



# RICS Simplified Arbitration Service

A simple and cost effective way to resolve rent disputes in the rural sector





## The RICS Simplified Arbitration Service

RICS has developed a low-cost, quick and easy arbitration procedure to help rural landlords and tenants resolve rent review disputes. The service can also be used for other rural sector disputes.

When it is time for a landlord and tenant to review the rent on a holding or tenancy, they can agree the new rental figure without having to go to arbitration. However, if the new rent has not been agreed by the date it is meant to take effect, an arbitrator (or independent expert) must be appointed.

The arbitrator will take evidence and inspect the property. He or she may also hold a hearing with the landlord, tenant and their representatives before deciding what the new rent will be. This can frequently mean that the amount of time and money parties will need to spend on the arbitration will be unclear. The process can be expensive and very slow. For many years, arbitration has been the normal way to resolve disputes between rural landlords and tenants.

The process is underpinned by the Agricultural Holdings Act 1986 (AHA 86) and the Agricultural Tenancies Act 1995 (ATA 95). However, the way arbitrations have been conducted in recent times has led to increasing criticism from landlords and tenants, who feel it is becoming too slow and expensive.

RICS has developed the Simplified Arbitration Service (SAS) to give parties a more simple and cost-effective way to settle disputes. This new service is designed to be a cheaper and more informal method for determining rent and other disputes than has been applied in recent times through arbitration under AHA 86 and ATA 95.



SAS does not contravene AHA 86 or ATA 95. It is designed to support the legitimate right of parties to use arbitration, by providing a structure and timetable that ensures disputes are dealt with quickly and inexpensively.

SAS is an alternative to the current arbitration process, which parties can choose to use, or not.

To address particular concerns about delays and costs resulting from the way some parties conduct themselves in arbitrations, SAS provides a structure and defined timetable. This gives arbitrators greater ability to deal with parties whose actions, or inaction, might add to delay and increased costs.

## Why use the RICS Simplified Arbitration Service [SAS]?

The RICS Simplified Arbitration Service is:

- A much more informal and relaxed procedure for dealing with disputes compared to courts and traditional approaches to arbitration.
- An uncomplicated and straightforward process, which still allows both parties a reasonable opportunity to have their say.
- Speedy and low-priced. The parties will know how long it is going to take to get a decision, and how much they will have to pay.

When appointing arbitrators, we undertake robust checks to ensure that those we appoint are:

- Suitably qualified in the subject matter which is in dispute.
- Independent of the parties and have no conflicts of interest.
- Knowledgeable on the law and practice of arbitration.

There is an application fee of £195 for the appointment of an arbitrator. This is payable to RICS by either party.

If both parties agree to use SAS, arbitrators will sign up to a fixed timetable and costs regime, with the aim of reaching a decision within 28 days, at a maximum cost to each party of £2,000 following confirmation by one or both of the parties that negotiations in the dispute have broken down, and that the arbitration should proceed.

As long as parties abide by the SAS procedural rules, the arbitrator will only charge for 3 days work at £1000 per day (plus VAT). If the parties choose to have a hearing/meeting, the arbitrator may charge an additional fee up to £1000. These costs will be shared equally by the parties, and each party will pay their own costs regardless of the outcome.



### Summary of the Simplified Arbitration Service procedure:

The RICS Simplified Arbitration Service enables parties to opt jointly for a procedure that is transparent, quick, even-handed and inexpensive.

A summary of the procedure is as follows:

1. When a party submits a standard application for the appointment of an arbitrator, RICS will contact both parties to provide information about the service and seek their agreement to use it. The arbitrator has the power to consider reasons presented by a party who chooses unilaterally not to opt for the SAS, and may award adverse costs if s/he considers the party has acted unreasonably.
2. Subject to obtaining written confirmation from both parties that they agree to abide by the procedural rules published by RICS for the Simplified Arbitration Service, an arbitrator will be appointed by RICS who will undertake the arbitration in accordance with the procedural rules
3. Once the arbitrator is appointed, the parties will be invited to forward written submissions to support their case for the level of new rent. (These should include statements of case and skeleton arguments and then rebuttal, lists of comparables, lists of agreed facts, and lists of non-agreed facts)
4. The arbitrator will consider the written submissions received from both parties, and ask any questions that s/he may require to clarify any point. Ideally questions put by the arbitrator will be submitted via email, and in every case the questions and responses will be copied to both parties.
5. The arbitrator will normally visit the relevant property. The arbitrator may undertake the visit alone, or with both parties/representatives present. The arbitrator will not undertake a visit with only one party in attendance.



6. Unless both parties agree otherwise, the arbitrator will normally undertake the rest of the arbitration on a documents only basis. S/he will not hold a meeting/hearing unless both parties agree otherwise, and are advised of additional costs that may be incurred. Any meeting/hearing may be held at the arbitrator's offices or, if both parties agree, at the property which is the subject of the rent review.
7. The parties are free to engage surveyors or other professionals, at their own cost, to prepare evidence, make submissions to the arbitrator and advocate on their behalf
8. The arbitrator will use his/her own discretion to decide whether there is any need for expert opinion evidence. (The default position is that expert evidence will only be required if issues are raised, or evidence is submitted on any matter which falls outside the arbitrator's personal knowledge and experience, and expert evidence is required by the arbitrator to help inform his/her decision on a substantive matter in the dispute).
9. Any expert(s) attending the meeting/hearing will be examined by the arbitrator. There will be no process of formal examination and cross-examination of experts by professional representatives acting for the parties.
10. The arbitrator will publish his/her decision within 20 working days following receipt of final written submissions, or the date of any hearing/meeting, or such longer period agreed by both parties
11. The arbitrator will only charge for 3 days work at £1000 per day (+VAT), as long as the parties abide by the procedural rules and any directions made by the arbitrator
12. If the parties choose to have a hearing/meeting, the arbitrator may charge an additional fee up to £1000.

13. The costs of the arbitration will be shared equally by the parties (i.e. £1500 per party, or £2000 if there is a meeting/hearing) and each party will pay their own costs regardless of the outcome

## Customer Charter

RICS Dispute Resolution Service manages the panels of arbitrators and commits to:

- Responding quickly to applications for the appointment of arbitrators, and acknowledging applications by email within 2 days
- Contacting both parties to establish whether they are agreed on the appropriate qualifications and expertise of their arbitrator
- Contacting both parties to discuss whether they are agreed on matters relating to the independence and impartiality of particular arbitrators
- Ensuring the appointment process is clear and transparent in every case and in accordance with RICS published information
- Ensuring arbitrators appointed from the panels are appropriately qualified, experienced and knowledgeable
- Ensuring appointments are made within 2 weeks of receiving an application, or in accordance with any other timetable agreed by the parties
- Managing the panels of arbitrators, including ensuring that the arbitrators sign service level agreements which include requirements for regular reassessment and ongoing performance monitoring
- Allocating a dedicated RICS Case Officer to each arbitration application. If required, the Case Officer will also provide enhanced pre and post appointment customer support



## Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to the markets we serve.

We accredit 118,000 professionals and any individual or firm registered with RICS is subject to our quality assurance. Their expertise covers property, asset valuation and real estate management; the costing and leadership of construction projects; the development of infrastructure; and the management of natural resources, such as mining, farms and woodland. From environmental assessments and building controls to negotiating land rights in an emerging economy; if our members are involved the same professional standards and ethics apply.

We believe that standards underpin effective markets. With up to seventy per cent of the world's wealth bound up in land and real estate, our sector is vital to economic development, helping to support stable, sustainable investment and growth around the globe.

With offices covering the major political and financial centres of the world, our market presence means we are ideally placed to influence policy and embed professional standards. We work at a cross-governmental level, delivering international standards that will support a safe and vibrant marketplace in land, real estate, construction and infrastructure, for the benefit of all.

We are proud of our reputation and we guard it fiercely, so clients who work with an RICS professional can have confidence in the quality and ethics of the services they receive.

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