

COBURNS PARTY WALL

Party Wall and Neighbourly Matters

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www.coburnspartywall.co.uk

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GUIDANCE NOTE

DISPUTE RESOLUTION PROTOCOL

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From time to time a dispute may arise between the parties. Either party may call upon the surveyors to settle such a dispute by way of a further award.

Below we outline the process we ask the parties to follow when referring a matter to the surveyor:

Has a dispute arisen?

Before referring a matter to the surveyors a reasonable attempt should have been made to resolve the dispute with the other party. We would usually expect that an adjoining owner has already put their claim for loss or damage to the building owner prior to a referral.

Where a party has made insufficient efforts to mitigate costs by approaching the other party prior to referring a matter to the surveyors, this can be taken into account when considering the costs of the award.

A referral to the surveyors should be considered a 'last resort'.

Where there is a difference of opinion in relation to compensation, only the disputed amount need be referred to the surveyors. Not the whole sum.

Care should be taken to ensure matters outside the remit of the surveyors are not referred to them. Such a referral is likely to incur costs for the referring party.

Submissions

The party making the referral shall provide their submission in writing including sufficient detail of the matter/s in dispute to allow the surveyors to come to an informed conclusion.

If they are hoping to make a compensation claim it would help to have 3 detailed quotes.

Where either party makes an insufficient effort to mitigate costs by providing a suitably detailed submission, this can be taken into account when considering the costs of the award.

Once the initial submission is received, the other party will be asked to provide their response within an agreed (by the surveyors) time limit.

Procedure

Upon receipt of the submissions and before making a determination, the surveyors will decide on the procedure, and may require any or all of the following:

1. Clarification or further information from either party.
2. A site visit.
3. Independent expert advice.

Conduct and Communication

The surveyors must act in a manner that is not only impartial but is seen to be impartial. They should not engage in unilateral discussions with one party without involving or advising the other unless one party is clearly refusing to participate in the process.

Costs in making the award

The costs in making the award (including the surveyor's fees as well as those of any necessary consultants) will be awarded to be paid by whichever party or parties, they may determine.

On some occasions, they may determine that the costs of the award are to be apportioned between the parties.

Contents of the award

The award will identify the issues referred to the surveyors.

However, they will only make a determination on those issues where they have jurisdiction under the Act to do so.

The reasoning behind the decisions will usually (but not always) be given in the award.