

DISPUTE RESOLUTION

RICS Consumer Home Improvements Dispute Service – Rules, Procedure and Timetable

RICS Dispute Resolution Service



Rules, contextual information and procedural guidance for Adjudications under the RICS Consumer Home Improvements Dispute Service

Background

Alternative Dispute Resolution (ADR) refers to a wide range of methods for resolving disputes which avoid the need for litigation.

The UK government wants to encourage greater use of ADR to manage and resolve civil disputes, particularly in the business-to-consumer sector.

Efficient ADR measures, which are accessible and easy to use, should be beneficial for all businesses committed to giving their customers the best possible service.

The ADR for Consumer Disputes Regulations 2015 are intended to encourage consumers to participate in ADR by ensuring ADR is fair, simple to understand and cost-effective. The regulations do not make participation in ADR schemes mandatory for consumers or traders, but they do require almost all businesses which trade directly with consumers to point the consumer to a certified ADR scheme, where they cannot resolve a dispute in-house.

Many traders are members of voluntary ADR schemes, and some are required to engage with ADR to resolve disputes with consumers by virtue of their participation in trade schemes.

RICS has designed a dispute resolution procedure which is designed to be compliant with the Alternative Dispute Resolution for Consumer Disputes Regulations 2015. The procedure is tailored specifically to resolve consumer disputes in the residential building sector. It is called the Consumer Home Improvements Dispute Service.

The Service involves the consideration of disputes and the making of decisions on them by independent Adjudicators, who will be appointed from a panel maintained by the RICS Dispute Resolution Service (DRS).

Each appointed Adjudicator will be a professional (e.g. chartered surveyor, lawyer, engineer) who is experienced in building and construction matters and has been trained by RICS to undertake the role of independent Adjudicator.

Application of the Consumer Home Improvements Dispute Service to the Which? Trusted Trader Scheme.

A referral to the consumer service will normally occur after Which?'s internal complaints handling procedures, including possibly mediation, have been exhausted, and:

- Which? has informed the Consumer about the adjudication procedure and how it operates, and
- the Consumer has agreed to use it to resolve their dispute with the Trader.

A Which? Trusted Trader is compelled, as a condition of their participation in the Which? Trusted Trader scheme, to submit to the use of the service when it is offered to a consumer client, and the Consumer agrees to use it.

A Which? Trusted Trader is bound by the outcome/decision of an Adjudicator.

A Consumer is not bound by the outcome/decision of an Adjudicator unless:

- They have been appropriately advised about the process and potential outcomes and have expressly confirmed before the adjudication proceeds that they will be bound by the Adjudicator's decision.
- They agree to accept the Adjudicator's decision after it has been issued to the parties.
- They have raised no objection to the adjudication decision within 20 working days of it being communicated to both parties.

RICS Consumer Home Improvements Dispute Service Rules, Procedure and Timetable

1. Preamble

The Consumer Home Improvements Dispute Service is designed to be an effective and impartial ADR procedure, with an objective timetable, which will resolve consumer disputes in the residential home improvements sector.

It involves the appointment of independent adjudicators who will consider and decide disputes, quickly and fairly, and within 35 working days from the time the Adjudicator is appointed.

1.1 Advantages of the Consumer Home Improvements Dispute Service

- It provides simple and cost-effective resolution of disputes, with the objective of an outcome being achieved within 35 working days.
 - It is completely impartial. Decisions on disputes are made by independent adjudicators, who are appointed by RICS, which is a neutral professional body regulated by Royal Charter.
 - The service utilises skills and experience of industry professionals, whose decisions draw on their knowledge and experience in the building industry.
 - Both parties are provided with the opportunity to make their case and to deal with matters presented by the other side.
 - The adjudication procedure is structured and includes an easy-to-follow timetable that keeps all sides focussed and on track and avoids unnecessary delays and costs.
 - The process is considerably cheaper, easier to access and speedier than court.
- 1.2 RICS will act as an independent service provider for disputes between Which? Trusted Traders and Consumers, where the matters in dispute are concerned with construction, maintenance, repair, and other building related works carried out on residential occupancies.
- 1.3 RICS will:
- Set up and maintain a panel of qualified adjudicators.
 - Appoint adjudicators to investigate and decide individual consumer disputes as and when requested.
 - Provide Consumers and Traders with guidance on the adjudication process and timetable.
 - Provide soft services, including complaints handling relating to Adjudicators and the appointments process.
- 1.5 The Adjudication Service is available to help determine matters where:
- The issues are not complex to the extent that they would require significant time and resources to explore and determine effectively.
 - A Consumer is seeking a remedy which has no monetary value (e.g. an apology)
 - A sum of money is claimed by the Consumer which is £10,000 or less.

2. Timetable and procedure

2.1 The procedure and timetable below are objective. An Adjudicator may adapt the procedure/timetable, including allowing extensions where reasonable grounds exist, as they feel it necessary, and to accommodate the needs of the parties, but should always aim to issue a decision no more than 35 working days after being appointed.

It is anticipated that parties who use the service (Consumers and Traders) will often be unfamiliar with ADR procedures and may not be familiar with procedural timetables.

It is also anticipated that the issues and remedies sought by a Consumer will have been rehearsed and clearly defined during the course of the Which? internal complaints handling procedure, and that the Trader will have an understanding of the issue(s) too and will be ready to address them.

2.2 The Adjudication Service is offered to a consumer by Which? as and when Which? considers it is appropriate to do so. This will be after a Consumer has been advised by a Which? complaints handling case officer about the process, the Consumer has confirmed they understand it and has agreed to use it. Which? will at this point provide the Consumer with an authorisation number to enable them to access the service.

2.3 A consumer will apply to RICS for the appointment of an impartial Adjudicator by:

2.3.1 Completing an application form and forwarding it to RICS (copied to the trader).

2.3.2 Submitting a brief summary of the dispute (maximum 2 pages), which will inform RICS and help RICS to identify a suitably qualified, experienced, and impartial adjudicator.

The summary should set out succinctly:

- A description of the works/contract (*What was agreed between the Consumer and the Trader, or at least what the Consumer believes had been agreed with the Trader.*)
- A description of the dispute (*What the Consumer believes has gone wrong and what needs fixing or to be done.*)
- The remedy that the Consumer seeks from the adjudication (*What the Consumer wants in terms of an outcome, e.g. compensation, an apology, specific performance, e.g. The Trader returns to make good or the Trader is required to pay for an alternative company to fix the issues.*)

- 2.4 The Consumer should also compile the documentary evidence needed to support their position:
- This should be relevant and to the point and comprise of no more than 25 pages.
 - The documents may include photos of alleged poor work/materials, exchanges of emails/messages, invoices, receipts, etc. In addition to the 25 pages, the Consumer may include a copy of any formal written contract that they and the trader have signed up to.
 - Which say yes because otherwise the consumer will say they're being unfairly disadvantaged by spending money on a report because a trader has done a bad job. Cost has to be reasonable in the circumstances. Can't be a fishing expedition. Adjudicator to assess on case by case basis - add something to adjudicator's rules to cover this
 - These documents will be submitted by the Consumer to the Adjudicator (copied to the Trader) once the Adjudicator is appointed and should not be sent to RICS at this stage.
- 2.5 The Consumer Home Improvements Dispute Service adjudication process is designed and intended normally to be conducted on a documents-only basis. The onus of proof lies, as it does in all legal claims, on the party making the claim to provide the evidence necessary to prove their case to the adjudicator.
- 2.6 Copies of the application form and two-page summary will be sent to the trader. At the same time, both parties will be notified that RICS is proceeding with the application and that parties will be notified of the identity of their appointed adjudicator within the next 10 working days.
- 2.7 Copies of the application form and two-page summary will be sent by RICS to one or more prospective Adjudicators for their consideration.
- This will help potential Adjudicators decide if they are able to take on the appointment, have requisite skills and knowledge of the disputed subject matter, are free from conflicts of interest and have the time available to reach a decision within 35 working days from the date they are appointed.
- 2.8 RICS will appoint a suitably qualified and independent Adjudicator within 10 working days of an application being received and will notify both parties.

- 2.9 The Adjudicator will, upon appointment, assume responsibility and authority for the further administration and progress of the adjudication process. The objective time periods relating to the progress of the adjudication will begin to run at this point.
- 2.10 The Adjudicator will become entitled to payment of their fee from this point on, whether or not the parties agree later to settle or otherwise abandon the adjudication.
- 2.11 The Adjudicator will contact the parties upon appointment set out their terms of reference and will require the consumer to submit the documentary evidence needed to support their position referred to in Rule 2.3 above to the Adjudicator and copied to the Trader withing 5 working days.
- 2.12 Upon receipt of this, the Adjudicator will give the Trader 10 working days to respond and invite them to say which issue(s) are accepted and/or contested.
- 2.13 The Trader's response should include confirmation as to whether the Trader is prepared to provide the remedy sought by the consumer (all or in part). In terms of compensation, this may be a monetary offer to settle.
- 2.14 If the Trader contests all or part of the consumer's claim, they should provide a two-page summary setting out their reasons. They should also provide documentary evidence to support their position. This should be no more than 25 pages.
- 2.15 The Trader will be required to submit all these documents to the Consumer and the Adjudicator at the same time
- 2.16 The Adjudicator will decide the best way to proceed with the dispute after receiving the submissions. This may include seeking further information (photos, documents, etc) from one or both parties, though this will not always be necessary if the Adjudicator considers that they have all the information they need.
- 2.17 If either party fails or declines to make the submissions required of them, or otherwise to participate fully in the adjudication process, the Adjudicator will continue to consider the dispute and deliver a decision on the basis of the submissions actually received and their own professional expertise.
- 2.18 Site visit
- A site visit will not normally be expected and should only happen if both parties and the Adjudicator agree that it is necessary for the Adjudicator to examine relevant works, or where the condition of the site or something at the site, is in issue.

- Both parties, and/or their representatives, should attend any site visit along with the Adjudicator. The Adjudicator must not communicate directly with one party without the other party being present and having an opportunity to address any matters raised.
- Should either party and/or their representatives fail to attend the site visit, the Adjudicator may continue to inspect the site and may ask the party present or their representatives to point out issues in question. The Adjudicator will not discuss the merits of the matter or any statements or arguments made in respect of the issues pointed out. Following a site visit with only one party present, the Adjudicator will write to both parties with a brief note from the visit.
- Which? will, normally, pay the reasonable travel expenses for a site visit, so long as these are agreed in writing with Which? in advance, by the Adjudicator on behalf of the parties.
- Should Which? decline to do so, these will need to be agreed between the parties and the Adjudicator and paid by the parties to the Adjudicator in advance. The parties will normally share the Adjudicator's reasonable travel expenses equally.

3. Adjudicator's decision

- The Adjudicator will aim to issue their decision on the dispute to both parties within 10 working days of receiving the last submission from the parties, and in any case no more than 35 working days after they have been appointed.
- The Adjudicator's decision will be fully reasoned and will include a comprehensive explanation as to how and why the Adjudicator has reached their conclusion. This will inform both parties and enable them to assess the risks should either of them consider taking the same matters decided by the Adjudicator to court.
- An Adjudicator's decision on a dispute will be binding on the Trader.
- The decision will be binding on the Consumer, if:
 - the Consumer agrees to accept the Adjudicator's decision after it has been made, or
 - the Consumer fails to object to the Adjudicator's decision within 20 working days, or
 - the Consumer has been appropriately advised and has agreed to be bound by the Adjudication prior to the Adjudicator being appointed.
- If the Consumer disagrees with the decision, they may wish to seek independent advice as to what recourse is available to them.

- Once the decision is issued, the role of the Adjudicator comes to an end. They are not obliged to enter into further correspondence with the parties, other than to consider issues arising from correction of errors (see section 5 below).

4. Fees and costs

- 4.1 The fee paid to the adjudicator will be £275 inclusive of VAT per case. (To be reviewed annually).
- 4.2 The Adjudicator's fee will be paid by Which?
- 4.3 Any costs claimed by the Consumer must be reasonable. The Adjudicator will assess this on a case-by-case basis.
- 4.4 The process is offered to the consumer at nil cost, excluding an Adjudicator's travel costs where a site visit is agreed by the parties and the Adjudicator and where upon application, Which? declines to meet these expenses (see section 2.18 above), or any unreasonable costs claimed by the Consumer.

5. Correction of errors

The Adjudicator may make corrections to remove any clerical or typographical errors made by accident or omission. Any corrections must be made within 5 working days of the delivery of the decision to the parties. Parties may correspond with the Adjudicator to draw such possible errors to their attention. Any corrections made must maintain the original intention of the Adjudicator in reaching their decision. The Adjudicator may not amend the decision to give effect to any second thoughts or change the decision.

6. Access to decisions by RICS or Which?

Either RICS or Which? will be entitled to request and receive a copy of the decision from the Adjudicator. RICS and Which? will respect the confidentiality of the parties and will not share the decision with any third party unless required to do so by law or in pursuit of taking legal advice.

7. Complaints

Parties may raise complaints with RICS concerning the conduct of the adjudication process, under the RICS complaints process details of which are [available here](#).

8. Immunity

The Adjudicator, RICS and Which? are not liable for anything done or omitted in the discharge or purported discharge of their functions unless the act or omission is in bad faith, and any employee or agent of RICS, Which? and the Adjudicator is similarly protected from liability.

NB:

For monetary claims in excess of £10,000, RICS offers an additional option known as the RICS Adjudication Service for Residential Building Works (see [Adjudication Services \(rics.org\)](https://www.rics.org/adr) for details).¹

To avail themselves of this service, both parties should first be informed about how it works, potential outcomes, costs, etc. and they must agree to use it as an alternative to going to court.

Last updated – 02 January 2024

These Rules and the Procedure to which they apply are monitored and reviewed on a regular basis. RICS DRS reserves the right to update/modify these Rules and Procedure at any time.

¹ If a dispute between a consumer and a trader concerns significant sums of money, i.e. over £10,000, and is too complex to be investigated and determined under the *Consumer Home Improvements Dispute Service*, and one or both parties may be considering legal action, the *RICS Adjudication Service for Residential Building Works* provides both the consumer and trader with a cheaper, quicker, and less formal option than litigation, and will result in decisions that are contractually binding. See RICS website for details.