



# Adjudication Competencies Programme

Mandatory for RICS Panellists

As an adjudicator sitting on the RICS panel, you'll be aware that as part of the current reassessment programme, RICS Panel adjudicators are required to submit three decisions and attend a face-to-face interview once every five years.

### Changes to the current process

**RICS is improving the reassessment process, so that it not only tests your ability to discharge the role of adjudicator to a high standard, it also helps you to remain constantly up-to-date on law and practice.**

**The five-yearly interview and submission of three decisions process will be replaced by a rolling programme of practical workshops and desktop assessments. The RICS Adjudication Competencies Programme will engage you in real-life scenarios, which will provide a practical learning and development environment and formal CPD.**

### Do I need to do this as an RICS panellist?

All adjudicators on the President's Panel must attend and successfully complete all ten competency workshops in the five-year period since joining the Panel or since their last reassessment interview.

This should be spread over five years. The competencies can be taken in any order and panellists can attend as many sessions as they like. Panellists must attend at least four different competencies in a two-year period.

Failure to attend at least four different competencies in the two-year period may result in panellists' suspension from the Panel until they complete the required number of competency workshops. In addition, Panellists may be called forward for an early reassessment interview.

Persistent failure to attend the required competency workshops in the five-year period may result in panellists removal from the Panel.

## What core competencies will I develop?

These ten core competencies have been developed into a programme designed to train as well as test: each competency will present current practice and current thinking. Its purpose is to raise standards and hone existing skills to raise levels of practice and competence.

### The competencies are:

- Identifying and dealing with conflicts of interest
- Dealing with jurisdictional challenges
- Efficient management of parties and their representatives
- Maintaining/controlling timetables
- Principles and practice of contract interpretation
- Professional negligence
- Finding fact and managing/weighing evidence
- Providing clear and adequate reasons
- Drafting enforceable decisions
- Dealing with issues around fees and costs.

Full learning outcomes for each competency are outlined on pages 4-8.

## Programme format

This programme is mandatory for RICS panellists, and you must attend and successfully complete all ten competency workshops in the five-year period since joining the Panel or since your last reassessment interview. This should be spread over five years. The competencies can be taken in any order and you can attend as many sessions as you like. You are required to attend at least four different competencies in a two-year period.

Failure to attend at least four different competencies in the two-year period may result in a your suspension from the Panel until you complete the required number of competency workshops. In addition, you may be called forward for an early reassessment interview.

Persistent failure to attend the required competency workshops in the five-year period may result in panellist's removal from the Panel.

## The appointment

### Identifying and dealing with conflicts of interest

You will be able to:

- Clearly identify what is an involvement and/or a conflict
- Understand the difference between independence and impartiality
- Deal with a conflict pre-appointment and post appointment
- Understand the concept of bias and/or apparent bias
- Understand the current legal landscape on conflicts
- Understand when it is appropriate to resign.

### Dealing with jurisdictional challenges

You will develop an understanding of:

- What a dispute is and when does it arise?
- When a claim is more than one dispute
- Whether the adjudicator has jurisdiction to deal with additional evidence and materials and experts reports produced for the first time in the referral
- Whether the adjudicator has jurisdiction to deal with causes of defence which appear for the first time in the response
- Whether the adjudicator has jurisdiction to value items in the response which are disputed but which have not been referred
- Whether a settlement agreement is a construction contract
- Whether there is jurisdiction over a counterclaim
- Whether there is jurisdiction to direct a payment to the responding party
- Whether there is jurisdiction to decide whether the contract exists at all.

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## The process

### Efficient management of parties and their representatives

Gain an understanding of:

- Procedure rules
- The concept of natural justice
- Timetabling
- Failure to consider evidence
- Adopting own expertise
- Avoid predetermination
- The scope of the dispute early in the process
- The need for clear directions and any revisions thereto
- The need for hearings/meetings
- The avoidance of creep
- Who is in charge.

### Maintaining/controlling timetables (both adjudicator's and parties' time)

You will be able to:

- Understand the need to direct a suitable timetable commensurate to the dispute
- Recognise early if further time is required to deal with the dispute
- Recognise the need for further submissions
- Read submissions timeously to allow consideration of adjustments to directions/timetable.

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## The law

### Principles and practice of contract interpretation

You will be able to:

- Understand the rules of construction
- Understand the policy behind the recent change in emphasis
- Apply the rules
- Know when to and when not to apply the rules
- Understand that it is not for the tribunal to make a better bargain for the parties than the parties had negotiated.

### Professional negligence

You will be able to answer the following:

- Do adjudicators have jurisdiction over claims against professionals for negligent services?
- Is expert evidence essential to support a claim of negligent services?
- Are collateral warranties construction contracts?
- What is the standard of care required of a surveyor or other construction professional?
- Is the standard of care lowered in the case of a low fee or free services?
- The measure of damages
- The heads of damages.

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## Evidence and fact finding

### Finding fact and managing/ weighing evidence

You will be able to:

- Understand the legal framework
- Establish relevant facts
- Recognise relevant evidence
- 'Weigh' relevant evidence
- Distinguish admissible from inadmissible evidence

Efficiently and effectively manage the dispute documentation.

### Providing clear and adequate reasons

You will be able to:

- Understand what adequate reasons are
- Understand what must be decided
- Provide adequate reasons
- Provide clarity
- Produce a clear and concise decision on issues.

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## Enforceable decision and costs

### Drafting enforceable decisions

You will be able to:

- Understand what an enforceable decision is
- Understand why enforceable is only the minimum
- Understand how little or how much is necessary for a good decision
- Understand structure and good communication skills

This competency will be structured around a decision that the candidates will write, submit 2 weeks prior and bring to the session.

### Dealing with issues around fees and costs

You will develop an understanding of:

- The current legal position on fees and costs
- Reasonable fees
- Entitlement to fees in situations of
  - Resignation
  - Completed decision
  - Jurisdictional challenges
  - Unenforceable decisions
- Party costs v legal costs.

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## Assessment

All adjudicators on the RICS Panel will be required to successfully complete the online and written assessments. An online assessment should be undertaken within 28 days of attending the corresponding workshop. You will be required to correctly answer 80% of MCT questions to pass and may undertake a specific test any number of times to achieve the pass mark.

Each workshop will be interactive and require you and your peers to participate in discussions and problem-solving exercises relating to the competencies.

For each workshop, RICS will provide a follow-up online multiple-choice test (MCT) assessment. An exception is the decision-writing workshop where you need to submit a draft Decision 2 weeks prior to the workshop, based on a case study provided.

The performance of adjudicators at the workshops and online assessments will be fed back to the RICS Dispute Resolution Service, as part of a continual quality monitoring process.

## How to enrol

For further information on dates and how to enrol, please visit [rics.org/panelcompetencies](https://www.rics.org/panelcompetencies) or contact our dedicated DRS training team.

**e [drstraining@rics.org](mailto:drstraining@rics.org)**

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