



Party Wall etc. Act 1996

Frequently asked questions

Purpose of the Act:

The Act regulates works to party walls and structures, as well as excavations close to neighbouring buildings. It provides a statutory framework for resolving related disputes.

Who is an owner?

An “**owner**” includes anyone entitled to receive rents or profits from land, anyone in possession of land (excluding certain tenants or mortgagees), and purchasers under a lease agreement. A “**building owner**” is an owner carrying out notifiable works. “**Adjoining owners**” and “**adjoining occupiers**” are those whose land or buildings may be affected by the proposed works, including properties within prescribed distances of excavations.

Why must a notice be served?

A valid notice is required before any rights under the Party Wall etc. Act 1996 can be exercised. It forms the legal basis for the parties’ rights and obligations. Notice periods are either one or two months, depending on the type of work.

Work to which the Act applies:

The Act covers three distinct categories of work:

- New building on the line of junction
- Alterations to party structures (including walls and floors)
- Certain excavations and construction below ground near neighbouring structures

Examples include:

- Constructing a wall on a boundary
- Underpinning, thickening, or raising a party wall
- Cutting into a party structure
- Removing projections from a party wall
- Demolishing and rebuilding a party wall
- Exposing a party wall
- Excavating for foundations within 3m or 6m of a neighbouring structure at specified depths

Does the adjoining owner need to respond to a notice?

Yes. The adjoining owner must respond in writing.

- If they **consent**, the building owner may proceed once the notice period has expired.
- If they **dissent**, or fail to reply within 14 days to works notified under sections 3 and 6, a dispute arises or deemed to have arisen and must be determined by surveyor(s) under section 10.

Reasons for dissent may include concerns about:

- The building owner’s legal right to carry out the work
- Design adequacy or protective measures
- Potential impact on their property
- Inconvenience or loss of amenity
- Competence or track record of the building owner, design team or contractor
- Insufficient clarity before work begins

What happens if there is a dispute?

A dispute must be resolved in accordance with section 10 of the Act by an appointed surveyor or surveyors acting in a statutory capacity. The parties may either:

- Concur in the appointment of a single ‘Agreed Surveyor’; or
- Each appoint their own surveyor

Whom should I appoint as a surveyor?

Surveyors are appointed in a **personal** capacity and must be independent of the parties. Their statutory function is limited to determining matters in dispute between the parties. The role is *sui generis* (unique) and **quasi-judicial/quasi-arbital** in nature, combining technical expertise, legal interpretation, and determinative decision-making. It is therefore advisable to appoint a **qualified professional** with a solid grounding in construction technology and building pathology, together with a thorough understanding of the legislation and familiarity with relevant case law. Appointing a specialist **Chartered Building Surveyor** qualified in dispute resolution will help ensure the Act is administered competently and effectively.

What is the role of the surveyor(s)?

The appointed surveyor or surveyors will:

- Review the design and notified proposals within the context of the legislation and with regard to the Adjoining Owner’s property
- Seek clarification or further information as necessary
- Record the condition of the relevant parts of the Adjoining Owner’s property

They will then determine the matters in dispute impartially and objectively by way of an Award. This is a legally binding document served on the parties.



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The Award sets out their respective rights and obligations, regulates the timing and manner by which the works are to be carried out, and may determine any other matter arising out of or incidental to the dispute, including the costs of making the Award.

The surveyors do not Act as advocates for their appointing owner, provide design advice (though they may draw attention to legal implications), or supervise or monitor works on site. They can not waive statutory notice periods, advise on insurance or enforce the terms of an Award other than payment of fees.

Once the Award has been served, the surveyors' role becomes *functus officio* unless a further dispute arises. They are not obliged to entertain complaints about the exercise of their statutory functions.

What is an Award?

An Award is a legally binding document determining the dispute. It authorises the work subject to defined terms and conditions, sets out the parties' responsibilities, and incorporates drawings and supporting information. Parties cannot approve or veto a draft award.

Can I appeal an Award?

Either party may appeal to the county court within 14 days of service. Appeals are uncommon and can be costly; legal advice is recommended.

Can my surveyor perform other roles?

Surveyors may also act in an advisory capacity—for example, preparing or responding to notices or negotiating access. These roles are separate from their statutory function.

What is the role of the Third Surveyor?

If two surveyors are appointed, they must select a third surveyor at the outset. The third surveyor becomes involved only if a matter is formally referred to them. Their decisions are also made by Award.

Who pays the surveyors' fees?

Surveyors usually determine costs in the Award. Typically, the building owner pays the adjoining owner's reasonable fees where works benefit the building owner, but this is not automatic. A third surveyor may require payment before issuing their Award.

Can party wall surveyors resolve a boundary dispute?

No. Determining a legal boundary under the Land Registration Act 2002 is outside their jurisdiction. Any recorded finding in an Award is not legally binding. Works may be delayed if a boundary issue must be resolved separately.

Does the building owner have a right of access onto the adjoining owner's land?

Yes, provided the works fall within the Act and proper notice has been served. This includes access needed for safe working, such as erecting scaffolding. It is a criminal offence to obstruct lawful access.

What is the purpose of a schedule of Condition?

A schedule of condition records the adjoining property's condition before works begin, providing evidence in the event of damage claims.

Can an Award authorise interference with easements?

In limited circumstances, the Act allows the removal of certain projections encroaching on the building owner's land, but it prohibits permanent interference with easements relating to a party wall.

What is Security for Expenses?

An adjoining owner may require the building owner to provide security (often held in escrow) to cover potential damage or reinstatement. If disputed, surveyors decide. In some cases, a building owner may also request security.

Can the works be prevented?

If the Act has been properly followed, surveyors will authorise the works, subject to compliance with statutory consents and any other terms and conditions they deem appropriate.

What about disturbance and inconvenience?

Where the Adjoining Owner's premises are exposed due to demolition or rebuilding of a party structure, the Act allows for a fair allowance for disturbance and inconvenience, depending on the nature and extent of the works.

What if the building owner fails to comply with the Act or the Award?

Starting notifiable works without serving notice is unlawful and may expose the building owner to claims of breach of statutory duty, trespass, nuisance and the risk of an injunction.

Professional advice should be sought if obligations are unclear. An adjoining owner may apply to the county court for an injunction to enforce compliance with the Act or the terms of an Award.

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