

# Independent Adjudication Service Royal Institution of Chartered Surveyors (RICS)

## Scheme Rules

### Introduction

These rules apply to application forms received by Centre for Effective Dispute Resolution (“CEDR”) on or after 16 October 2019.

CEDR is committed to providing appropriate accessibility for everyone that it deals with. If you require this document in an alternative format, please contact CEDR for further details.

*NOTE: For disputes involving customers of participating member firms of RICS who do not meet the definition of a ‘customer’ under Rule 1.4 below, please see Schedule 1 for the RICS Business-to-Business Independent Adjudication Service Scheme Rules.*

### 1 General

- 1.1 The Independent Adjudication Service (“the Scheme”) is administered by CEDR. CEDR is a non-profit body that is independent of RICS and industry. The Scheme provides an independent process for adjudicating unresolved disputes between participating member firms of RICS (“companies”) and their customers (“customers”).
- 1.2 The Scheme is free of charge to customers. Customers have a choice as to whether or not to use the Scheme.
- 1.3 A full list of participating companies is available at:  
<https://www.ricsfirms.com/>.
- 1.4 A ‘customer’ is an individual, or business with no more than 10 employees, who enters into a contract with a company for the provision of surveying activities as referred to in Rule 2.1 below. When entering into the contract with the company, the customer must have been acting for purposes that were wholly or mainly outside that individual’s or business’ trade, business, craft or profession. For the avoidance of

doubt, the definition of a 'customer' includes the purchaser of a property or properties for which a Scottish Home Report (as defined under the Housing (Scotland) Act 2006 (Prescribed Documents) Regulations 2008) has been compiled by a participating member firm of RICS.

- 1.5 Applications to the Scheme will be accepted from customers or their nominated representatives. If a customer wishes to nominate a representative to act on their behalf, the customer must confirm on their application to the Scheme that they agree to the representative acting on their behalf.
- 1.6 A customer can use the Scheme if they have not been able to settle a dispute with the company after eight weeks have elapsed since first complaining to the company, or if the company has provided the customer with its final response in relation to the dispute, otherwise known as a final position or deadlock letter.
- 1.7 Decisions under the Scheme are taken by independent adjudicators appointed by CEDR to decide on the outcome of disputes dealt with under the Scheme. An adjudicator appointed under these Rules will make a decision on the dispute by considering the information and evidence received from the customer and the company, as well as the relevant law.
- 1.8 Decisions by adjudicators on eligible cases are only binding on the customer and the company where the customer accepts the decision. Acceptance by a customer must take place within 20 working days of the decision being issued for the decision to become binding on the company.
- 1.9 Any decision made by an adjudicator appointed under these Rules applies only to the dispute pursuant to which the decision was made. Adjudicators will take a consistent approach in reaching their decisions but every dispute will be decided on its own facts and a decision made by an adjudicator in one dispute will not establish a precedent for future cases.
- 1.10 Submission of an application to the Scheme does not remove a customer's right to bring a claim to court, and they may withdraw their case from the Scheme at any stage before the adjudicator's decision has been issued. Customers should be aware that court proceedings may result in a different outcome to that provided by the Scheme.

## 2 Scope of the Scheme

- 2.1 The Scheme can be used to settle disputes between customers and companies regarding the surveying activities of subscribing RICS member firms including, but not limited to, Homebuyers Reports, Insurance Distribution, Valuation, Land Measurement, Building Surveys, Professional Advice and Project Management. For the avoidance of doubt, activities that have been assigned a specific Professional Group (as defined by RICS at <https://www.rics.org/uk/about-rics/professional-groups/>) are considered to fall within the definition of a 'surveying activity' under these Rules.
- 2.2 The power to determine whether a dispute falls within the scope of the Scheme rests with CEDR. The decision of CEDR as to the eligibility of a dispute is final.
- 2.3 The Scheme cannot be used to adjudicate disputes that fall into one or more of the following categories:
- 2.3.1 Claims brought by someone who does not fall within the definition of a "customer" under Rule 1.4 above;
  - 2.3.2 Claims that are made against a RICS member firm that does not participate in the Scheme;
  - 2.3.3 It has been less than eight weeks since the customer first complained to the company, unless the company has provided the customer with its final position in relation to the dispute;
  - 2.3.4 The customer has made no attempt to contact the company about the dispute before applying to the Scheme;
  - 2.3.5 The dispute is considered by CEDR or the adjudicator to be frivolous and/or vexatious;
  - 2.3.6 The subject matter of the dispute is the same as an existing or previous valid application made to the Scheme by the same customer against the same company;
  - 2.3.7 The dispute has been or is the subject of court proceedings or an alternative independent procedure for the determination of disputes (unless such court proceedings or alternative procedure have been abandoned, stayed or suspended).
  - 2.3.8 Disputes where the customer is claiming a total sum of money that exceeds

£25,000.

- 2.3.9 The customer brought the claim to CEDR at least 12 months from the date upon which the company gave notice to the customer that the company was unable to resolve the complaint (or, where no notice is given, at least 12 months since the customer's last attempt to contact the company);
- 2.3.10 Where dealing with such a type of dispute would seriously impair the effective operation of CEDR;
- 2.3.11 Where the dispute falls outside of RICS' Terms of Reference;
- 2.3.12 Where the subject matter of the customer's claim relates to any of the following situations:
  - 2.3.12.1 A dispute solely about a valuation figure that does not relate to any alleged failure in the provision of surveying activities by the company;
  - 2.3.12.2 A dispute about an alleged failure in the provision of surveying activities by the company that relates to a valuation of a property under a Buy to Let mortgage;
  - 2.3.12.3 A dispute about property and/or land boundaries;
  - 2.3.12.4 A dispute about lettings, property management and/or estate agency;
  - 2.3.12.5 A dispute relating to a right to light;
  - 2.3.12.6 A dispute in relation to party walls;
  - 2.3.12.7 A dispute about one or more expert witnesses or expert witness' report(s);
  - 2.3.12.8 A dispute where work was carried out by the company subject to a Joint Contracts Tribunal (JCT) contract;
  - 2.3.12.9 A dispute about the amount of compensation the customer receives from a third party following work or services carried out by the company.
- 2.3.13 A dispute which, in the opinion of CEDR, is more appropriately dealt with by a court, regulatory body, or other formal process;

- 2.4 If the dispute is about something that is not covered by these Rules, the company can nevertheless expressly agree to use the Scheme, but it does not have to.
- 2.5 Putting a dispute through the Scheme does not remove the customer's duty to pay the company any other amounts that are due and that are not disputed.

### 3 Applying to use the Scheme

- 3.1 To use the Scheme, a customer must submit a completed application form either through the Scheme's website or by post. Application forms are available from CEDR and on the Scheme website at <https://www.cedr.com/consumer/rics/>.

If a customer requires any special assistance with their application they can contact CEDR and reasonable adjustments will be made in line with the CEDR Reasonable Adjustments policy, which can be found on the CEDR website.

- 3.2 On the application form, the customer must request at least one of the following remedies from the company (the requested remedies must only affect and/or apply to the customer):

- 3.2.1 An apology;
- 3.2.2 A product or service;
- 3.2.3 Something to be done about one or more bills;
- 3.2.4 Some practical action to be taken;
- 3.2.5 A payment that must total no more than £25,000 (including VAT). This sum includes any claims for compensation, refunds, credits and/or waivers.

- 3.3 The claim should include details of:

- 3.3.1 The service(s) provided by the company that the dispute is about;
- 3.3.2 The precise issues that are in dispute;
- 3.3.3 The steps already taken to attempt to reach a resolution with the company;
- 3.3.4 The reasons for requesting the remedy or remedies sought; and

- 3.3.5 The reasons for the amount of any compensation claimed.
- 3.4 The customer should supply any essential supporting documents with their application.
- 3.5 The customer is encouraged to clarify the claim and the remedies sought in as much detail as possible, but a failure to do this will not render an application invalid. If, in the opinion of CEDR, any aspect of a customer's application is unclear, CEDR will make one attempt to contact the customer to obtain clarification. This will not affect the case process or the associated timescales.
- 3.6 Submission of an application form does not remove a customer's right to bring a claim to court, and they may withdraw their case from the adjudication procedure at any stage prior to the adjudicator's decision being issued.

## **4 The adjudication procedure**

### **4.1 The Claim**

- 4.1.1 When an application form is received along with any supporting documents, CEDR will make an initial assessment within 15 working days as to whether or not the dispute falls within the scope of the Scheme. This assessment will be made by reference to Rules 2.1, 2.2 and 2.3 above.
- 4.1.2 When an application is processed by CEDR, a case reference number will be allocated and communicated to the parties in correspondence from CEDR. Both the customer and the company must quote this case reference number in all subsequent correspondence with CEDR regarding the case.
- 4.1.3 If CEDR considers the application to be valid, it will notify the company by sending an electronic copy of the customer's application form and any supporting documents to the company ("the notification").
- 4.1.4 If CEDR sends the notification to the company before 4.00pm, the company is deemed to have received it on that day. If CEDR sends the notification on or after 4.00pm, the company is deemed to have received it on the following working day.
- 4.1.5 Once the notification is deemed to have been received by the company, the company has 15 working days in which to either:

- i. Confirm to CEDR that it is prepared to give the customer all of the remedies requested on the CEDR application form or that it has agreed an alternative settlement by negotiation directly with the customer;
- ii. Object to CEDR dealing with the application if it considers the dispute to be entirely outside the scope of the Scheme; or
- iii. Send CEDR its written defence to the customer's claim.

4.1.6 If, before the expiry of the timescale at Rule 4.1.5 above, the customer contacts CEDR to add further evidence or submissions to their application, the company will be sent the extra documentation and the timescale at Rule 4.1.5 for the company to reach a settlement, object or file a defence will be restarted.

## 4.2 Settlement

4.2.1 If the company agrees to give the customer all of the remedies they have asked for on their CEDR application form (i.e. a settlement in full), the company must notify CEDR of this within the timescale set out at Rule 4.1.5 above. When CEDR receives notification from the company that a settlement in full has been reached, CEDR will close the case. The company must provide the customer with all of the remedies requested on the CEDR application form within 20 working days of CEDR being notified of the settlement in full, unless an alternative timescale has been agreed between the parties, and the company must provide evidence to CEDR that the necessary action(s) have been completed.

4.2.2 If the company reaches any other resolution with the customer to settle the dispute (i.e. a negotiated settlement), the company must notify CEDR of this within the timescale set out at Rule 4.1.5 above. At the same time, the company must provide CEDR with evidence of the offer made to the customer and evidence confirming that the customer has accepted that offer in exchange for the closure of their CEDR case. When CEDR receives evidence of the negotiated settlement from the company, CEDR will close the case. If evidence of the negotiated settlement is not provided by the company, the case will remain active. The company must provide the customer with the remedies agreed as part of the negotiated settlement within 20 working days of CEDR being notified of the negotiated

settlement, unless an alternative timescale has been agreed between the parties, and the company must notify CEDR of the date on which the necessary action(s) were completed.

4.2.3 For the avoidance of doubt, if negotiations between the customer and the company do not result in a settlement as set out in Rule 4.2.2 above, the case will continue and the timeframe under Rule 4.1.5 will remain unchanged.

4.2.4 If the company has not confirmed that it has provided the customer with all of the remedies under the settlement in full or negotiated settlement within the relevant timescale, CEDR will re-open the case and will give the company 15 working days to either provide a defence to the customer's claim or to provide evidence showing that the remedies required under the settlement were provided within the relevant timescale. If the company provides evidence showing that the remedies required under the settlement were provided to the customer within the relevant timescale, the case will be withdrawn from the Scheme. If the company does not provide evidence showing that the remedies required under the settlement were provided to the customer within the relevant timescale, or the adjudicator does not accept such evidence, the case will proceed in line with Rule 4.4 below.

### 4.3 Objections to eligibility

4.3.1 Within the timescale at Rule 4.1.5 above, the company can object to CEDR dealing with the application.

4.3.2 In making an objection, the company must specify one or more reasons under Rule 2.3 as to why the application should not be continued. The evidential burden rests with the company to prove why the customer's application falls outside the scope of the Scheme.

4.3.3 A CEDR adjudicator will examine the company's objection and decide whether or not the objection is upheld. This decision will be communicated to the company within two working days of the objection being received by CEDR.

4.3.4 If the company's objection is not upheld by the adjudicator, the case will remain active, and an additional two working days will be added to the timeframe under Rule 4.1.5 for the company to

file a defence or settle the dispute. This time extension can be applied only once per case, and no time extensions will be given to any subsequent unsuccessful objections made by the company. If an adjudicator is subsequently appointed to determine the dispute, all objection correspondence will be forwarded to that adjudicator to be taken into account when reaching a final decision in the case.

- 4.3.5 If the company's objection is upheld by the adjudicator, CEDR will write to the customer to advise them of this and the reasons given for the objection within two working days of the objection being received by CEDR. The customer will then have a period of 10 working days to contact CEDR and provide reasons why the case is valid. Upon receipt of the customer's response, a CEDR adjudicator will decide whether or not to reinstate the case within two working days. The evidential burden at this stage rests with the customer to prove why the application falls within the scope of the Scheme.
- 4.3.6 In the event that the customer responds to CEDR within 10 working days after receipt of correspondence from CEDR regarding the objection being upheld, and the adjudicator decides that the case falls within the scope of the Scheme, the case will be reinstated and the company will be given 10 working days to reach a settlement with the customer or to file a defence with CEDR.
- 4.3.7 If the customer makes no contact with CEDR within 10 working days of the company's objection being upheld, or the adjudicator does not consider that the case falls within the scope of the Scheme following receipt of the customer's response, the case will be withdrawn from the Scheme and the customer will be advised within two working days of the withdrawal.

#### 4.4 The Defence

- 4.4.1 When CEDR receives the company's defence, a copy of it will be sent to the customer.
- 4.4.2 Upon receipt of the defence, CEDR will formally appoint an adjudicator to the case.
- 4.4.3 If the company does not submit a defence to CEDR within the time allowed, the adjudicator will have the discretion to proceed to make a decision considering only the information provided by

the customer.

- 4.4.4 The customer has a period of 10 working days from the date on which the company's defence is sent to them to provide any comments on the defence that they see fit. The customer is not required to submit comments on the company's defence. Any comments that are submitted must be restricted only to points raised in the company's defence and must not introduce any new matters or any new arguments. Any new matters or new arguments submitted by the customer at this stage will be disregarded by the adjudicator.
- 4.4.5 If the customer makes any comments on the company's response, CEDR will send a copy of those comments to the company for their information only.
- 4.4.6 Once CEDR has received a valid application from a customer, a defence from the company and the customer's comments on that defence, or the deadline for providing such documents has passed, CEDR will inform both the customer and company that a complete complaint file has been received.

#### 4.5 The Decision

- 4.5.1 An adjudicator appointed under these Rules will make a Decision by considering the submissions and evidence received from the customer and the company. CEDR aims for Decisions to be issued within 10 working days of a complete complaint file being received.
- 4.5.2 The adjudicator's Decision will be set out in writing and will include full reasons for the decision. The adjudicator will send a copy of the Decision to CEDR when complete.
- 4.5.3 Once CEDR receives a Decision from an adjudicator, it will send copies to both the customer and the company simultaneously.
- 4.5.4 The adjudicator's Decision will only become binding on the customer and the company if the customer advises CEDR that they accept the Decision in full. The customer has 20 working days from the date on which CEDR sent the Decision to the parties to notify CEDR of their acceptance.
- 4.5.5 If, during the time period specified at Rule 4.5.4 above, the

customer advises CEDR that they reject the Decision, or that they do not accept the Decision in full, or if the customer fails to contact CEDR during the time period, the adjudicator's Decision will not be binding on either party. The Decision cannot be accepted at a later date.

4.5.6 The adjudicator's Decision is final, and cannot be reviewed or appealed under any circumstances.

#### 4.6 Compliance with the Decision

4.6.1 If the adjudicator's Decision directs the company to take an action in relation to the customer, and the customer accepts the Decision, the company must complete the necessary action(s) within 20 working days from the date on which CEDR notifies the company of the customer's acceptance of the Decision, unless the adjudicator has directed an alternative timescale for compliance. The company must provide evidence to CEDR that the necessary action(s) have been completed.

4.6.2 If the company is for any reason unable to complete the necessary action(s) within the timescale at Rule 4.6.1 above, the company must advise the customer and CEDR why that is before the above timescale expires. At the same time, the company must specify a substitute date by which the necessary action(s) will be completed.

4.6.3 If the customer informs CEDR that the company has not completed the required actions within the timescale set out at Rule 4.6.1 or any substitute timescale advised by the company under Rule 4.6.2, CEDR will contact the company to request compliance with the Decision. In the event that the company does not respond or fails to comply with the Decision within 10 working days, the matter will be escalated to a senior member of staff at the company.

4.6.4 In the event that the company's failure to respond and/or failure to comply persists, appropriate action can be taken by CEDR. This may include suspension or termination of the company's participation in the Scheme and automatic notification of such action communicated to RICS.

4.6.5 Once CEDR has accepted a complaint for adjudication, the company may not withdraw from the adjudication process before the adjudicator has made their Decision. Furthermore, if

the company terminates their participation in the Scheme, this will not affect the processing of and resolution of any disputes submitted by customers, and already accepted by CEDR, before the effective date of that termination, nor the company's obligation to comply with any binding outcome of the process.

## **5 Powers of the adjudicator**

- 5.1 The adjudicator will be fair and unbiased at all times and will make a decision that is in line with the relevant law, any relevant codes of practice, and contracts between the company and the customer. The adjudicator will act quickly and efficiently.
- 5.2 The adjudicator has the power to do any of the following:
- 5.2.1 Extend any of the time limits for customer and company action set out in these Rules;
  - 5.2.2 Request further evidence or documents from the customer or the company, and set time limits in which the customer and the company must provide such evidence or documents. However, oral hearings (i.e. face to face meetings or teleconferences) cannot be required to take place unless the customer agrees. Records will be maintained of any discussions that take place with witnesses or experts as disputes are investigated, considered and determined.
  - 5.2.3 Proceed with the adjudication if either the customer or the company does not keep to these Rules or any instruction or direction made pursuant to these Rules;
  - 5.2.4 Consult any relevant evidence not presented by the parties (but the adjudicator must tell the customer and the company about such evidence and allow them to provide comments);
  - 5.2.5 Receive and take account of any evidence the adjudicator thinks is relevant;
  - 5.2.6 End the adjudication if, in the adjudicator's opinion, the entirety of the claim falls outside the scope of the Scheme (there is no appeal if the adjudicator decides to end the adjudication);
  - 5.2.7 End the adjudication if the customer and the company settle their dispute before a decision is made;

- 5.2.8 Determine whether or not the company has complied with their decision, in the event that a dispute arises between the parties regarding compliance.
- 5.3 If the adjudicator finds that the customer's claim succeeds in full or in part, they can direct the company to:
- 5.3.1 Provide the customer with an apology;
  - 5.3.2 Provide the customer with a product or service;
  - 5.3.3 Take some practical action;
  - 5.3.4 Do something about one or more of the customer's bills;
  - 5.3.5 Make a payment to the customer, the total value of which shall not exceed £25,000.00 (including VAT).
- 5.4 The remedies directed by the adjudicator must only affect and/or apply to the customer.
- 5.5 In exceptional circumstances, but subject always to the overall maximum limit, the adjudicator may at their discretion award more compensation than has been claimed by the customer.

## **6 Costs**

- 6.1 No fee will be charged to a customer for using the Scheme. The participating companies will be responsible for funding the Scheme.
- 6.2 The customer and the company must pay their own costs of preparing their cases. By using the Scheme, each party agrees not to take any legal action against the other to recover such costs.

## **7 Confidentiality**

- 7.1 By using the Scheme, the parties agree that CEDR may gather, retain and publish statistics and other information in relation to cases.
- 7.2 CEDR will report to RICS any cases that involved serious or persistent breaches of the RICS Rules of Conduct by a RICS firm member.
- 7.3 CEDR will report to RICS any failure by a RICS firm member to implement any remedies contained in the adjudicator's final decision.

7.4 The General Data Protection Regulations (GDPR) apply to the Scheme, and all data submitted to CISAS with regard to customer complaints may be shared with RICS, including all personal data.

## **8 Other rules**

8.1 CEDR will appoint a substitute adjudicator if the adjudicator originally appointed is unable to deal with the dispute for any reason. CEDR will inform the parties if such an appointment is made.

8.2 With the exception of amending a decision following any minor error and providing clarification on a specific point regarding the adjudicator's decision, neither CEDR nor the adjudicator will enter into correspondence relating to any decision.

8.3 If the customer or the company has a complaint about the quality of service provided in the course of the administration of a CEDR case, the complaint should be made through the published complaints procedure, copies of which are available from the CEDR website. The complaints procedure cannot be used to challenge the content or outcome of an adjudicator's decision, the decision process adopted by an adjudicator, or the contents of these Rules.

8.4 Please do not provide any original documents if you wish to use them in the future. We do not keep any documents on our premises and all documents sent to us will be scanned in and disposed of securely.

8.5 Any reference in these Rules to working days by definition excludes Saturdays, Sundays and bank/public holidays celebrated in England and Wales.

8.6 Where a decision has been issued by an adjudicator, CEDR and/or RICS may publish a case summary of that decision on its website. The case summary will not contain the name or personal details of the customer or the name of the company.

8.7 The Scheme, including these Rules, may be updated from time to time. Disputes will be determined according to the Rules in force at the time the customer applies to the Scheme.

8.8 Translations of original documents may be submitted, but only with the mutual agreement of both the customer and company.

8.9 The scheme covers all member firms of RICS globally.

# Schedule 1 Independent Adjudication Service Royal Institution of Chartered Surveyors (RICS) Business to Business

## Scheme Rules

### 1 General

- 1.1 The RICS Business to Business Independent Adjudication Service (“the B2B Scheme”) is administered by Centre for Effective Dispute Resolution (CEDR). The B2B Scheme provides an informal and independent way of adjudicating unresolved disputes between participating member firms of RICS (“companies”) and their business customers (“customers”) on an entirely voluntary basis.
- 1.2 A full list of participating companies is available at: <https://www.ricsfirms.com/>.
- 1.3 The parties can use the B2B Scheme to resolve any eligible dispute on an entirely voluntary basis by each completing a declaration and submitting the appropriate fee to CEDR.
- 1.4 A ‘customer’ is a business with more than 10 employees that enters into a contract with a company for the provision of surveying activities as referred to in Rule 2.1 below. When entering into the contract with the company, the customer must have been acting for purposes that were wholly or partly outside the individual’s or business’ trade, business, craft or profession.
- 1.5 Applications to the B2B Scheme will be accepted from customers or their nominated representatives. If a customer wishes to nominate a representative to act on their behalf, the customer must confirm on their application to the B2B Scheme that they agree to the representative acting on their behalf.
- 1.6 Decisions under the B2B Scheme are taken by independent adjudicators appointed by CEDR to decide on the outcome of disputes dealt with under the B2B Scheme. An adjudicator appointed under these Rules will make a decision on the dispute by considering the information and evidence received from the customer and the company, as well as the relevant law. Decisions made by an appointed

adjudicator are binding on both parties.

- 1.7 Any decision made by an adjudicator appointed under these Rules applies only to the dispute pursuant to which the decision was made. Adjudicators will take a consistent approach in reaching their decisions but every dispute will be decided on its own facts and a decision made by an adjudicator in one dispute will not establish a precedent for future cases.

## 2 Scope of the B2B Scheme

- 2.1 The B2B Scheme can be used to settle disputes between customers and companies regarding the surveying activities of subscribing RICS member firms including, but not limited to, Homebuyers Reports, Insurance Distribution, Valuation, Land Measurement, Building Surveys, Professional Advice and Project Management. For the avoidance of doubt, activities that have been assigned a specific Professional Group (as defined by RICS at <https://www.rics.org/uk/about-rics/professional-groups/>) are considered to fall within the definition of a 'surveying activity' under these Rules.
- 2.2 The power to determine whether a dispute falls within the scope of the B2B Scheme rests with CEDR. The decision of CEDR as to the eligibility of a dispute is final.
- 2.3 The B2B Scheme cannot be used to adjudicate disputes that fall into one or more of the following categories:
  - 2.3.1 Any dispute that has not been referred to the B2B Scheme for adjudication with the consent of both parties;
  - 2.3.2 Claims brought by someone who does not fall within the definition of a "customer" under Rule 1.4 above;
  - 2.3.3 Claims that are made against a RICS member firm that does not participate in the B2B Scheme;
  - 2.3.4 The dispute has been or is the subject of court proceedings or an alternative independent procedure for the determination of disputes (unless such court proceedings or alternative procedure have been abandoned, stayed or suspended);
  - 2.3.5 A dispute which, in the opinion of CEDR, is more appropriately dealt with by a court, regulatory body, or other formal process;

- 2.3.6 Disputes where the customer is claiming a total sum of money that exceeds £25,000.
- 2.3.7 Where dealing with such a type of dispute would seriously impair the effective operation of CEDR;
- 2.3.8 Where the dispute falls outside of RICS' Terms of Reference;
- 2.3.9 Where the subject matter of the customer's claim relates to any of the following situations:
  - 2.3.9.1 A dispute solely about a valuation figure that does not relate to any alleged failure in the provision of surveying activities by the company;
  - 2.3.9.2 A dispute about an alleged failure in the provision of surveying activities by the company that relates to a valuation of a property under a Buy to Let mortgage;
  - 2.3.9.3 A dispute about property and/or land boundaries;
  - 2.3.9.4 A dispute about lettings, property management and/or estate agency;
  - 2.3.9.5 A dispute relating to a right to light;
  - 2.3.9.6 A dispute in relation to party walls;
  - 2.3.9.7 A dispute about one or more expert witnesses or expert witness' report(s);
  - 2.3.9.8 A dispute where work was carried out by the company subject to a Joint Contracts Tribunal (JCT) contract;
  - 2.3.9.9 A dispute about the amount of compensation the customer receives from a third party following work or services carried out by the company.
- 2.4 If the dispute is about something that is not covered by these Rules, the company can nevertheless expressly agree to use the B2B Scheme, but it does not have to.
- 2.5 Putting a dispute through the B2B Scheme does not remove the customer's duty to pay the company any other amounts that are due and that are not disputed.

### 3 Applying to use the B2B Scheme

- 3.1 To apply to use the B2B Scheme, both parties must each complete and submit a declaration requesting adjudication and agreeing to be bound by the outcome. Once completed, the declarations should be sent to CEDR by email to [adr@cedr.com](mailto:adr@cedr.com).
- 3.2 Upon receipt of declarations from both parties, CEDR will submit invoices for payment of the adjudication fee, split equally between the parties. Once payment of the adjudication fee is received from both parties, the adjudication process will begin and CEDR will send a notice of adjudication to both parties along with an application form for the customer to complete.
- 3.3 On the application form, the customer must request at least one of the following remedies from the company:
- 3.3.1 An apology;
  - 3.3.2 A product or service;
  - 3.3.3 Something to be done about one or more bills;
  - 3.3.4 Some practical action to be taken;
  - 3.3.5 A payment that must total no more than £25,000 (including VAT). This sum includes any claims for compensation, refunds, credits and/or waivers.
- 3.4 The application form should include details of:
- 3.4.1 The service(s) provided by the company that the dispute is about;
  - 3.4.2 The precise issues that are in dispute;
  - 3.4.3 The steps already taken to attempt to reach a resolution with the company;
  - 3.4.4 The reasons for requesting the remedy or remedies sought; and
  - 3.4.5 The reasons for the amount of any compensation claimed.
- 3.5 The customer should supply any essential supporting documents with their application.

## 4 The adjudication procedure

### 4.1 The Claim

- 4.1.1 When the claim form is received along with all supporting documents, CEDR will make an initial assessment within 15 working days as to whether or not the dispute falls within the scope of the Service. This assessment will be made by reference to Rules 2.1, 2.2 and 2.3 above.
- 4.1.2 When an application is processed by CEDR, a case reference number will be allocated and communicated to the parties in correspondence from CEDR. Both the customer and the company must quote this case reference number in all subsequent correspondence with CEDR regarding the case.
- 4.1.3 If CEDR considers the application to be valid, it will notify the company by sending an electronic copy of the customer's claim form and any supporting documents to the company ("the notification").
- 4.1.4 If CEDR sends the notification to the company before 4.00pm, the company is deemed to have received it on that day. If CEDR sends the notification on or after 4.00pm, the company is deemed to have received it on the following working day.
- 4.1.5 Once the notification is deemed to have been received by the company, the company has 15 working days in which to send CEDR its written defence to the customer's claim (in exceptional circumstances, CEDR may, at its own discretion, grant the company an extension of the deadline for providing a defence by up to a further five working days).
- 4.1.6 If, before the expiry of the timescale at Rule 4.1.5 above, the customer contacts CEDR to add further evidence or submissions to their application, the company will be sent the extra documentation and the timescale at Rule 4.1.5 for the company to reach a settlement, object or file a defence will be restarted.

### 4.2 The Defence

- 4.2.1 When CEDR receives the company's defence, a copy of it will be sent to the customer.

- 4.2.2 Upon receipt of the defence, CEDR will formally appoint an adjudicator to the case.
- 4.2.3 If the company does not submit a defence to CEDR within the time allowed, the adjudicator will have the discretion to proceed to make a decision considering only the information provided by the customer.
- 4.2.4 Any further comments that are received from the customer or the company following receipt of the defence will be sent to the adjudicator, who has the sole discretion as to whether or not to take them into account. If the adjudicator agrees to take such further comments into account, a copy of those comments will be shared with the other party to the dispute for their information only.

#### 4.3 The Decision

- 4.3.1 An adjudicator appointed under these Rules will make a Decision by considering the submissions and evidence received from the customer and the company. CEDR aims for Decisions to be issued within 10 working days of a complete complaint file being received.
- 4.3.2 The adjudicator's Decision will be set out in writing and will include full reasons for the decision. The adjudicator will send a copy of the Decision to CEDR when complete.
- 4.3.3 Once CEDR receives a Decision from an adjudicator, it will send copies to both the customer and the company simultaneously.
- 4.3.4 The adjudicator's Decision will be binding on both parties.
- 4.3.5 The adjudicator's Decision is final, and cannot be reviewed or appealed under any circumstances.

#### 4.4 Compliance with the Decision

- 4.4.1 If the adjudicator's decision directs the company to take an action in relation to the customer, the company must complete the necessary action(s) within 20 working days from the date of publication of the decision, unless the adjudicator has directed an alternative timescale for compliance.

- 4.4.2 If the company is for any reason unable to complete the necessary action(s) within the timescale at Rule 4.4.1 above, the company must advise the customer and CEDR why that is before the above timescale expires. At the same time, the company must specify a substitute date by which the necessary action(s) will be completed.
- 4.4.3 If the customer informs CEDR that the company has not completed the required actions within the timescale set out at Rule 4.4.1 or any substitute timescale advised by the company under Rule 4.4.2, CEDR will contact the company to request compliance with the decision. In the event that the company does not respond or fails to comply with the decision within five working days, the matter will be escalated to a senior member of staff at the company.
- 4.4.4 In the event that the company's failure to respond and/or failure to comply persist, appropriate action being taken by CEDR which may include suspension or termination of their participation in the B2B Scheme.
- 4.4.5 CEDR is unable to enforce compliance with decisions, nor is CEDR able to apply penalties or sanctions to a company for failing to comply with an adjudicator's decision.

## **5 Powers of the adjudicator**

- 5.1 The adjudicator will be fair and unbiased at all times and will make a decision that is in line with the relevant law, any relevant codes of practice, and contracts between the company and the customer. The adjudicator will act quickly and efficiently.
- 5.2 The adjudicator has the power to do any of the following:
- 5.2.1 Extend any of the time limits for customer and company action set out in these Rules;
- 5.2.2 Request further evidence or documents from the customer or the company, and set time limits in which the customer and the company must provide such evidence or documents;
- 5.2.3 Proceed with the adjudication if either the customer or the company does not keep to these Rules or any instruction or direction made pursuant to these Rules;

- 5.2.4 Consult any relevant evidence not presented by the parties (but the adjudicator must tell the customer and the company about such evidence and allow them to provide comments);
  - 5.2.5 Receive and take account of any evidence the adjudicator thinks is relevant;
  - 5.2.6 End the adjudication if, in the adjudicator's opinion, the entirety of the claim falls outside the scope of the Service (there is no appeal if the adjudicator decides to end the adjudication);
  - 5.2.7 End the adjudication if the customer and the company settle their dispute before a decision is made;
  - 5.2.8 Determine whether or not the company has complied with their decision, in the event that a dispute arises between the parties regarding compliance.
- 5.3 If the adjudicator finds that the customer's claim succeeds in full or in part, they can direct the company to:
- 5.3.1 Provide the customer with an apology;
  - 5.3.2 Provide the customer with a product or service;
  - 5.3.3 Take some practical action;
  - 5.3.4 Do something about one or more of the customer's bills;
  - 5.3.5 Make a payment to the customer, the total value of which shall not exceed  
£25,000.00 (including VAT);
  - 5.3.6 Refund the customer's share of the adjudication fee.
- 5.4 If the adjudicator finds that the customer's claim does not succeed, they can direct the customer to:
- 5.4.1 Make a payment to the company;
  - 5.4.2 Refund the company's share of the adjudication fee.

## **6 Costs**

- 6.1 The adjudication fee will be paid by the parties in advance, at the rate of either:
- 6.1.1 £500.00 for disputes valued at up to £18,000; or
  - 6.1.2 3% of the claim value for disputes valued at £18,001 or higher.
- 6.2 The parties will be responsible for payment of the fees in equal shares unless otherwise agreed with CEDR.
- 6.3 All fees will be subject to VAT.
- 6.4 The adjudication will only proceed once the adjudication fee has been paid in full.
- 6.5 The customer and the company must pay their own costs of preparing their cases. By using the B2B Scheme, each party agrees not to take any legal action against the other to recover such costs.

## **7 Confidentiality**

- 7.1 No party involved in the adjudication will give details of the adjudication or the decision (including the reasons for it) to any person or organisation not directly involved in the adjudication, unless this is necessary in order to enforce the decision.
- 7.2 By using the B2B Scheme, the parties agree that CEDR may gather, retain and publish statistics and other information in relation to cases whilst preserving the anonymity of the parties.

## **8 Other rules**

- 8.1 CEDR will appoint a substitute adjudicator if the adjudicator originally appointed is unable to deal with the dispute for any reason. CEDR will inform the parties if such an appointment is made.
- 8.2 With the exception of amending a decision following any minor error and providing clarification on a specific point regarding the adjudicator's decision, neither CEDR nor the adjudicator will enter into correspondence relating to any decision.
- 8.3 If the customer or the company has a complaint about the quality of service provided in the course of the administration of a CEDR case, the complaint should be made through the published complaints procedure, copies of

which are available from the CEDR website. The complaints procedure cannot be used to challenge the content or outcome of an adjudicator's decision, the decision process adopted by an adjudicator, or the contents of these Rules.

- 8.4 Please do not provide any original documents if you wish to use them in the future. We do not keep any documents on our premises and all documents sent to us will be scanned in and disposed of securely.
- 8.5 Any reference in these Rules to working days by definition excludes Saturdays, Sundays and bank/public holidays celebrated in England and Wales.
- 8.6 Where a decision has been issued by an adjudicator, CEDR and/or RICS may publish a case summary of that decision on its website. The case summary will not contain the name or personal details of the customer or the name of the company.
- 8.7 Translations of original documents may be submitted, but only with the mutual agreement of both the customer and company.
- 8.8 The B2B Scheme covers all member firms of RICS globally.
- 8.9 The B2B Scheme, including these Rules, may be updated from time to time. Disputes will be determined according to the Rules in force at the time the customer applies to the B2B Scheme.