

# Customer Complaints Procedure

## Dispute Resolution Service, Scotland

### Contents

#### 1. Overview

- 1.1 Purpose of the Customer Complaints Procedure

#### 2. DRS Powers

- 2.1 Background
- 2.2 What can DRS investigate?
- 2.2 What DRS is *unable* to investigate?

#### 3. The investigation

- 3.1 Are there any costs?
- 3.2 What will happen during the investigation by DRS?
- 3.3 What are the potential outcomes?
- 3.4 Final nature of CCP

#### 4. Additional information

- 4.1 DRS contact details
- 4.2 Time limits
- 4.3 Withdrawal of a complaint

#### 5. Complaints procedure flow chart

## 1. Overview

### 1.1 Purpose of the Customer Complaints Procedure

The Royal Institution of Chartered Surveyors (RICS) Dispute Resolution Service in Scotland (DRS) Customer Complaints Procedure (CCP) has been developed to ensure that customers of DRS and the public continue to have confidence in the professionalism and competence of the dispute resolvers appointed by the Chairman of RICS in Scotland (the Chairman).

The Chairman, through DRS, appoints dispute resolvers to act as arbitrators, adjudicators, independent experts, expert witnesses, or mediators. All of these appointments are covered by this CCP.

The purpose of this guide is to ensure that customers and dispute resolvers are fully aware of the procedure that will be followed when a complaint has been received about a dispute resolver appointed by the Chairman.

This document provides an explanation of DRS's powers and a step by step guide to the investigation that will take place.

## 2. DRS's powers

### 2.1 Background

#### **Does this CCP apply equally to dispute resolvers who are members or non-members of RICS?**

Yes, DRS Dispute resolvers include both RICS members (chartered surveyors) and non-members (e.g. solicitors or barristers)

#### **How does this CCP relate to the internal complaints procedure of a dispute resolver's firm?**

A chartered surveyor acting as a dispute resolver appointed by the Chairman, is deemed not to be carrying out surveying services. This means that the dispute resolver's usual company complaints procedure may not apply, but this CCP will.

#### **How does this CCP overlap with RICS Regulation and the regulatory arms of other professional bodies?**

We may, at our sole discretion, refer an allegation relating to the personal and/or professional conduct of a dispute resolver to RICS Regulation or to the equivalent authority within any professional body to which the dispute resolver belongs for consideration. Such a referral may, in addition to any steps taken by RICS DRS under this CCP, lead to disciplinary action against the dispute resolver. Examples of conduct which may fall within this category include demonstrations of abuse (verbal/physical), discriminatory or biased behaviour, or an undeclared conflict of interest.

The Chairman may be consulted during the course of the investigation, and has an unfettered discretion concerning the dispute resolver's membership of or involvement in a DRS panel(s).

### 2.2 What can DRS investigate?

#### **We can investigate:**

- 2.2.1 Complaints relating to the competencies reasonably expected of an individual as a dispute resolver. For example:
  - a. Inadequate case management including: inadequately setting out and communicating the process at the outset; haphazardly requesting paperwork; inefficiently organising evidence and representations; failing, as far as possible, to

ensure that all information provided by the parties or obtained by his or her own efforts, is equally shared with all parties to a dispute

- b. Poor time management including: failing to adhere to relevant prescribed timetables and time limits; repeatedly cancelling meetings without good reason; late billing of costs (including fees)

- 2.2.2. Complaints relating to the dispute resolver's personal and/or professional conduct in the course of acting as a dispute resolver in respect of the parties or others associated with the dispute resolution process, but not directly integral to the decision making process itself.

We retain the sole discretion to refer any complaint in part or in full to RICS Regulation or the equivalent authority within a professional body of which the dispute resolver may be a member.

## 2.3 What DRS is *unable* to investigate?

**Our legal authority does not extend to any issue relating to:**

- 2.3.1 The decision of the dispute resolver. This includes the reasoning of the dispute resolver in reaching the decision; the inclusion or exclusion of or weight given to evidence; or rulings on his/her jurisdiction or other preliminary or ancillary matters.
- 2.3.2 The reasonableness of a dispute resolver's fees (including how they are calculated and/or on what basis) or costs awarded.

We are also prevented by law from enquiring into or in any way interfering with any on-going dispute resolution process, such as arbitration, adjudication etc.

We have no power to require a dispute resolver to revisit, change or withdraw a decision.

We are also not able to consider any allegation of professional negligence relating to the decision or to instruct a dispute resolver to pay compensation based on alleged negligence or any other cause of action.

These issues can only be challenged in a court of law.

## 3. The investigation

### 3.1 Are there any costs?

There is no charge to either the complainant or dispute resolver for a complaint to be lodged with us or for an investigation to take place.

### 3.2 What will happen during the investigation by DRS?

- 3.2.1 DRS will always attempt to contact the dispute resolver by telephone in the first instance to that a complaint has been received. In the event that we are unable to speak with the dispute resolver, an email will be sent.
- 3.2.2 Should DRS consider that the complaint does not fall within our remit, a response will be sent the complainant which will explain the reasons why we are unable to pursue the matter further. The dispute resolver will also be informed of the outcome.

**If we consider that all or part of the complaint falls within our remit, the following procedure will be followed.**

- 3.2.3 DRS will ask the dispute resolver to respond to the complaint in writing and give a deadline date to respond. A copy of the complaint will be enclosed to ensure the dispute resolver is fully aware of the issues raised. Please note the deadline can only be extended by written request to DRS.
- 3.2.4 DRS will consider the response and inform both the complainant and the dispute resolver of the outcome.
- 3.2.5 DRS may at any stage seek advice from others within or outside of RICS. This may include professionals experienced in dispute resolution, law, practice and procedures, or in the subject area of the complaint.
- 3.2.6 DRS may at any stage contact the other party or parties to the dispute resolution process and may at our sole discretion seek their response to any complaint or document submitted.
- 3.2.7 DRS will then consider the matter further and write to the complainants, the dispute resolver, and if appropriate, any other parties to advise them of the outcome.

### 3.3 What are the potential outcomes?

The purpose of an investigation is to ensure the excellence of service provided by the dispute resolvers appointed by DRS. Our objective is therefore not necessarily to punish, but to ensure that dispute resolvers are fully aware of and at all times act in full compliance with the high standards required of them by the Chairman. Possible outcomes include:

- 3.3.1 Where a dispute resolver has made a minor error in practice or procedure, and the complaint overall is not considered serious, he/she will be given advice and guidance on how to proceed in future disputes where he/she is appointed, so as to avoid similar complaints
- 3.3.2 Where a dispute resolver has not discharged his/her role adequately and this has inconvenienced a complainant, but has not caused serious disadvantage, he/she may be warned as to future conduct, and notified that any further failures to perform adequately could result in suspension or removal from the panel from which appointments are made
- 3.3.3 Where an investigation determines that a dispute resolver is significantly weak in a particular area, he/she may be suspended from the panel from which appointments are made until such time as the Chairman is satisfied that he/she has addressed the matter through training/coaching.
- 3.3.4 In addition, all dispute resolvers have regular reassessments, and where a complaint has been received, DRS may bring the complaint to the attention of the Reassessment Board for consideration.
- 3.3.5 Where an investigation uncovers serious shortcomings in terms of the ability of a dispute resolver to discharge his/her role, and the Chairman considers that the shortcomings have not, or cannot, be resolved by further training or coaching, the Chairman may remove the dispute resolver from the panel from which appointments are made.

### 3.4 Final nature of CCP?

The decision of DRS under this Complaints Handling Procedure is final and there is no appeal.

## 4. Additional information

### 4.1 DRS contact details

Should you be asked by DRS to provide further information or to respond to the complaint, please reply directly to the member of DRS staff who has written to you as follows:

**Email:** [drsscotland@rics.org](mailto:drsscotland@rics.org)

**Post:** RICS Dispute Resolution Service in Scotland  
3<sup>rd</sup> floor  
125 Princes Street  
Edinburgh  
EH2 4AD

Further information is also available at [www.rics.org/drsscotland](http://www.rics.org/drsscotland)

If you choose to use email, please note that no email system is 100% secure. RICS cannot be held responsible for email service/internet system failures and/or downtime.

### 4.2 Time limits

A complaint must be made within twelve months of the act(s) complained of, or twelve months of the completion of the appointment, whichever is the later. In exceptional circumstances, DRS may extend this time limit.

In most circumstances, a complaint can only be investigated where the relevant dispute resolution process (including any decision as to costs) has been completed and any appeal process exhausted. A complaint cannot be investigated until any active legal action against the dispute resolver has been finalised.

### 4.3 Withdrawal of a complaint

Should a complaint be withdrawn, DRS will inform the dispute resolver in writing.

## Complaints procedure flowchart

