee may affect the weight that the tribunal places on their evidence and the client has consented to the member giving expert evidence.
- d The fourth condition is that the member is to disclose at the tribunal hearing the existence of the conditional fee arrangement. This requirement applies where the conditional fee agreement relates to the case at issue or to a case whose outcome is so closely connected to the case at issue that it is necessary for the existence of such arrangements to be disclosed in order that the tribunal can fairly assess the weight to be placed on the evidence. An example of this is where the case at the tribunal is a test case and the conditional fee arrangements relate to other cases in which the member has been appointed whose outcome is directly linked or influenced by the outcome of the test case.

4 A member who enters into an agreement of the type described in paragraphs 1 and 2 of this subsection and gives evidence **must** make the following declaration, or similar, in any report.

Template declaration

'I confirm that I am instructed by way of a conditional fee arrangement within the exception set out in section 3.3.2, paragraph 3 of the 5th edition of RICS' professional standard *Surveyors acting as expert witnesses* ("the standard"). I confirm that I have disclosed the existence of any conditional fee arrangements in related cases as required by section 3.3.2, paragraph 3(d) of the standard. I confirm that I have complied with all other requirements of the standard.'

See [section 3.3.2](#) of *Additional guidance for surveyors acting as expert witnesses*.

4 Preparing and presenting evidence

4.1 Expert evidence in general (including oral evidence)

- 1 Expert evidence provided by members **must**:
 - a only be within their surveying field of expertise, experience, knowledge and competence
 - b be entirely their own work except where some work is carried out at their direction and under supervision (including material generated through artificial intelligence), in which case the member's evidence **must** make it clear which items of work have been carried out this way
 - c be and be seen to be independent, impartial, unbiased and uninfluenced by those instructing or paying them to give the evidence
 - d state the main facts and assumptions it is based upon, and not omit material facts that might be relevant to their conclusions
 - e set out the limitations of the evidence, such as incomplete knowledge or insufficient information, and
 - f make it clear when a question or issue falls outside of their expertise or if they are not able to reach a definite opinion.
- 2 Opinions should not be exaggerated or seek to obscure or ignore legitimate alternative views or other schools of thought, but instead recognise and, wherever appropriate, address them.
- 3 If a member comments upon the experience, knowledge and expertise of another expert witness during the course of giving evidence, they **must** give full reasons in support of such comments.
- 4 If any evidence shown (including the expert witness report of the other party) or question asked during the course of the hearing causes a member to change all or part of their expert opinion, they **must** inform those instructing at the first opportunity and, thereafter, if that change of opinion has not been communicated to the tribunal, the member **must** communicate with the tribunal and explain the nature of that change as soon as practicable.
- 5 If any part of the expert evidence to be provided by a member is based on what is said to be confidential information, the member **must** seek advice from those instructing before preparing that expert evidence for a public report with respect to the use of and disclosure of that confidential information if it is provided for the expert to form an opinion upon.

6 A member acting as an expert witness **must** answer questions put to them either by the tribunal or a party to the proceedings other than those instructing, where that other party has the right to put such questions to the member.

7 Members **must** answer reasonable and proportionate written questions on their expert evidence within a reasonable time. Where, without good cause, a member does not answer the questions put to them, they should be aware that the tribunal may order that the party who instructed them may not rely on their evidence or that the party may not recover the member's fees and expenses from any other party, or it may make both orders.

8 A member **must** inform those instructing without delay of any applicable circumstances that would cause a tribunal to attach less weight or no weight to the member's expert evidence.

9 If the member's evidence and professional opinion is not supportive of the client's case, the member **must** communicate this position to those instructing at the earliest opportunity. Failure to do so may significantly undermine the member's position as an expert witness and can lead to delays, increased expense and inconvenience to all parties, including the tribunal.

See [section 4.1](#) of *Additional guidance for surveyors acting as expert witnesses*.

4.2 Research and documents contributory to evidence

1 Members **must** carry out such factual research as they consider necessary to fully discharge their duty to the tribunal, including, where appropriate, inspection of any property or facility.

2 Members **must** make efforts (such as asking those instructing for access to relevant files, or seeking directions from the tribunal) to obtain the documentation and other material containing the factual information necessary for them to properly form an opinion.

See [section 4.2](#) of *Additional guidance for surveyors acting as expert witnesses*.

4.3 Inspections

1 Inspections of property or facilities undertaken by members **must** be carried out in a manner that is proportionate, having regard to the purpose of the inspection, the practicalities of inspection, the particular circumstances of the case and the need to produce an opinion that is professionally competent.

2 In the event that the inspection was incomplete or was not undertaken, the member **must** set out that fact in their expert evidence, together with an explanation of the implications and consequences of that fact on their expert evidence as a whole.

See [section 4.3](#) of *Additional guidance for surveyors acting as expert witnesses*.

4.4 Early-stage involvement, discussions and meetings

- 1 Members **must** raise with those instructing the possible advantages, disadvantages and appropriateness of:
 - a communicating with the other parties in an attempt to agree facts and to clarify and narrow the differences between parties at as early a stage as possible
 - b identifying, with counterpart expert witness(es), the issues in dispute, the reasons for any differences of opinion and the actions that might be taken to resolve outstanding issues between parties, and
 - c preparing a statement for the tribunal showing:
 - i those facts and issues that are agreed, and
 - ii those facts and issues that have not been agreed, along with reasons.
- 2 Members taking part in expert witness discussions **must** agree, before each discussion commences, whether the discussion is to be held on a 'without prejudice' basis.
- 3 Members **must** only meet with other expert witnesses appointed by parties related to the proceedings to consider or review a matter during an instruction with the prior knowledge and consent of their client.
- 4 If a settlement can be seen to emerge from a meeting of expert witnesses, the member **must** report this to those instructing, in order to assist the parties themselves to develop such opportunities and to take instructions if appropriate.
- 5 Members **must not** allow themselves to be limited, influenced or directed in expressing their professional opinions on the issues by those instructing.
- 6 If the member materially alters their opinion after signing the joint statement, they **must** provide to those instructing a note or addendum properly and fully explaining the change of opinion.

See [section 4.4](#) of *Additional guidance for surveyors acting as expert witnesses*.

4.5 Matters arising during the course of the appointment

- 1 If an application for an order to inspect the written instructions of an expert witness has been made to the tribunal, the member **must** inform those instructing of this fact in a timely manner.

2 In the event that circumstances arise to render it inappropriate or impractical for the assignment to be undertaken wholly in accordance with this professional standard, the member **must**, as soon as reasonably practicable after those circumstances come to their attention:

- a inform those instructing in writing and
- b state those circumstances in any expert witness report prepared by that member.

3 Expert witnesses are frequently asked by the legal teams appointing them to provide assistance with understanding, and analysing inconsistencies within, the expert evidence presented by the other parties. It is often reasonable to budget for the expert witness to assist in such endeavours, but members **must** remain independent while doing so and **must not** direct an advocate's cross-examination.

See [section 4.5](#) of *Additional guidance for surveyors acting as expert witnesses*.

4.6 The written expert witness report

4.6.1 Preparing the report

- 1 If any or all of a member's expert evidence is to be provided in the form of a written report, that member **must** comply with any rules, orders or directions and protocols of the tribunal to which the expert witness report is to be presented.
- 2 Members **must not** use pre-populated templates, standard schedules of charges or copy-paste reports prepared by third parties.
- 3 Members **must** only sign expert reports if they accurately reflect the member's own professional opinion based on their independent assessment of the facts.
- 4 In their written report, members **must**:

Preliminary and general matters

- a give details of their qualifications and relevant experience, knowledge and expertise (commensurate in detail with the nature and complexity of the case), in particular the specific experience that is relevant to the case
- b state the substance of all material instructions (whether written or oral)
- c consider all matters material to the issue and dispute upon which they are required to give an opinion, including matters adverse to their client's case, and
- d make clear when a question falls outside their expertise.

Tests

- e where tests of a scientific or technical nature have been carried out, state the methodology and any tools of analysis used (including the extent to which artificial

intelligence and similar tools have been used – refer to the current edition of RICS' [Responsible use of artificial intelligence in surveying practice](#) for the requirements on members regarding the use of artificial intelligence), by whom the tests were undertaken and under whose supervision the tests were undertaken

- f in respect of an examination, measurement, test, experiment or survey carried out by a third party and referred to in the expert report, set out:
 - i that other party's relevant experience, knowledge, expertise and qualifications
 - ii the nature, extent and methodology of the activity and
 - iii whether or not the work was carried out under the member's direct supervision and explain any implication that this may have on the expert evidence.

Facts and opinion

- g clearly state:
 - i all material facts, and make clear which of the facts stated are within the member's own knowledge or direct observation, including facts that might undermine the opinion(s) given in the report made by the member
 - ii itemised issues (to be explored in an open and transparent manner) that arise from the facts and related enquires, and
 - iii all assumptions upon which the member's opinion(s) and reasoning are based. If the member's conclusions depend upon assumed interpretations of statute, contract clause or case law, however, they **must** identify the assumption being made and state a set of separate conclusions based on both the assumption made and the obverse of that assumption, noting any differences and the reasons for those.
- h fully and properly rehearse the reasoning behind the opinions
 - i clearly distinguish between fact and opinion, identifying and stating where facts have been assumed, including facts that the member has assumed and facts that the member has been instructed to assume
 - j indicate where, in what way and why an opinion is provisional, conditional or qualified. For example, if the member considers that further information is required or if, for whatever reason, a final and unqualified opinion cannot be expressed based on the evidence presented, they **must** make such provisions, conditions or qualifications apparent in the report
 - k if factual assumptions within the report are reasonably capable of giving rise to a range of informed opinion on the matters dealt with in that report:
 - i summarise the range of opinion and its sources
 - ii explain where the member's opinion sits within that range, and
 - iii give reasons for the member's own opinion.

- l** when there are material facts in dispute, express a separate opinion on each factual hypothesis put forward, and make no finding of fact and show no preference unless it is possible to demonstrate in consequence or by application of their expert knowledge that one set of facts is improbable or less probable and fully explain the reasoning
- m** include a summary of the conclusions of that report at the end of the report
- n** reference all professional literature or other source material on which they have relied in making the expert witness report, including identifying the opinions of others, particularly in respect of facts obtained through hearsay and technological devices, and retrieved through analytical tools (including artificial intelligence and similar decision-making tools and techniques – refer to the current edition of RICS' [Responsible use of artificial intelligence in surveying practice](#)).

Declarations

- o** state the following declarations at the end of the report (drawing any modification and the reason for it to the attention of those instructing and the tribunal if the member is unable to make any of the declarations without modifying them):
 - i** 'I confirm that my report has drawn attention to all material facts that are relevant to and have affected my professional opinion.
 - ii** I confirm that I understand and have complied with my duty to the [specify the tribunal] to give my evidence impartially and objectively as an expert witness, which overrides any duty to those instructing or paying me.
 - iii** I confirm that I am not instructed in this matter or any matter contingent upon it under any conditional fee or other success-based fee arrangement.
 - iv** I confirm that I have no conflicts of interest of any kind other than those disclosed in this report, and those conflicts as set out do not affect my suitability as an expert witness on any issue on which evidence is to be given in these proceedings.
 - v** I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the [specify the tribunal].
 - vi** I confirm that my report complies with the requirements of RICS, as set down in the edition of RICS' *Surveyors acting as expert witnesses* current at time of drafting this report.
 - vii** I confirm that I have an ongoing duty to the tribunal and will forthwith advise the party instructing me if between the date of the report and the trial there is any change in circumstances that alters the above declarations or my affirmation of them.'
- p** verify the expert witness report by signing (to include the member's signature, clearly printed name and all professional designatory letters) and dating the current and correct form of the statement of truth for the tribunal and including this at the end of the report.

See [section 4.6](#) of *Additional guidance for surveyors acting as expert witnesses*.

4.6.2 Amending the contents of written reports

1 If, after disclosure of a member's written expert witness report, a material inaccuracy or omission comes to the attention of the member, or the member has a change of opinion on any matter that is material to the case in dispute (for example as a result of an exchange of questions or following agreements reached at meetings between experts or following disclosure or publication of further evidence or documentation), the member **must**, without delay and in writing, provide notice (with reasons) of the need to amend the written expert witness report to:

- a those instructing and
- b (where appropriate) the tribunal.

2 Members **must** disregard suggestions or proposed alterations to the written expert report from those instructing, from lawyers or from any other party if they either do not accord with or distort their true independent opinion(s).

3 If a member becomes aware that their report has been altered, they **must** immediately call on the person or firm making such alterations to correct the report. If the report is not corrected, the member should report the person or firm to their regulatory authority, and **must not** accept further instructions from the person or firm until this is corrected, and, in any event, where the report has been sent to a tribunal, **must** notify the tribunal of the concern.

4 Where members change their opinion following a meeting of experts after the disclosure of their report, they **must** amend their report to reflect that fact. The amended expert witness report should normally include reasons for amendments. It **must** be issued to those instructing.

4.7 Oral evidence at a hearing

1 If a member's expert evidence is only to be given orally, then that member **must**, before providing their oral evidence, state the following declarations to the tribunal, as evidence of affirming those declarations:

'I will only provide expert evidence within my surveying field of expertise, experience, knowledge and competence.

I understand my overriding duty to the tribunal to give truthful, impartial and independent opinions, covering all relevant matters, whether or not they favour those instructing me.

The evidence I give will comply with the requirements of the tribunal and the edition of RICS' professional standard *Surveyors acting as expert witnesses* currently in force.'

2 Members **must** ensure that their oral evidence to the tribunal is full, clear and properly contextualised.

- 3 Members **must not** breach the oath under which oral evidence is given.
- 4 Members **must** provide a full answer to questions, including providing relevant additional detail as required in order to ensure that the question is answered accurately and within the correct context or, where the member feels it will be helpful to the tribunal, in order to give a full and clear understanding of the expert evidence.
- 5 If a member changes their opinion in light of evidence they have heard or in light of questions asked during the hearing but after they have given evidence, the member **must** inform both those instructing and the tribunal, and explain that change of opinion to the tribunal.

See [section 4.7](#) of *Additional guidance for surveyors acting as expert witnesses*.

5 The 'dual role' of surveyor-advocate and expert witness

5.1 Permitted circumstances

- 1 Members **must not** adopt a dual role of surveyor-advocate and expert witness, except as provided in this section.
- 2 Members **must** only act in a dual role where:
 - a neither the rules nor the customs of the particular tribunal prohibit them from so acting and
 - b other relevant factors make it appropriate (for example, the disproportionality of retaining two persons in separate roles) and where it is in the public interest to do so by providing access to justice, which otherwise may not be available, and
 - c the client instructs them so to act after giving due consideration as described in section 5.2, paragraph 1(b).
- 3 In the event that a member acts in a dual role and there is a conditional fee arrangement in existence, then the requirements of both section 5.2 and [section 3.3.2](#) apply.

5.2 Requirements of the dual role

- 1 Where a member intends, or is invited, to act in a dual role as surveyor-advocate and as expert witness, they **must**:
 - a having regard to section 5.1, paragraph 2, consider both whether it is permissible to do so and also whether it is appropriate, and
 - b promptly communicate to their client the results of such considerations, setting out in writing the likely advantages and disadvantages, as the member sees them, of acting in a dual role in the particular circumstances of the case. In such communication, the member **must** detail:
 - i the likely impact on their impartiality as an expert witness and any possible impact in terms of the perception of that impartiality by others (for example, the weighting given to their opinion evidence)
 - ii any possible impact on their advocacy submissions
 - iii whether or not they will be able to fulfil both roles properly with professional integrity at all times and

- iv whether or not it would be disproportionate in all the circumstances, or otherwise in the client's best interests, for a separate person to be retained to undertake one of the roles.

- 2 Where members confirm instructions to act in such a dual role, they **must** advise the tribunal of this status.
- 3 Members that have accepted instructions to act in a dual role **must** clearly distinguish between those two roles at all times, whether in oral hearings or in written presentations.
- 4 When acting as a surveyor-advocate, the current edition of RICS' [Surveyors acting as advocates](#) will apply. When acting as a surveyor-advocate, members **must not** express expert opinion evidence unless permitted to do so by the tribunal.

See [section 5](#) of *Additional guidance for surveyors acting as expert witnesses*.

Additional guidance for surveyors acting as expert witnesses

RICS practice guidance, global

5th edition, July 2026

Effective from 30 November 2026

This document is provided for those who find it convenient to have both documents in one pdf. It is provided for reference only. The professional standard Surveyors acting as expert witnesses and practice guidance Additional guidance for surveyors acting as expert witnesses published by RICS are the only official versions of this document and will be the definitive reference for regulatory purposes.

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This document applies globally. If any of the requirements contained in this document conflict with national legal requirements in the country or region in which the regulated member is operating, those national legal requirements take precedence and must be applied.

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RICS standards framework

RICS' standards setting is governed and overseen by the Standards and Regulation Board (SRB). The SRB's aims are to operate in the public interest, and to develop the technical and ethical competence of the profession and its ability to deliver ethical practice to high standards globally.

The [RICS Rules of Conduct](#) set high-level professional requirements for the global chartered surveying profession. These are supported by more detailed standards and guidance relating to professional conduct and technical competency.

The SRB focuses on the conduct and competence of RICS members, to set standards that are proportionate, in the public interest and based on risk. Its approach is to foster a supportive atmosphere that encourages a strong, diverse, inclusive, effective and sustainable surveying profession.

As well as developing its own standards, RICS works collaboratively with other bodies at a national and international level to develop documents to aid professional practice, such as cross-sector codes, guidance and standards. The application of these collaborative documents by RICS members will be defined either within the document itself or in associated RICS-published documents.

Document definitions

Document type	Definition
RICS professional standards	RICS professional standards set mandatory requirements that govern the manner in which RICS members and regulated firms conduct their profession or business in order to protect clients and other stakeholders. They use the word 'must' to indicate a requirement. Non-compliance with a requirement constitutes a breach of the standard.
RICS practice guidance	RICS practice guidance provides information to support the practice, knowledge and performance of RICS members and regulated firms. It supports consistency or improvements in professional practice. It uses the word 'should' to describe expected practice. It is recognised that there may be acceptable alternatives to expected practice that achieve the same or a better outcome.

An RICS document may include both mandatory requirements and expected practice, which will be differentiated by the use of the words 'must' and 'should' as defined above.

RICS will take into account relevant professional standards and may take into account relevant practice guidance documents when deciding whether an RICS member or regulated firm acted appropriately and with reasonable competence, including in regulatory or disciplinary proceedings. It is also likely that during any legal proceedings a judge, adjudicator or equivalent will take RICS professional standards and practice guidance into account.

Glossary

Term	Definition
Adviser	A person employed to give technical professional advice to a client.
Case manager	A person who, acting on behalf of a party, is responsible for the general conduct, management and administration of the case, marshalling and coordinating that party's team (if any) and liaising as appropriate with the tribunal and opposing party. Usually a heavily regulated role and unqualified persons acting in the role may face sanctions.
Conditional fee	Any arrangement where remuneration – however fixed or calculated – is to be made conditional upon the outcome of proceedings or upon the nature of evidence given. Other labels in common use are 'incentive fee', 'speculative fee', 'success fee', 'success-related fee', 'performance fee', 'no win, no fee' and 'contingency fee'.
Direction	A requirement laid down by a tribunal.
Disclosure	The production and inspection of documents in accordance with applicable rules and/or directions of a tribunal.
Evidence	This may be evidence of fact, expert (opinion) evidence or hearsay evidence. The weight to be attached to evidence by a tribunal will depend on various factors, the importance of which may vary from case to case.
Expert witness	A witness called by a tribunal to give expert opinion evidence by virtue of experience, knowledge and expertise of a particular area beyond that expected of a layperson.

Term	Definition
Hearsay	Evidence by way of the presentation of the oral statements of a person other than the person who is testifying, offered to prove the truth of what is stated. May be by way of statements in documents, and includes work done by others or tests carried out by others, including material generated through artificial intelligence. There are usually rules about admitting hearsay evidence and the weight to be given to it, and the law is developing on the use of artificial intelligence in court processes.
Joint statement	A document produced by experts jointly (often following a meeting or discussion between them) showing the expert issues they agree on and those that they do not agree on, and the reasons why they cannot agree.
Legal professional privilege (or legal advice privilege)	Legal professional privilege attaches to and protects communications (whether written or oral) made confidentially, passing between a lawyer (acting in their professional legal capacity) and their client, and solely for the purpose of giving or obtaining legal advice.
Litigation privilege	Where litigation is in reasonable contemplation or in progress, litigation privilege protects written or oral communications made confidentially between either a client and a lawyer, or either of them and a third party, where the dominant purpose is for use in the proceedings, either for the purpose of giving or getting advice in relation to such proceedings, or for obtaining evidence to be used in such proceedings.
Negotiator	A person appointed to negotiate a resolution of disputed matters.
Single joint expert	An expert witness appointed pursuant to an order of a tribunal, and instructed jointly by parties to a dispute.
Surveyor-advocate	A person who presents to the tribunal a client's properly arguable case as best as they may on the evidence and facts available; a spokesperson for a client who, subject to any restrictions imposed by the surveyor's duty to the tribunal, does for their client all that the client might properly do for themselves if they could. The advocacy role is markedly different from the role of an expert witness or a negotiator, and the role is strictly limited to certain tribunals with established rules and protocols.

Term	Definition
Tribunal	Any body, such as a court, whose function will include receiving evidence, determining disputes, and reaching or reviewing conclusions or findings of fact and/or law or matters of public record (whether or not any decision is permanently or temporarily binding). See section 1.2, paragraph 2 of RICS' Surveyors acting as expert witnesses for further details.
Those instructing	A traditional catch-all phrase to describe all people, practices or firms providing an RICS member with instructions to give expert opinion – whether lawyers, other professionals, an employer or lay clients (whether represented or not).
'Without prejudice'	The 'without prejudice' rule will generally prevent statements made in a genuine attempt to settle an existing dispute, whether made in writing or orally, from being put before a tribunal as evidence of admissions against the interest of the party that made them.
Witness of fact	A person who, usually under oath or solemn affirmation, gives evidence before a tribunal on a question of fact.

1 Introduction

1.1 Scope and application

- 1 When any RICS member provides expert witness opinion evidence (including when acting as an expert in arbitration or adjudication, or as a single joint expert), they are bound by the rules of the tribunal in which they appear. They are in addition bound by the current edition of RICS' professional standard [Surveyors acting as expert witnesses](#) and the terms of any agreement of appointment.
- 2 This practice guidance sets out professional expectations and additional information for RICS members taking on the role of expert witness. It will assist them to apply their mandatory duties under the professional standard and the tribunal's rules.
- 3 For example, when appearing in civil courts in England and Wales, the rules will include (but will not be limited to) Part 35 of the Civil Procedure Rules, and tribunals also typically have their own specific rules to be followed which make provisions for expert evidence.
- 4 Both the professional standard and this practice guidance should be read in full and considered in conjunction. Sanctions for breaching the mandatory requirements of the professional standard could include a caution, fine, conditions or expulsion from membership of RICS.

1.2 Jurisdiction

- 1 This practice guidance applies to RICS members globally. It has been principally informed by the law and practice in England and Wales, but it will also support the professional practice of RICS members worldwide. If provisions of this guidance conflict with any local laws or procedural rules, the local laws or rules take precedence.

1.3 Effective date

- 1 This practice guidance becomes effective on 30 November 2026.

2 Key concepts

2.1 Overriding duty and related duties

1 The independence and impartiality of expert witnesses is of the utmost importance, and for this reason they are emphasised as the expert witness's overriding and primary duty to the tribunal.

2 A leading case setting out the duties and responsibilities of expert witnesses is *National Justice Compania Naviera SA v Prudential Assurance Co. Ltd (The Ikarian Reefer)* [1993] 2 Lloyd's Rep. 68. Though a case from the jurisdiction of England and Wales, the principles enunciated have, within the appropriate context, been followed or broadly endorsed in other jurisdictions and are generally seen as a useful benchmark in most arbitrations and adjudications.

3 In the case, Cresswell J said:

'The duties and responsibilities of expert witnesses in civil cases include the following:

a) Expert evidence presented to the court should be, and should be seen to be, the independent product of the expert uninfluenced as to form or content by the exigencies of litigation (*Whitehouse v Jordan* [1981] 1 WLR 246 at p. 256 per Lord Wilberforce).

b) An expert witness should provide independent assistance to the court by way of objective unbiased opinion in relation to matters within his expertise (see *Polivitte Ltd v Commercial Union Assurance Co. Plc* [1987] 1 Lloyd's Rep 379 at p. 386 per Garland J and *Re. J* [1990] FCR 193 per Cazalet J). An expert witness in the High Court should never assume the role of an advocate.

c) An expert witness should state the facts or assumptions upon which his opinion is based. He should not omit to consider material facts which could detract from his concluded opinion (*Re. J* sup.).

d) An expert witness should make it clear when a particular question or issue falls outside his expertise.

e) If an expert's opinion is not properly researched because he considers that insufficient data is available, then this is to be stated with an indication that his opinion is no more than a provisional one (*Re J. sup.*). In cases where an expert witness who has prepared a report could not assert that the report contained the truth, the whole truth and nothing but the truth, without some qualification, the qualification should be stated within the report (*Derby & Co. Ltd and Others v Weldon and Others* (No. 9) Times, 9 November 1990 per Staughton LJ).

f) If, after exchange of reports an expert witness changes his view on a material matter having read the other side's expert's report or for any other reason, such change of view should be communicated (through legal representatives) to the other side without delay and, when appropriate, to the court.

g) Where expert evidence refers to photographs, plans, calculations, analysis, measurements, survey reports or other similar documents, these must be provided to the opposite party at the same time as the exchange of reports (see 15.5 of the Guide to Commercial Court Practice).'

4 Where relevant, RICS members are expected to take proper account of other professional standards produced by RICS when giving expert evidence in relation to any matter. Current editions of RICS' professional standards are available [online](#).

5 The specific duties and tasks that may be undertaken as an expert witness are to:

- a act independently and impartially
- b assist the tribunal
- c provide a range of opinions as appropriate and, where the evidence requires it, assist a party to establish the facts, assess the merits of a case and help with its preparation
- d define and agree issues between the parties
- e help quantify or assess the amount of any sum in dispute and identify an appropriate basis on which a case might be settled
- f give expert opinion evidence to the tribunal (which may be based upon and incorporate evidence of fact)
- g meet with other experts of the same or similar discipline, in an attempt either to agree and narrow liability issues in dispute or to agree matters of quantum and valuation (this will often result in the experts preparing and issuing joint reports to the parties), and
- h conduct enquiries when instructed to do so and report to those instructing.

2.1.1 Tribunal rules

1 All RICS members are, as a matter of professional conduct, expected to comply with the applicable rules of tribunals and to be aware of those circumstances in which they apply and the existence of, and effect of changes to, the rules of the relevant tribunals. For the avoidance of doubt, this practice guidance does not provide commentary on any particular tribunal rules; it is the responsibility of the expert witness to find out what rules will apply and to be familiar with them (see [section 1.3, paragraphs 2 and 3 of RICS' Surveyors acting as expert witnesses](#)).

- 2 In most jurisdictions, parties need the express permission of the tribunal to adduce and rely on expert evidence; in other areas it is not even possible to plead a case without the involvement of an expert.
- 3 Failure to comply with the directions or orders of a tribunal or applicable rules, or any excessive delay attributable to the expert witness, may result in your client being penalised in costs or being prevented from putting your evidence before the tribunal. Some tribunals have made orders for costs directly against expert witnesses who cause significant expense to be incurred, if doing so in reckless and blatant disregard of their duties to the tribunal.
- 4 If, having already been instructed, you are not entirely confident that your duties under the current edition of RICS' [Surveyors acting as expert witnesses](#) can continue to be properly fulfilled, you should discuss the matter with those instructing and, where appropriate, cease acting as an expert witness on the case.

2.2 Conflicts of interest

- 1 A conflict of interest may arise, or be perceived to arise, out of a previous or current involvement with, for example, any party, dispute or property, such that it would cause you to be unable – or be seen by a reasonable and disinterested observer to be unable – to fulfil your responsibility to be independent and act impartially. For example, if you or your practice regularly act as agent, quantity surveyor or project manager for a party in dispute, and that is a significant part of your business, then it will be unlikely that you will be perceived as being able to act as their independent expert witness in litigation, and also you are unlikely to be perceived as being independent if appearing for 'the other side', i.e. against a party for which you or your firm have regularly acted.
- 2 Conflicts of interest always damage the credibility of the expert and their evidence, and in extreme examples there is a risk of perjury or conspiracy to defraud.
- 3 A conflict of interest could be of any kind, including:
 - a a financial interest (for example, other management fees or financial benefits that you or your firm gain from contracts in place, including other work placed with the firm that is on a condition fee arrangement)
 - b a personal connection
 - c an obligation (for example, as a member or officer of some other organisation) or
 - d links to a business in competition with one of the parties to the dispute.
- 4 Where your instructions are, or may be perceived to be, in conflict with your duties (for example, because of a conflict or perceived conflict with your duty to the tribunal, through incompleteness of instructions or information supplied), you should consider withdrawing from the case. If proceedings have already been commenced, you may first wish to consider whether it would be more appropriate to make a written request for directions regarding the matter from the tribunal.

3 Taking on the role of expert witness

3.1 General considerations, including case management disclosure

- 1 First consider whether you are acting as an expert witness or something else. As an RICS member actively involved in a dispute process that may come before a tribunal, you may find yourself carrying out one or more of the roles identified below.
- 2 Acting in a role other than expert witness may adversely affect your ability to present yourself with the impartiality and independence of opinion required of an expert witness, and can mean accepting conflicting duties that cannot be acceptably resolved. If you are acting, or have acted, in one of the other roles, then, before taking on the role of an expert witness, careful consideration should be given to the position in which that puts you as an expert witness, with a view to avoiding any role overlap. Consider what someone who had nothing to do with the case might think and discuss with those instructing as appropriate, noting that the professional standard requires disclosure of any conflicts of interest.
- 3 Practitioners regularly speak of 'wearing different hats'; be astute to when this is likely to occur, what the consequences are and the inherent (and sometimes insurmountable) contradictions and absurdities that follow from attempting to do so.
- 4 You should not seek to resolve the parties' dispute in your capacity as an expert witness. You may well act in different roles during the course of a dispute, and settlement may take place as a result of discussions or meetings between experts, mediation or attendance at the tribunal, but it is not the role of an expert witness to broker an agreement or negotiate settlement.
- 5 If you change role, this should be accompanied by clear notice of such a change. Also note the requirement in [section 4.4, paragraph 4](#) of RICS' [Surveyors acting as expert witnesses](#) that the emergence of a settlement is to be reported to those instructing.
- 6 The glossary provides the definitions of the roles that are used in the professional standard and this practice guidance. Further explanations of the roles follow.

3.1.1 Witness of fact

- 1 In this capacity, you will normally have been asked to provide testimony under oath or on affirmation as to something you saw, heard, experienced, said or did first-hand (that is, give evidence of facts directly observed). This is common if there is a dispute about a project

you worked on. This also includes the evidence that surveyors sometimes give, in addition to their opinion evidence, as to measurements they have made or examinations they have carried out. It is a distinct role from being appointed to give independent expert opinion evidence to the tribunal.

3.1.2 Expert witness (and single joint expert (SJE))

- 1 The key difference between a 'normal' witness of fact and an expert witness is the admissibility of opinion evidence from an expert witness. Opinion evidence is usually excluded completely and has no weight, so witnesses of fact cannot give admissible evidence of their opinions. Opinion evidence is only admissible on matters where the tribunal requires expertise.
- 2 In England and Wales, the tribunal has the power to appoint, or the parties may have the power to agree on the use of, a single joint expert (SJE) in order for each case to be dealt with effectively and judiciously according to the circumstances, so that all parties are on an equal footing and costs are minimised.
- 3 When acting as an SJE, there are specific rules that apply in England and Wales via the Civil Procedure Rules, and the standard requires you to be aware of these rules and comply with them. Awareness of these rules is also important if the expert is operating in a tribunal in which local laws and procedural rules are influenced by the legal practices of England and Wales.
- 4 A key consideration is that your primary duty as an expert witness, including as an SJE, will not be to those instructing or the person paying you but to the tribunal.

3.1.3 Adviser

- 1 In this capacity, you will be retained to give technical professional advice to a client. Frequently, this will be by a report or assessment of the merits of a case. When moving from a position as the client's adviser to one of expert witness, great care should be taken and replacement terms of engagement should be issued to the client.
- 2 You may, as an expert in your field, be asked to provide initial advice (for example, to assist in the identification and scoping of, or limitation to, any claim) to a client prior to being instructed to provide evidence as an expert witness for presentation to a tribunal. A variety of situations exists where a party may seek advice from you before a dispute has arisen, before litigation is contemplated or even during litigation.
- 3 In this capacity, it may not have been contemplated at the time of providing advice that a tribunal will be asked to place reliance on it, and your advice might not have been prepared for the purpose of a tribunal's proceedings; therefore, your advice may well not attract legal professional privilege, and may therefore be disclosable to a tribunal or to the other side, and might prejudice the interests of the client. Simply copying or delivering the advice to the

client's lawyer or advocate (where there is one) is unlikely, of itself, to be sufficient to prevent such disclosure. If in doubt, you should seek legal advice on the question of disclosure.

3.1.4 Negotiator

- 1 In this capacity, you will be acting to negotiate a resolution of disputed matters. In such a role, you will have no involvement with a tribunal, except insofar as you or others may perceive a possibility that a failed negotiation may need to be referred to a tribunal, at which point you or another professional may be engaged to act as an advocate or provide expert evidence as an expert witness.
- 2 Some negotiators may not find it possible to act as an expert witness as their impartiality may be damaged, or may be perceived to be damaged, by their prior or continuing role as negotiator.

3.1.5 Case manager

- 1 In this capacity, you will be acting on behalf of a party and will be responsible for the general conduct, management and administration of its case, marshalling and coordinating that party's team of representatives/advisers (if any) and liaising, as appropriate, with the tribunal and the opposing party.
- 2 In certain tribunals, it may be permissible for the expert witness to act as case manager and to take on a role that concerns the procedural aspects of a particular case. However, handling legal proceedings without the right qualification or permission is generally prohibited by law.
- 3 Acting as case manager means that your impartiality as an expert witness is likely to be compromised, which is why clear disclosure to the tribunal of the roles being taken on is essential.
- 4 You should exercise due caution when providing procedural guidance.

3.1.6 Surveyor-advocate

- 1 You may be permitted by certain tribunals to act in the capacity of surveyor-advocate, in which you will put a party's case and interests to a tribunal. You will need to follow the requirements of the current edition of RICS' [Surveyors acting as advocates](#). Your primary duty will be to your client, but this role is also subject to some important duties to the tribunal that place limits on what it is proper to do in pursuit of your client's interests.
- 2 This is a heavily regulated role, and it applies in very limited circumstances. It is the exception to the rule that applies to the complete independence of the expert (see section 5 of this document and section 5 of [Surveyors acting as expert witnesses](#)).

3.2 Instructions

3.2.1 Before accepting instructions

- 1 Upon accepting an instruction to act as an expert witness, you assume a responsibility to the tribunal and to RICS to provide truthful, impartial and independent opinions, complete as to coverage of relevant matters (see [section 2.1, paragraphs 1–4 of *Surveyors acting as expert witnesses*](#)).
- 2 Before accepting instructions to act as an expert witness, you should advise the client (where that party is not an instructing lawyer) that communications between the client and you as surveyor may not be protected by litigation privilege and subsequently may have to be disclosed to the opposing party. If in doubt, you should seek legal advice on the question of disclosure.
- 3 Prior to acceptance of instructions, you should:
 - a check that the instructions contain basic relevant information (for example names, contact details, dates of events, etc.), including the identity of the parties to the dispute
 - b check that the instructions are clear and sufficient for the completion of your task
 - c ascertain the name of the party instructing you
 - d ascertain the identity of the tribunal
 - e identify the type and purpose of evidence likely to be required
 - f check that a reasonable attempt has been made to identify the significant issues in the case, the timetable of experts' joint meetings, joint statements and reports for exchange, and whether dates of any hearings/conferences are set out, and
 - g check whether your work as an expert witness will be covered by adequate and appropriate professional indemnity insurance.
- 4 An expert witness, when instructed by one party, may have written questions about their report put to them by another party. You should inform the client, before instructions are accepted, that you would be under a professional duty to reply to such questions unless it is not reasonable for you to do so (see [section 4.1, paragraphs 6 and 7 of RICS' *Surveyors acting as expert witnesses*](#)) and that the client has an obligation to pay any fees you charge for answering the questions. However, this does not affect any decision of the tribunal as to the party who is ultimately to bear your costs.
- 5 Prior to confirming your terms of engagement, you should clarify whether those instructing are required to obtain any form of authority or approval to secure your fees and disbursements or any portion thereof. You should also clarify whether any order or direction has been made limiting the amount of your fees and disbursements.

6 Occasionally, you may be asked to provide expert witness evidence in a criminal trial, where the procedures for an expert witness may differ from civil proceedings.

Immunity of the expert witness

7 Expert witnesses will want to know before embarking on the process if they are likely to be held liable for failings in their expert witness reports and evidence. The answer in the UK since *Jones v Kaney* [2011] UKSC 13 is that the expert may be held to account for their failings; however, a proper reading of the case informs the reader that this is likely to be so only in rare situations.

Giving evidence on behalf of your employer

8 You are entitled to give expert evidence on behalf of your employer, and nothing in this practice guidance or the professional standard should be construed as implying that an employed surveyor giving expert evidence on the instructions of their employer is not capable of giving unbiased, truthful expert evidence.

9 The difficulty that you can face is that it may be said that less weight should be attached to your evidence because you have a conflict of interest arising out of your employment. In order to address this risk, if you wish to act as an expert witness in these circumstances, you should be able to satisfy the tribunal that you have a proper understanding of the requirements imposed upon an expert witness giving evidence, and that your employer understands that your overriding duty is to the tribunal. How this is done is a matter for you and your employer.

10 The nature of the employee's duty when acting as an expert witness should be recorded in writing by you and acknowledged in writing by the employer.

3.2.2 Accepting instructions

1 If standard terms of engagement are used, they should be attached to the acceptance of instructions. If in a particular case your standard terms are varied, such variations should be explained at the time. Appendix A serves as a guide and may be adapted for personal use.

2 In certain tribunals, you may file a written request to the tribunal for directions to assist you in carrying out your function as an expert witness. You should consider referring in your terms of engagement to the possibility of such an application and, when contemplating making an application to the tribunal for directions, to any cost implications/possible judicial penalties. It is normally advisable for such a request to the tribunal to be discussed with those instructing in advance.

3 When accepting instructions, it is regarded as best practice to request details of all relevant documents and, if you consider it necessary, ask to inspect the client's files to satisfy yourself that these have been supplied.

4 You should indicate a likely reporting programme to those instructing. This programme will vary according to the assignment but might follow three phases.

- i Initial report: you may provide a report setting out relevant opinions relating to the assignment. If your opinions are not accepted, assuming that the report is competent and researched, you may wish to consider withdrawing from the assignment.
- ii Expert witness report: this may also involve supplemental reports, counter-representations or points of reply together with joint meetings of experts.
- iii Giving evidence orally to a tribunal.

5 All three phases may involve conferences with advocates or meetings with lawyers. Advice given by you, while ancillary to the expert witness role, is provided in a professional capacity. For example, the expert witness may be asked by the advocate to advise on questions for a matching expert witness's cross-examination or to comment upon matters raised in matching evidence. In such circumstances, the expert witness is not giving evidence, nor acting as a surveyor-advocate, but is instead giving professional advice to help another in advocacy.

6 You should seek clear instructions from those instructing as to whether your attendance at tribunal hearings is required, particularly for the purpose of advising advocates and/or lawyers acting on behalf of those instructing. You are reminded that, as an expert witness, you are providing your independent opinion to the tribunal to assist it in the case. It is therefore expected that any such advice given to advocates/lawyers is only given professionally to assist in advocacy.

7 [Section 4.6.1, paragraph 4\(b\)](#) of RICS' [Surveyors acting as expert witnesses](#) mandates that your report states the substance of all material instructions, whether written or oral. Such instructions are unlikely to be privileged against disclosure. A tribunal may order disclosure of any specific document or permit any questioning of the expert as to the basis of their instructions where it feels there are reasonable grounds to consider the statement of instructions given to be inaccurate or incomplete. A tribunal will usually allow cross-examination of the expert witness on the basis of their instructions where it appears to be in the interests of justice to do so.

8 A party can usually apply for an order for inspection of any document mentioned in an expert witness's report that has not already been disclosed in the proceedings. Inspection of an expert witness's written instructions may also be sought where it has a bearing on matters referred to in the statement of case or 'pleadings', or otherwise is established as being relevant to the matters in dispute. You should inform those instructing of these matters, should they arise, in a timely manner.

3.3 Fees

3.3.1 General considerations

1 The responsibility for payment of your fees would normally be clearly incorporated in the terms of engagement entered into. These may identify one party as being solely responsible

for payment. Alternatively, consideration may be given to making more than one party (for example lawyers, claims consultants or similar) jointly and severally responsible for payment.

2 You should advise those instructing that liability will exist for all fees and disbursements properly incurred in accordance with your terms of engagement, even though recovery of those fees and disbursements may subsequently be reduced under the detailed or summary assessment of costs or, alternatively, to the extent that they are not fully recovered from another party to the dispute.

3 When acting as a single joint expert, you should confirm in writing that the relevant parties are jointly and severally liable for the payment of your fees and expenses, unless the tribunal directs otherwise.

4 The basis of charging may vary depending on the nature of your appointment.

5 When appointed by a party to a dispute, [section 3.3.1, paragraph 2](#) of RICS' [Surveyors acting as expert witnesses](#) requires you to set out clearly in writing the scope and the basis of your fees. For example, this might be by reference to the work to be undertaken, to daily or hourly rates or to a fixed fee. Provision may also be made for additional payments in respect of:

- a travelling time
- b expenses and disbursements
- c attendance at hearings, and
- d late notice, cancellation fees or settlement after you have been booked to attend a hearing.

6 Levels of fees and expenses payable may be determined by the rules of particular tribunals, by summary or other cost assessment and/or statutory provisions. You should establish or satisfy yourself of the fee basis and amounts payable prior to accepting instructions. Nothing in the professional standard excludes payment to the RICS member in advance of providing services as an expert witness.

7 Have regard to the possibility that the level of fee that a successful client may recover from the other party might be different to that agreed with the expert, who should expect commercial arrangements to be considered and reviewed by the tribunal under the detailed or summary assessment of costs procedures.

8 Both for the basis of fee charging and for possible detailed or summary assessment purposes, you should keep careful and detailed time sheets and records of tasks undertaken. Some tribunals may require adoption of record-keeping broken down into specific units. You should check with the tribunal in question as to any required or preferred timekeeping arrangements, or whether there is precedent in respect of their specific requirements.

9 Where the tribunal makes a direction for an SJE to be used, this may include requirements for the payment of the expert's fees and expenses, and the basis upon which any inspection, examination or experiments may be undertaken. The tribunal may limit the amount that can be paid by way of fees and expenses to the expert and direct that some or all of the relevant parties pay that amount into the tribunal. As stated earlier, it should be noted that, unless the tribunal directs otherwise, the relevant parties are jointly and severally liable for the payment of the expert's fees and expenses.

10 In criminal trials involving legal aid orders, the general rule is that the legally assisted person's lawyer or advocate shall not be a party to the making of any payment for work done in connection with the proceedings. However, there are some important exceptions, such as where the lawyer has instructed the expert to attend a trial to give evidence. An expert's fees and expenses are usually restricted by the tribunal.

11 There are often specified rates applicable to the work undertaken by experts in criminal trials; you should understand these rates before agreeing to them and accepting any instruction to act.

12 If you choose to make a contract directly with your client, such terms should be written in plain, intelligible language and should satisfy the 'fairness' test in that a term may be considered unfair if it causes a 'significant imbalance' in the parties' rights and obligations.

3.3.2 Conditional fees: unlawful (and unenforceable?)

1 [Section 3.3.2, paragraphs 1 and 2](#) of RICS' [Surveyors acting as expert witnesses](#) prohibit you from undertaking expert witness appointments on a conditional or other success-based arrangement except in defined exceptional circumstances.

2 The reason for the prohibition is that such arrangements undermine the appearance and possibly the reality of independence and the expert witness's overriding duty to the tribunal. This is because of the perception that an expert witness will be unduly influenced by an incentivised conditional fee, creating the potential for bias in the promotion of the evidence by an expert witness who seeks to be rewarded for a successful outcome for their client in the case.

3 It is permissible for members who are merely providing support to lawyers (e.g. as expert advisers or claims consultants) – and as long as no expert evidence of any kind is being provided – to provide this support on a conditional or other success-based arrangement.

4 Preparing and presenting evidence

4.1 Expert evidence in general (including oral evidence)

- 1 You may be required to assist the tribunal in establishing, clarifying and logically ordering relevant facts. Insofar as you provide such assistance, you are acting in the role of witness of fact, and this role does not include the expression of opinion, which is the domain of the expert witness.
- 2 The duty to the tribunal under its rules will take precedence over any contractual, professional or other duty, and this may, on occasions, conflict with confidentiality agreements. Evidence subject to confidentiality agreements cannot be ignored simply by virtue of the existence or assumed existence of such an agreement (see [section 4.1, paragraph 5](#) of RICS' [Surveyors acting as expert witnesses](#)).
- 3 Where other surveyors are instructed to be advisers, you should be careful not to be influenced by those surveyors/advisers into expressing views that you do not genuinely hold.
- 4 In summary, expert evidence is the expert witness's own opinion based on experience and knowledge. This is a significant exception to the general rule of evidence, which is that only direct evidence of facts is adduced and evidence of opinions is not admissible because the role of drawing conclusions and making inferences is the job of the judge.
- 5 Evidence that is within the expert witness's knowledge is generally treated by the tribunal as more reliable evidence than that which is second hand (known as hearsay evidence). Hearsay evidence may be admissible in civil proceedings in certain jurisdictions, provided that certain rules or procedures are followed. It is always up to the tribunal to decide how much weight is given to that evidence, in accordance with the local rules on evidence.
- 6 If you are in doubt about the admissibility of any fact or statement upon which you are relying (for example, because it is possibly privileged), you should seek legal advice.
- 7 The possibility of incomplete or misleading evidence (whether that is by innocent mistake or deliberate manipulation) is increased when hearsay evidence is relied on. Hearsay evidence that is uncorroborated runs the risk of not revealing all the details. The tribunal's emphasis will be on the weight it attaches to that evidence rather than its admissibility.
- 8 The requirements around hearsay evidence (including material generated by artificial intelligence) are set out in RICS' [Surveyors acting as expert witnesses](#) (see [section 4.6.1, paragraph 4\(n\)](#)).

9 If you are in any doubt about the use of evidence (including hearsay evidence), it may prove valuable to seek instruction from those instructing in the first instance and ultimately from the tribunal.

4.1.1 Questions to expert witnesses and answers

1 In many jurisdictions, it is permitted for a party to put written questions to an expert witness instructed by another party, or to an SJE, during the course of the litigation (i.e. before the trial hearing).

2 Unless the tribunal gives permission or the other party agrees, it is usual that such questions may be put:

- a once only
- b within a set period (often 28 days) of service of the expert witness's report, and
- c for the purpose only of clarification of the report.

3 It is a requirement that you as an expert witness answer questions put to you either by the tribunal or by parties other than your own client, where they have a right to put such questions to you ([section 4.1, paragraphs 6 and 7](#) of RICS' [Surveyors acting as expert witnesses](#)). Failure to respond to legitimate questions may result in less weight being applied to your evidence. The tribunal is likely to have regard to any failure to respond fully to such questions when determining responsibility and the amount of a claim for costs by one party against the other, unless it can be demonstrated that such failure to respond was reasonable given the specific circumstances.

4 An expert witness's answers to the questions will be treated as part of the expert witness's evidence, and RICS' [Surveyors acting as expert witnesses](#) will continue to apply to such work. You should copy your answers to those instructing.

5 You should send any questions you receive from the other party to those instructing and, if appropriate, ask for further instructions. Where you are of the view that a question put to you is not aimed at clarification of your report, is disproportionate or has been put out of time, you should refer to those instructing, giving reasons for not answering the question(s).

4.2 Research and documents contributory to evidence

1 Any evidence you give will be based on your professional experience as well as, almost invariably, documents either provided to or held by you.

2 Documents from your own resources often provide useful factual information upon which to rely. Such documents might include:

- a textbooks
- b published material

- c photographs
- d plans
- e the opinions of others
- f evidence proformas or other evidence verifying documents from third parties
- g codes of practice, and
- h RICS' professional standards, [Rules of Conduct](#) and practice guidance.

3 Where you rely upon such documents, [section 4.6.1, paragraph 4\(n\)](#) of RICS' [Surveyors acting as expert witnesses](#) requires that this is made clear as part of your evidence, and it is helpful if you can provide or offer to provide full copies.

4 It is usual for those instructing to provide the expert witness with facts, literature or other material, which the expert witness may adopt if relevant to the matters with which they are dealing. [Section 4.6.1, paragraph 4\(n\)](#) of RICS' [Surveyors acting as expert witnesses](#) requires that these, and any other facts, literature or material that you establish for yourself and to which you have regard in forming any opinion, are to be set out in the expert witness report, either fully or by cross-reference to other documents that will be made available to the tribunal.

5 Accordingly, any written report lodged before a tribunal should include a full schedule of the documents upon which you have relied and, where necessary, copies of such documents or the relevant portions thereof (see [section 4.6.1, paragraph 4\(n\)](#) of RICS' [Surveyors acting as expert witnesses](#)).

6 You should also give sufficient explanation of what you have done in ascertaining and checking facts to enable the tribunal to be satisfied that you have fully discharged your obligations.

7 You should pay particular attention to documents that have been generated in whole or in part by artificial intelligence, as it may not be possible to identify the source or completeness of information or the absence of other relevant information (refer to the current edition of RICS' [Responsible use of artificial intelligence in surveying practice](#)).

8 Where a party has access to information that is not reasonably available to another party, the tribunal may direct the party who has access to the information to:

- a prepare and file a document recording the information and
- b serve a copy of that document on the other party.

9 In any event, it is considered good practice for all expert witnesses to ensure that both those instructing and the other side see all evidence and relevant material supporting their case, prior to the exchange of expert witness reports.

10 The withholding of evidence as a tactical approach, so as to deliberately mislead or ambush the other side, is regarded as unprofessional and may result in costs being awarded

against your client, even if you ‘win’ the case. It may also lead to a charge of misconduct against you if you deliberately and wilfully, for tactical reasons, do not make available your evidence to the other side prior to the submission of expert witness reports.

11 If, when acting as an expert witness, you are passed papers or materials expressed to be ‘privileged’ or ‘without prejudice’ and it is not clearly indicated that privilege has been waived therein, you should either immediately verify the status of the materials without reading the papers (the preferable option), or return the papers unread with an explanation for their return.

4.3 Inspections

1 You should state the date or dates on which any property/facility related to the subject of the dispute was inspected and clearly state the extent of the inspection.

2 If access to a property/facility is impractical, or severely limited, after all reasonable efforts have been made by you (or on your behalf) to secure such access, nothing in this practice guidance or the professional standard precludes you from providing an appropriately qualified opinion.

4.4 Early-stage involvement, discussions and meetings

1 Meeting with your client’s team as early as possible is encouraged, so that your professional opinion can be established and understood. This enables the strengths and weaknesses of your professional opinion, which will form the basis of your expert witness report, to be established and the client’s case and potential for success or otherwise to be evaluated.

2 It may result in you wishing to make changes to the report, and/or the client wishing to settle the matter. Consequently, such meetings, and the understanding arising from them, are often of critical importance as to how the case is progressed.

3 Where ordered by a tribunal to communicate with the other expert witness in order to attempt to agree facts and clarify or narrow the issues in dispute, you should request from those instructing a copy of any order or direction relating to such requirements.

4 The purpose of discussions between expert witnesses is to facilitate, particularly in the absence of specific instructions, a speedier resolution of the dispute. Factors to take into account when fulfilling the mandatory requirements in [section 4.4, paragraph 1](#) of RICS’ [Surveyors acting as expert witnesses](#) could include (but might not be limited to):

- a the commercial interests of your client in advancing or delaying the outcome of the dispute
- b the likely costs of taking the steps in question at an early stage, compared to the costs at a later stage when the matter may have become more (or less) contentious

- c the tactical advantage of being seen to have a well-prepared case, and
- d the role that early discussions may play in prompting a settlement with the other party.

5 The purpose of meetings between the expert witnesses is to narrow the differences by discussion and achieve a greater understanding of the issues in dispute, so that the tribunal's time and resources can be focused on the areas of dispute.

6 The issue of when and where the experts should meet (and how) should be settled at the first occasion that the tribunal considers the matter – that is, the need for any expert witness evidence and the questions as to the type of expert evidence and the management of the delivery of that evidence should be addressed by the parties at the first case management conference.

7 Earlier settlement and reduction of costs is facilitated by encouraging a proactive and cooperative approach among opposing expert witnesses; an obvious way to achieve this is to hold a meeting. Current habits are tending towards 'virtual' meetings, but the importance and value of face-to-face meetings to overcome misunderstandings should not be underestimated.

8 Meetings between expert witnesses should be a constructive debate of their opinions and should not be partisan. This is in order to agree facts and clarify, narrow or resolve evidential issues in dispute within their area(s) of expertise, assisting the tribunal by reducing the scope and number of issues in dispute and providing clarity over what is to be decided. You are encouraged to suggest to those instructing that it would be useful for meetings to take place at the draft report stage.

9 'Without prejudice' is a rule governing the admissibility of evidence. The essential purpose of conducting the meeting on a 'without prejudice' basis is to encourage the expert witnesses to speak frankly and openly in the knowledge that the discussion cannot be relied upon or communicated to the tribunal, but the overall spirit of the meeting is being adhered to.

10 It is generally best if such meetings occur before reports intended for disclosure are exchanged, as expert witnesses can be slow to alter opinions after signing a report and time can be wasted if positions are entrenched before the meeting. An exchange of skeletal reports or an agenda of the issues before such meetings may assist the process. Experts can agree their own agenda as to what to discuss against an agenda prepared by those instructing that sets out the legal issues on which expert opinion is sought.

11 Meetings offer the opportunity for the expert witnesses to exchange and discuss evidence, pool relevant technical information, identify areas of agreement and disagreement, and explore whether those areas may be narrowed or eliminated altogether. Narrowing of the issues may well lead to shorter, clearer reports, which will save time and reduce costs.

12 There is no prescribed protocol for a meeting between expert witnesses, although there may be times when the expert witnesses are directed to meet by the tribunal. Prior to attending any meeting, you should establish the status of the meeting with those instructing.

13 If the expert witnesses are to meet, the following is recommended.

a Prior to the meeting you should:

- i** discuss the purpose of the meeting with those instructing, having regard to the terms of any order or direction by a tribunal, where available
- ii** agree with the opposing expert witness where to hold the meeting. This can be seen as a tactical point and so a place of neutrality may be preferred (though bear in mind the potential logistical and cost implications). In the context of the tribunal, it is generally expected that the claimant's expert witness is the convenor of the meeting, and
- iii** establish with the opposing expert witness whether an agenda or skeletal expert witness reports are necessary and, if so, their contents. It is good practice for you to create at least a template to focus on the issues that need to be discussed and to identify any relevant material you intend to introduce or rely upon in the discussions. Any agenda should be neither hostile nor partisan.

b During the meeting:

- i** reaffirm at the outset that the meeting is being convened on the basis of 'without prejudice' discussion
- ii** you are expected to bear in mind the overriding objective that the tribunal deals with cases justly, taking into account proportionality, expeditiousness and fairness
- iii** clients, lawyers and advisers will not usually be present. If they are present, their intervention in the discussion is to be avoided, but they may answer questions put to them and advise on the facts or law. Consider whether there is equal representation on both sides. The expert witnesses are at liberty to conduct part of their discussion in the absence of lawyers (and may correctly insist on it), if they so wish, and
- iv** where possible, agree and jointly sign minutes of the meeting to avoid misunderstandings later.

c After the meeting:

- i** if it was not possible to do so at the meeting, agree and jointly sign the minutes of the meeting to avoid misunderstandings later. You are reminded that you are required to avoid commenting on the professional competence of your opposite number without providing supporting reasons (see [section 4.1, paragraph 3](#) of RICS' [Surveyors acting as expert witnesses](#)) and
- ii** the minutes should preferably set out those issues that are agreed and those that are not, together with the underlying reasons, as well as a list of any new issues that may have arisen and/or any further action(s) to be taken or recommended.

14 Where an agreement is reached on issues during the meeting of expert witnesses, that agreement does not bind the parties unless the parties agree to be bound by it.

4.4.1 Joint statements

- 1 The tribunal may have directed, or the parties may have voluntarily agreed, that the expert witnesses are to prepare a joint statement of what is agreed and what is not agreed. Such a document is usually the product of several expert witness meetings and discussions. The publication of this document will normally be subject to a time deadline set by the tribunal.
- 2 The joint statement is to be available for use in the proceedings and is not protected by privilege (i.e. it is not 'without prejudice' and can be relied on in the tribunal by any party). Its purpose is to define and narrow the contentious issues. The tribunal may have also specified issues that the expert witnesses are to address. The tribunal is not usually bound by the findings of the joint statement, but its decision is likely to be influenced by it – especially points where the joint experts agree. You are reminded that the joint statement is not a legal document but one that rehearses the agreed facts and expresses the opinions of the expert witnesses.
- 3 You should be careful that a joint statement used at mediation does not lose its privilege if prepared under the tribunal's direction for any joint statement. You should seek the advice of the client's lawyers or, if necessary, instruct your own.

4.5 Matters arising during the course of the appointment

4.5.1 Advising advocates

- 1 As an expert witness, you may be required to consult with and advise advocates as the case is progressed to trial, and it is almost certain that you will have to liaise with an appointed advocate and explain the basis of your professional opinion in the context of the client's case.
- 2 Immediately prior to any hearing, it is not uncommon for advocates of opposing parties to discuss between themselves aspects of the case, including possible compromise solutions. Expert advice is often needed during such negotiations, and it is helpful for your client's advocate if you are available well before the hearing is due to begin and you contribute as appropriate to such discussions. Such advice is not regarded as providing expert evidence and is privileged.
- 3 Discussing issues relating to a specific litigation with the instructed lawyers and advocate is generally regarded as privileged for the purposes of disclosure, but if in doubt confirm the status of the communication with the lawyer in advance.
- 4 During the hearing, the advocate may wish to consult with you while other expert witnesses are giving evidence, especially during cross-examination. You should establish

whether the advocate wishes you to be available for such consultation. The expert witness is often asked to sit immediately behind or alongside the advocate in order that they can be consulted directly during the proceedings.

5 You should discuss with the advocate and/or those instructing when attendance at the tribunal is required so that the expert witness is able to remain involved with those parts of the dispute that cover the relevant subject matter and can advise of any implications for the client's case.

6 Expert witnesses who are not under oath or affirmation are commonly required to listen to others give evidence (especially the expert witness for the other side covering the same subject) in order to provide comment, corrections and analysis that may be picked up in cross-examination or in closing speeches. The expert witness may also be required to discuss other matters relating to the case with advocates during adjournments.

4.5.2 Seeking directions from the tribunal

1 It may be possible for you to seek directions from a tribunal to assist you in carrying out your functions as an expert witness, for example if those instructing fail to reach agreement with you about whether it is appropriate to reply to a written question or fail to approach the tribunal for directions. Under these circumstances, you may consider the option to make a written request to the tribunal for directions, when the rules of the tribunal permit such a procedure.

2 You should discuss an intention to request assistance from the tribunal in carrying out your function as an expert witness with those instructing prior to filing the written request with the tribunal. Care should be taken to ensure that privileged or 'without prejudice' material is not disclosed to the tribunal during such an application.

3 Where such formal requests are made to a tribunal by an expert, the expert would be expected to provide copies to those instructing and the parties in advance and comply with any timescales that may be prescribed by the tribunal or the rules.

4 You should only request directions from the tribunal where the tribunal's involvement is strictly necessary. If in difficulty, the practical thing for the expert to do is to write to those instructing requesting clarification of instructions (or clarification that the fee will be increased to cover an additional round of questions). If an unsatisfactory or evasive answer is returned, the expert can write again reminding those instructing that clarification can be sought from the tribunal if they don't do as asked. Approaching the tribunal can damage the expert witness's relationship with those instructing.

5 In practice, an application to the tribunal by an expert witness is generally perceived poorly by those instructing, and may well prompt them to act and give the expert the clarity needed in order to avoid the expert making an application or enquiry to the tribunal. Tribunals frequently emphasise their duty to minimise expert evidence, and thus a party's expert witness may not agree to more than one exchange of questions and answers unless they believe it to be absolutely necessary, since a tribunal may subsequently consider

whether such further exchanges and the party's conduct (and that of its expert witness) were justified and may exercise its discretion on costs accordingly.

6 A request to the tribunal for directions by letter will usually contain:

- a the title of the claim
- b the reference of the claim (claim number)
- c the full name of the expert witness
- d a detailed explanation of why directions are being sought
- e copies of any relevant documents
- f the questions on which directions are required
- g the identity of those who have seen the questions and/or those provided with a copy, and
- h the signature of the witness and date of the request.

7 You should discuss in advance of any hearing with those instructing which parts of the proceedings you should attend and where you may be excused from attending the hearing, so as to minimise costs to the client. You should particularly consider which parts of the hearing may have relevance to your evidence or allow you to understand the context in which your evidence is given, including which expert witnesses for the other parties you should listen to.

4.6 The written expert witness report

1 Your expert witness report should be addressed to the tribunal and not the party from whom your instructions originate. It should be presented in an organised and concise way.

2 You should use plain language and, where use of technical terms is necessary, explain such terms to aid the understanding of the tribunal. Do not use words, terms and/or a form of presentation with the deliberate intention of limiting the ability of readers to check the correctness of any statement, calculation or opinion given (see [section 2.1, paragraphs 2 and 3](#) of RICS' [Surveyors acting as expert witnesses](#)).

3 You may have a personal style that is adopted for the layout of each report. Style should not reduce clarity or obscure the certainty with which the expert opinion is offered. If standardising the report into a template format, each report should be structured to fit the situation of the case and be tailored accordingly.

4 The requirements for statements of truth may differ between jurisdictions and tribunals. A tried and tested example is that set out in the Civil Procedure Rules in Practice Direction 35. This is the required form of the statement of truth when working under these rules; it is also likely to be accepted as a form for the statement of truth in other jurisdictions:

'I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.'

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- 5 Note that the basis of instructions will not be privileged against disclosure, and you may be asked to include appendices within the expert witness report or provide, during the course of any hearing, a copy of the letter of instructions and/or relevant correspondence relating to the basis of your instructions.
- 6 The requirement in [section 4.6.1, paragraph 4\(l\)](#) of RICS' [Surveyors acting as expert witnesses](#) is directed primarily to issues of practice or principle on which there exists a known and acknowledged range of opinions between experts in the field or different schools of thought. It does not mean that on every occasion on which you think that another expert witness might disagree with you, you are specifically required to say so and go on to say what view another expert witness might hold and why that expert witness would take that view. However, your duty to the tribunal requires you to put forward a fair and balanced assessment. This includes identifying any points that can fairly be made against your expert evidence and saying why they do not cause you to change your views.
- 7 The requirements in [section 4.6.1](#) of RICS' [Surveyors acting as expert witnesses](#) may be varied or supplemented by various court guides or the rules or directions of a particular tribunal. For example, if you are reporting to a court in England or Wales, Civil Procedure Rules Practice Direction 35 paragraph 3.1(9)(b) requires an additional statement that you are aware of the requirements of CPR Part 35, the practice direction and [Guidance for the instruction of experts in civil claims](#).

4.6.1 Preparing the report

- 1 This section gives guidance on the structure and scope of a typical report by an expert witness. It is almost always helpful to tribunals if paragraphs and pages within the report are numbered.
- 2 Where appropriate, have regard to any specific report requirements of particular tribunals (see [section 4.6.1, paragraph 2](#) of RICS' [Surveyors acting as expert witnesses](#)), bear in mind that some variations to the structure will be appropriate on occasion and take account of:
 - a any prior agreement between the parties as to the order in which issues are to be addressed (and possibly determined)

- b** any direction of the tribunal as to the procedure or the order in which the issues are to be considered, and
 - c** any statutory material or official guidance applicable to particular types of proceedings.
- 3** The report would usually be entitled 'Report' or, where appropriate, 'Supplemental report', 'Amended report' or 'Further amended report'. If any prefix is used in the report that is finally disclosed/exchanged, the other side may ask to see all previous iterations.
- 4** The format of changes to the report should be a signed addendum to the existing report (i.e. a separate document with changes and corrections, supplemental sections, pages or paragraphs), so that the change or development of opinion can be clearly seen and understood by the tribunal and the parties.
- 5** The report should have a front sheet that contains:
 - a** the name of the expert witness
 - b** the proceedings and tribunal
 - c** the nature of the evidence
 - d** the instructing party and client
 - e** the opposing party
 - f** the subject/title of the report, and
 - g** the date of the report.
- 6** You should avoid excessive use of company logos in your report.
- 7** Thereafter, the report often takes the following form (please refer to [section 4.6.1](#) of RICS' [Surveyors acting as expert witnesses](#) for the elements of this list that are mandatory).
 - a** Introductory material:
 - i** a brief résumé of your experience, qualifications and expertise, commensurate in detail and relevance with the nature and complexity of the case. A fuller description/CV can be attached as an appendix
 - ii** the names of the persons to be referred to in the report, together with a short description of their respective roles
 - iii** a brief outline of the nature of the dispute
 - iv** a complete and transparent statement of all material instructions
 - v** a history of your involvement in the case and the sequence of relevant events, where such a history exists
 - vi** the issues that you will address in the report (you may wish to number them) and

vii an executive summary of the main report, depending on the circumstances.

No opinions are expressed in this section. As regards the statement/description of experience and qualifications (including by way of any CV attached), it is important you check that all such description and text is accurate and up to date.

- b** Enquiries made by the expert witness and the facts upon which the expert witness's opinion is based.

This section (which is factual only) might include a description of inspections or surveys carried out, a note of those present and the findings reached. The description is usually given in itemised subparagraphs, with subheadings as appropriate.

This section of the report would also:

- i distinguish between facts that you have been told to assume, facts that have been provided and you have chosen to assume, and facts that you have established for yourself (or others acting on your behalf have established)
- ii identify the various sources of facts and material provided to and derived by you
- iii list the documents upon which you rely in the report, and provide references to enable their identification. If you have relied on extensive documents, a chronological schedule of these, incorporating a summary of their content, can be placed in an appendix to assist readers.
- iv where the parties have also agreed a statement of facts, the opportunity may be taken to highlight those facts that could not be agreed but are important enough to be mentioned, and
- v where asked to make an assumption, indicate whether you believe that assumption is unreasonable or improbable (that is, qualify the point as necessary).

4.7 Oral evidence at a hearing

1 Most tribunals require expert witness evidence to be given in a written report provided in advance of the hearing unless directions are issued to the contrary, and oral evidence might be required in addition to this. Oral evidence will usually be given under oath or affirmation but, in any event, [section 4.1, paragraph 1\(c\)](#) of RICS' [Surveyors acting as expert witnesses](#) requires that it is impartial, independent and your truthful and honest opinion.

2 Your evidence will be tested in the tribunal, and the normal procedure for testing evidence is cross-examination – that is, the asking of questions and the consideration of the witness's answers. The accuracy, completeness and quality of your report will be the subject of close attention and enquiry.

3 As an expert you are not there to argue the case, nor indeed to have any kind of argument – you attend to be asked questions on your report so that the court can decide the

extent to which it can rely on your evidence. For that reason, if you do not know the answer to a particular question, you are to say so (see [section 4.1, paragraph 1\(f\)](#) of RICS' [Surveyors acting as expert witnesses](#)).

4 Preparation is important, and you should:

- a make appropriate arrangements so that all documents necessary for proving your evidence are available
- b remind yourself of the detail of any written evidence that you have previously presented, and also of the detail of the contents of files, as specific points may need to be addressed before and during the hearing, including while giving evidence
- c take sufficient time to undertake all appropriate investigations and finalise your professional opinion based on the facts and your own expertise and experience
- d remind those instructing of your overriding duty to the tribunal, even when an element of your evidence may not support the client's position or wishes on part of the case, and
- e bear in mind that, if you refer to documents or notes while giving evidence, the advocate or the tribunal can request to see those documents or notes. This includes annotations on such documents or notes that are already before the advocate and tribunal.

5 Where you have to refer to bulky material in your evidence, and to electronic and screen-based material, it is your responsibility to make appropriate arrangements in a timely manner to enable such material to be communicated to the tribunal, as well as the other side and those instructing, as appropriate. Before attending the tribunal, you should be able to explain your report with the information and materials you have with you when you attend.

6 Oral evidence may take a variety of forms, principally examination in chief, where you will be asked questions by your client's lawyer or advocate, and cross-examination, where you will be asked questions by the other party's lawyer or advocate. More recently, the practice of tribunals hearing concurrent evidence from expert witnesses of like discipline has become quite common. This is often colloquially referred to as 'hot tubbing'. While the procedure varies and is generally at the tribunal's discretion, it is not unusual for expert witnesses to be sworn in together and to affirm opinions or give evidence simultaneously. The tribunal may ask questions, and the expert witnesses may engage in discussion with, or the questioning of, each other. The lawyer or advocate for the parties may also be given the opportunity to ask questions. Often the process of hot tubbing occurs after traditional cross-examination and provides the tribunal with an opportunity to speak to the expert witnesses at the same time about particular issues that may be of concern.

7 When giving evidence, you will be questioned by advocates and possibly the tribunal. All answers are expected to be addressed to the tribunal. You should volunteer the direct answer first before making any additional comments or clarifying the basis on which such an answer has been given. If you are unsure as to the appropriateness of extending your

answer, it may be best to enquire of the tribunal if you may have permission to expand on the answer as given in direct response to the question.

8 Adjournments of the hearing (whether for lunch, overnight or for longer periods) will often occur. You should not discuss the case with anyone during these adjournments. Most tribunal rules will mandate that, while you are under oath or affirmation, you are not to discuss the case with anyone during adjournments or you risk being in contempt of court. This restriction includes your client and client's advisers, advocates, fellow expert witnesses and colleagues. Adjournments between hearing dates can be lengthy, and in such instances you are advised to request that you be released from the restriction immediately before the hearing is adjourned.

5 The 'dual role' of surveyor-advocate and expert witness

- 1 Undertaking the two roles of expert witness and surveyor-advocate is entirely prohibited before many tribunals, as surveyors have no general right by virtue of their status as RICS members to appear as advocates in such cases. The dual role of advocate and expert witness is generally regarded as incompatible as it gives rise to a conflict of interest, which is not in the best interests of the client or of assistance to the tribunal.
- 2 Nevertheless, in certain lower property tribunals a practice has evolved under supervision of the tribunal where some surveyors do adopt a dual role: they act in the same case as surveyor-advocate and expert witness. There are limited and specific circumstances where the established practice of a particular tribunal (for example the Valuation Tribunal in England) makes express provision for a surveyor to take on a dual role (which is not permitted in other tribunals). The adoption of a dual role of surveyor-advocate and expert witness is only permitted in the limited and specific circumstances set out in [section 5](#) of RICS' [Surveyors acting as expert witnesses](#). This approach is permitted in some tribunals where it accommodates access to justice in a manner and at a cost that permit such cases to be brought forward. It is not acceptable in the regular civil courts of England and Wales.
- 3 Consequently, [section 5.2, paragraph 1\(a\)](#) of RICS' [Surveyors acting as expert witnesses](#) obliges you to consider the permissibility and appropriateness of undertaking a dual role in the same case.
- 4 The principal advantages and disadvantages of the dual role may be summarised as follows.
 - a The dual role may avoid or limit expense and delay, and therefore be a proportionate response to the circumstances of a case and the needs of the client.
 - b The weight to be attached to the evidence given by you as an expert witness, and to the submissions you make as surveyor-advocate, may be adversely affected if the dual role of surveyor-advocate and expert witness is undertaken.
- 5 See the current edition of RICS' [Surveyors acting as advocates](#) for mandatory requirements and best practice relating to the role of surveyor-advocate.

Appendix A Sample terms of engagement

- 1 These sample terms are not intended to be mandatory or prescriptive, and may be adapted as required. RICS members will undertake a range of assignments, and clauses may not be appropriate in every circumstance (and note that, for the purposes of this example, the word 'Appointer', rather than 'Those Instructing' has been used).
- 2 For example, where a client appoints a member directly, without using an Appointer, the terms would need to be amended accordingly. Other or additional terms of engagement may also be indicated, for example by a protocol established under procedural rules.

Terms of Engagement

1 Recital of appointment

1.1 The Appointer has appointed the named surveyor (see 1.5) to provide the following services in respect of [state identity of property/facility] and in accordance with these Terms of Engagement [state the nature and extent of the instructions, their purposes and the services that may be provided].

1.2 The appointment is one that is subject to the current edition of RICS' *Surveyors acting as expert witnesses*, a copy of which is available on request.

1.3 The Appointer is:

1.4 The Client is:

1.5 The Expert Surveyor is: [also state identity and qualifications of any assistant and extent of their intended involvement]

1.6 The Tribunal is: [state name of tribunal to which expert evidence is to be submitted]

2 Definitions

Unless otherwise agreed by the parties:

2.1 'Appointer' means the person(s), organisation(s) or department(s) from whom instructions are received.

2.2 'Client' means the person(s), organisation(s) or department(s) on whose behalf the Expert Surveyor has been instructed to provide the services listed in 1.1 of these Terms of Engagement.

2.3 'Expert Surveyor' means the person named at 1.5 and appointed to provide the services described in 1.1 of these Terms of Engagement.

2.4 'Assignment' means the matter(s) referred to the Expert Surveyor by the Appointer, in respect of which the services are required, and to which these Terms of Engagement apply.

2.5 'Fees' means (in the absence of written agreement to the contrary) the reasonable charges of the Expert Surveyor based on the Expert Surveyor's agreed hourly/daily rate [set out hourly/daily rates]. Time spent travelling and waiting may be charged at the full hourly/daily rate. Value Added Tax will be charged in addition (where applicable).

2.6 'Disbursements' means the cost, reasonably incurred, of (by way of non-exclusive example) all photography; reproduction of drawings, diagrams, etc.; printing and duplicating; and all out-of-pocket expenses, including travel, subsistence and hotel accommodation. Value Added Tax will be charged in addition (where applicable).

2.7 [The Expert Surveyor's] Complaints Handling Procedure (CHP) (if their firm is an RICS-regulated firm) will not apply to this engagement, because of the Expert Surveyor's duty to the tribunal.

3 The Appointer

3.1 The Appointer shall:

- a provide timely, full and clear instructions in writing supported by good-quality copies of all relevant documents within their possession – including all tribunal orders and directions that may affect the preparation of advice or reports – along with a timetable for provision of the Expert Surveyor's services; at such times as the timetable is altered, such alterations shall be notified promptly to the Expert Surveyor
- b treat expeditiously every reasonable request by the Expert Surveyor for authority, information or materials, and for further instructions, as they may require
- c update and/or vary without delay the Expert Surveyor's instructions, as circumstances require
- d not alter or add to, nor permit others so to do, the content of an Expert Surveyor's report, or any text, document or materials supporting such report, before submission to the Tribunal, without the Expert Surveyor's permission
- e where possible, at the Expert Surveyor's request, arrange access to the property/facility relevant to the Assignment in order that the Expert Surveyor can inspect such and make relevant enquiries
- f ascertain the availability of the Expert Surveyor for hearings, meetings and appointments at which their presence is required
- g give adequate written notice to the Expert Surveyor of any attendance required at hearings, meetings and appointments, and

- h not use the Expert Surveyor's report or other works for any other purpose save that directly related to the Assignment.

4 The Expert Surveyor

4.1 The Expert Surveyor shall:

- a undertake only those tasks in respect of which they consider that they have adequate experience, knowledge, expertise and resources
- b use reasonable skill and care in the performance of their instructions and duties
- c comply with appropriate codes, rules and guidelines, including those of RICS
- d notify the Appointer of any matter that could disqualify the Expert Surveyor or render it undesirable for the Appointer to continue with the appointment
- e answer questions or requests for information from the Appointer within a reasonable time
- f endeavour to make themselves available for all hearings, meetings, etc. of which they have received adequate written notice
- g treat all aspects of the Assignment as confidential
- h provide all relevant information to allow the Appointer to defend the Expert Surveyor's Fees or Disbursements at any costs assessment
- i respond promptly to any complaint by the Appointer within a reasonable time, and
- j retain all intellectual property rights and ownership rights in their work and any other original works created by them in relation to or in connection with the Assignment on which they are instructed, unless otherwise agreed in writing.

5 Fees and Disbursements

5.1 The Expert Surveyor may present invoices at such intervals as they consider reasonable during the course of the Assignment, and payment of each invoice shall be due on presentation.

5.2 For the avoidance of doubt, the Expert Surveyor shall be entitled to charge for Fees and Disbursements where, due to settlement of the dispute, or for any other reason not being the fault of the Expert Surveyor:

- a the Expert Surveyor's time has been necessarily reserved for a specific hearing, meeting, appointment or other relevant engagement
- b specific instructions have been given to the Expert Surveyor for an inspection and report, and

- c the reservation of time is not required because the engagement has been cancelled or postponed and/or the instructions have been terminated.

5.3 The Expert Surveyor shall also be entitled to charge for answering questions from a party relating to the Assignment or for the provision of any addendum reports.

5.4 The Appointer and [identify party] shall be jointly and severally responsible for payment of the Expert Surveyor's Fees and Disbursements.

5.5 Any restriction or cap by the Tribunal, or by another competent authority, on the recoverability of an Expert Surveyor's Fees and Disbursements, shall not affect the liability of the Appointer to pay those Fees and Disbursements.

5.6 The Appointer shall pay to the Expert Surveyor, if applicable, interest under [the relevant statute] on all unpaid invoices, or will pay to the Expert Surveyor, at the Expert Surveyor's sole discretion, simple interest at [...] % per month (or part thereof) on all invoices that are unpaid after 30 days from the date of issue of the invoice, calculated from the expiry of such 30-day period, together with the full amount of administrative, legal and other costs incurred in obtaining settlement of unpaid invoices.

6 Disputes over Fees and Disbursements

6.1 In the event of a dispute as to the amount of the Expert Surveyor's Fees and Disbursements, such sum as is not disputed shall be paid forthwith pending resolution of the dispute, irrespective of any setoff or counterclaim that may be alleged.

6.2 Any dispute relating to the amount of the Expert Surveyor's Fees and Disbursements shall, in the first instance, be referred to [for example, the Expert Surveyor's firm].

6.3 Any dispute over Fees or Disbursements that cannot be resolved by [for example, the Expert Surveyor's firm] shall be referred to [for example, a mediator chosen by agreement of both parties]. Where agreement cannot be reached on the identity of [for example, a mediator] the services of [for example, the RICS Dispute Resolution Service (DRS)] shall be used to appoint [for example, a mediator]. In the event that any dispute cannot be resolved by [for example, mediation], the courts of [state jurisdiction; for example, England and Wales] shall have exclusive jurisdiction in relation to the dispute and its resolution.

6.4 The law of [state law; for example, England and Wales] shall govern these Terms of Engagement.

Delivering confidence

We are RICS. As a member-led chartered professional body working in the public interest, we uphold the highest technical and ethical standards.

We inspire professionalism, advance knowledge and support our members across global markets to make an effective contribution for the benefit of society. We independently regulate our members in the management of land, real estate, construction and infrastructure. Our work with others supports their professional practice and pioneers a natural and built environment that is sustainable, resilient and inclusive for all.

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