

Independent Adjudication Service Royal Institution of Chartered Surveyors (RICS)

Summary of Service Rules

This Summary has been created to provide a quick reference guide for users of the Service. It summarises the key rules in respect of the process and the scope of the Service, giving a simple overview of the core principles.

However, whilst this Summary is based upon the Service Rules, it is intended to act as guidance only. It is the Service Rules that apply to cases. In the event of a conflict of information between the Service Rules and this Summary, the Service Rules will prevail.

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1. Introduction

- The Service provides an independent way of resolving disputes between a Customer and a firm regulated by RICS that has nominated CEDR to be its independent dispute resolution provider (“the Company”). This is done by way of an adjudication process.

- To use the Service, the Customer must have an unresolved complaint that was raised with the Company over eight weeks ago (unless the complaint has reached Deadlock).

2. What the Service covers

- The Service can be used to resolve complaints made by a Customer about one or more surveying activities provided by a Company and/or the quality of the customer service provided by a Company to the Customer.
- The Service cannot consider complaints, or parts of complaints, which fall into one or more of the following categories:
 - applications made by someone who has not entered into a contract with the Company for the provision of surveying activities;
 - applications made against a firm that is not regulated by RICS and/or has not nominated CEDR to be its independent dispute resolution provider;
 - where the Customer has not complained to the Company at all, or where it has been less than eight weeks since they first complained (unless the complaint has reached Deadlock);
 - complaints received more than 12 months from the date the Customer received notice of Deadlock from the Company or, where there is no notice of Deadlock, it has been more than 12 months since the Customer's last attempt to contact the Company;
 - complaints about something the Service does not cover;
 - applications where the total sum of money claimed is more than £25,000.00;
 - complaints that are more appropriately dealt with by a court, regulatory body, or other formal process;
 - complaints that CEDR thinks are frivolous and/or vexatious;
 - complaints that are the subject of either:
 - an existing, on-going application; or
 - a previous valid application that reached resolution;
 - complaints that have been, or are, the subject of court proceedings or an alternative independent procedure for the determination of disputes;
 - complaints about the fairness of the Company's general commercial practices and/or commercial decisions;
 - complaints about:
 - fraud or other criminal matters;
 - data protection;
 - personal injury;
 - discrimination;

- a valuation figure, unless it is about one or more alleged defects in the property that were not identified by the Company when reaching the valuation figure;
 - property and/or land boundaries;
 - lettings and/or estate agency;
 - right to light;
 - party walls;
 - one or more expert witnesses and/or expert witness reports;
 - complaints where work has been carried out by the Company subject to a Joint Contracts Tribunal (JCT) contract;
 - the amount of compensation the Customer receives from a third-party following work or services carried out by the Company.
- complaints that have been agreed by the parties to be settled;
 - where the details of the complaint in the application differ from the details that were provided by the Customer when complaining to the Company directly;
 - applications where the Customer has not requested any valid remedies;
 - complaints that would seriously impair the effective operation of CEDR.

3. Applying to use the Service

- The Customer must send CEDR a completed application form.
- In their application, the Customer can request:
 - an apology that relates to the quality of customer service provided by the Company;
 - a product or service;
 - some practical action to be taken by the Company;
 - a payment of money, up to a maximum of £25,000.00;
 - a payment of no more than £1,000.00 for any distress and/or inconvenience (which counts towards the overall limit above).
- Their application should give details of:
 - the product and/or service provided by the Company that the complaint is about;
 - the background to the complaint;
 - the precise issues that are in dispute;
 - the steps already taken to attempt to reach a resolution with the Company;
 - the reasons for requesting the remedy or remedies asked for; and
 - the reasons for the amount of any money requested, including any amount requested for distress and/or inconvenience.

4. The Adjudication process

➤ **The Application**

- CEDR will make an initial assessment within 15 working days as to whether or not an application meets the requirements of the Service.
- Once accepted, the Company has 15 working days to take one of the following actions:
 - tell CEDR that one or more remedies, or an aspect of those remedies, requested cannot be directed by an adjudicator (initiating a “Remedy Review”); or
 - settle the complaint; or
 - object to the complaint being considered as its outside the scope of the Service; or
 - submit its response to the complaint.

➤ **Remedy Review**

- To make a Remedy Review request, the Company must contact CEDR explain why one or more remedies cannot be directed by an adjudicator.
- An adjudicator will decide whether or not they agree that that one or more remedies cannot be directed.
- If an adjudicator does not agree that one or more remedies requested cannot be directed by an adjudicator the complaint will continue.
- If an adjudicator agrees that one or more remedies cannot be directed by an adjudicator, CEDR will tell the Customer. The Customer will be given 10 working days to change their requested remedies if they wish to.

➤ **Settlements**

- If the Company agrees to give the Customer all the remedies requested, the Company must tell CEDR – this is a “Settlement in Full”.
- When CEDR receives notification that a Settlement in Full has been reached, CEDR will close the complaint. The Company must provide the Customer with all these remedies within 20 working days.
- If the Customer believes that the settlement offered by the Company is not a Settlement in Full, the Customer must tell CEDR within 20 working days of the closure of the complaint. CEDR will then consider whether or not a Settlement in Full has been offered. If CEDR thinks that a Settlement in Full has been offered, the complaint will remain closed. If CEDR thinks that the settlement offered is not a Settlement in Full, the timeframe will be restarted for the Company to respond.

- If the Company reaches any other resolution with the Customer this is a “Negotiated Settlement”. When CEDR receives evidence of the Negotiated Settlement, CEDR will close the complaint. The Company must provide the Customer with all the agreed remedies within 20 working days.
- If the Customer feels that the Company has not fulfilled the Settlement in Full or Negotiated Settlement, they must tell CEDR. CEDR will then consider whether or not the settlement has been fulfilled. If CEDR thinks that the settlement has been fulfilled, the complaint will remain closed. If CEDR thinks that the settlement has not been fulfilled, it will re-open the complaint and give the Company five working days to either:
 - show that the remedies have been given; or
 - to object to the complaint being considered; or
 - to submit a response to the complaint
- If the Company provides evidence showing that the settlement has been fulfilled, the complaint will be closed.

➤ **Objections**

- The Company can object to the complaint being within the scope of the Service.
- An adjudicator will decide whether or not they agree that the Company has shown that part or all of the complaint falls outside the scope of the Service.
- If an adjudicator does not agree that the Company has shown that any part of the complaint falls outside the scope of the Service, the objection will be rejected and the complaint will remain active.
- If an adjudicator agrees that the Company has shown that part or all of the complaint falls outside the scope of the Service, the objection will be upheld. If the objection is upheld, the Customer will be given 10 working days to provide reasons and/or further evidence as to why part or all of the complaint falls within the scope of the Service. An adjudicator will then consider this and make a final decision if the complaint can continue or not.
- The decision to withdraw the complaint from the Service is final and cannot be reviewed or appealed.

➤ **The Response**

- When CEDR receives the Response, a copy of it will be sent to the Customer.
- If the Company does not submit a Response, the adjudicator will have the power to make a decision considering only the information provided by the Customer.
- The Customer has five working days from the date on which the Response is sent to them to provide any comments. The Customer does not have to provide comments. If the Customer does

provide comments, those comments can only relate to points raised in the Response and must not introduce any new matters.

- CEDR will then appoint the adjudicator to decide the outcome of the complaint.

➤ **The Proposed and Final Decisions**

- The adjudicator will produce a “Proposed Decision”. The Proposed Decision will generally be issued within 20 working days of the adjudicator being appointed.
- The parties have 10 working days to provide any comments on the Proposed Decision. The parties do not have to provide comments on the Proposed Decision. If the parties do provide comments on the Proposed Decision, those comments can only relate to points raised in the complaint and must not introduce any new matters.
- Any comments on the Proposed Decision will be forwarded to the adjudicator. The adjudicator has the power to make any amendments they consider appropriate to the Proposed Decision before producing a written final decision on the complaint: “the Final Decision”. The Final Decision will generally be issued within five working days from when the comment stage has ended.
- The Final Decision will be sent to the parties simultaneously.
- The Customer then has 30 working days to tell CEDR whether they accept the Final Decision in full or reject it. Final Decisions cannot be accepted in part.
- If the Customer tells CEDR that they accept the Final Decision in full, the Final Decision will become binding on the Parties.
- If the Customer tells CEDR that they reject the Final Decision or do not accept the Final Decision in full, the Final Decision will not be binding on either of the Parties.
- The adjudicator’s Final Decision cannot be reviewed or appealed.

➤ **Compliance with the Final Decision**

- If the accepted Final Decision directs the Company to take any actions, the Company must take these actions.
- If the Customer feels that the Company has not complied with the Final Decision, the Customer must tell CEDR. The Customer must detail which of the remedies have not been provided. CEDR will then consider whether or not the Final Decision has been complied with. If CEDR thinks that the Final Decision has been complied with, the complaint will be closed. If CEDR thinks that the Final Decision has not been complied with, CEDR will contact the Company to request that it complies within five working days.

5. Powers of the adjudicator

- An adjudicator has the power to do any of the following:

- change any of the process time limits;
 - request further comments and/or evidence from the parties;
 - proceed with the Adjudication even if either of the parties does not keep to the rules;
 - consult any relevant evidence not provided by either of the parties;
 - take into account any evidence provided by either of the parties that they consider relevant;
 - withdraw a complaint if the entirety of the complaint falls outside the scope of the Service;
 - close a complaint if the parties settle it before the Final Decision is made;
 - decide whether or not the Company has fulfilled a settlement;
 - decide whether or not the Company has complied with the Final Decision.
- If the adjudicator finds that the Customer's complaint succeeds in full or in part, they can direct the Company to:
 - provide an apology that relates to the quality of customer service provided by the Company;
 - provide an available product or service;
 - take an action that they consider the Company can reasonably carry out;
 - pay the Customer a sum of money, up to a maximum of £25,000.00;
 - pay the Customer a sum of money up to £1,000.00 for any distress and/or inconvenience (which counts towards the overall limit above).

