



Guidance Notes for Member Firms: RICS Adjudication

Who are CEDR?

We are the Centre for Effective Dispute Resolution – the largest provider of Alternative Dispute Resolution (ADR) in Europe. CEDR are experts in the resolution of disputes and deadlocked negotiations of all shapes and sizes, from modest claims to disputes valued in the billions.

As Europe's largest cross-sector full service dispute resolution provider, CEDR specialises in preventing, managing and resolving consumer-to-business and business-to-business conflict through the use of alternative dispute resolution techniques.

CEDR provides access to more than 200 conciliation, mediation, adjudication and arbitration services; resolving thousands of disputes each year. Many of our services are provided to consumers and members of trade associations, allowing quick, cost-effective and final resolution.

A not-for-profit organisation, CEDR also provides training in conflict prevention and conflict management to individuals, businesses, national governments and NGOs in over 60 countries. In the last 25 years we have assisted over 100,000 parties in commercial disputes and helped resolve over 300,000 consumer complaints across 30 sectors.

Who regulates CEDR?

We are approved to provide ADR for customers by the Chartered Trading Standards Institute (CTSI), the Civil Aviation Authority (CAA), the Gambling Commission and Ofcom.

What is ADR?

ADR is a way of sorting out conflicts or disputes informally and confidentially, without the matter having to go to court. Adjudication is one of the ADR methods that we provide.

What is adjudication?

Adjudication is where an adjudicator (who is legally trained or an industry specialist) weighs up the documents and evidence provided by both parties to reach a written decision on the dispute. The adjudicator will take into account any law, terms and conditions, codes of practice and regulatory guidance that is relevant to the dispute, as appropriate.



What is the RICS Service?

Approved by RICS, the RICS Service is an independent adjudication service that has been set up to resolve disputes between Member Firms who are regulated by RICS (and who have nominated CEDR as its preferred ADR provider) and their customers.

The RICS Service is designed to adjudicate disputes that have reached deadlock or where eight weeks have passed since a customer's complaint was first raised.

How does the RICS Service work?

The RICS Service is run under a set of rules, which are available on our [website](#).

The Service provides a way to resolve disputes through a documents-only process. A professional adjudicator will be appointed to the case and will consider the evidence submitted by the customer and the Member Firm, along with the any relevant law, terms and conditions, codes of practice and regulatory guidance.

The adjudicator will produce a written decision containing full reasons for the outcome.

Once a decision is produced, the customer will have 20 working days to either accept or reject the decision. The decision can only be accepted or rejected in full and there is no right of appeal.

If the decision is accepted, the Member Firm is contractually bound to comply with the decision. If the outcome is rejected, no action is required and the decision will have no effect on either party.

Any decision made by an adjudicator applies only to the dispute pursuant to which the decision was made. Every dispute will be decided on its own facts and a decision made in one dispute does not establish a precedent for future cases.

What are the RICS Service Rules?

All cases referred to CEDR will be dealt with under the RICS Service Rules, which can be found on our [website](#). The Service Rules are designed to govern the Service: they set out what can and can't be dealt with, as well as the full process that will be followed.

CEDR and the adjudicator must adhere to the Service Rules at all times when processing and deciding the outcome of a case.

Member Firms who participate in the Service are strongly advised to ensure that all members of staff who will be required to deal with cases referred to the RICS Service have read and understood the Rules, and the Member Firm's obligations under them.

Who are the adjudicators?

The adjudicators are either legally qualified, surveyors or engineers and often deal with consumer disputes across a range of industries.



How does CEDR ensure independence and impartiality?

To ensure full independence and impartiality, CEDR's adjudicators have no direct contact with either of the parties and must excuse themselves from a case if any conflict of interest is identified.

As a documents-based process, the RICS Service allows both parties an equal opportunity to provide evidence and to state their positions, to which equal consideration will be given by the adjudicator.

The RICS Service administration team are readily available to assist both parties with any questions they may have and to offer guidance on the process.

How does an adjudicator decide the outcome to a dispute?

Once an adjudicator is in receipt of the case papers, the documents provided will be reviewed and the evidence will be assessed with reference to relevant law, guidance and any contracts between the parties. Principles of independence, impartiality and proportionality are adhered to by the adjudicators throughout the process.

The starting point is always the customer's application form, which details the subject of the dispute and the remedy or remedies being sought. The adjudicator will then consider whether the customer has provided sufficient evidence to support their claim on the balance of probabilities (i.e. it is more likely than not). In considering the evidence provided, the adjudicator will also assess how much weight to give to each piece of evidence.

The adjudicator will then review the Member Firm's response and consider whether it has provided any evidence to rebut the customer's claim. Again, the adjudicator will consider how much weight to give to the Member Firm's evidence.

A decision is then made by weighing up all the evidence and seeking a fair and reasonable resolution, with regard to the law, the contract between the parties, any relevant codes of practice, and the Service Rules.

Throughout the adjudication process, the adjudicator will be fair and unbiased and will endeavour to act quickly and efficiently. The adjudicator will produce a written decision, giving reasons for the outcome reached.

How much does it cost?

The RICS Service is free to use for customers. The Member Firm that the complaint is brought against will cover the cost of the process.

There is a reduced fee charged if complaints are settled between the parties before an adjudicator issues a decision.

For information on the specific fees applicable (as these can be subject to change) please contact the RICS Service administration team.

How long will it take?

CEDR must complete cases within 90 days of accepting an application, but in most cases the process takes about 65 days.

How are customers referred to the RICS Service?

A Member Firm regulated by RICS, who has nominated CEDR as its preferred ADR provider, is required to signpost its customers to the Service if a complaint remains unresolved after eight weeks (or a complaint has reached 'Deadlock').

NB. the customer has 12 months in which to bring a claim to the RICS Service, starting from the date of the referral (the 'Deadlock letter').

What remedies can the customer claim through the RICS Service?

When a customer submits their application form, setting out their complaint, they must request what remedies they would like. They can request the following remedies:

- an apology;
- a product or service;
- some practical action to be taken by the Member Firm;
- 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).

What happens when the RICS Service receives a customer's application form?

When a customer's application form is received, the RICS Service administration team will make an initial assessment (within 15 working days) whether or not the application falls within the scope of the Service.

Once accepted, the application will be sent to the Member Firm the complaint is against. The Member Firm will then have 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") (Rule 4.2); or
- settle the complaint (Rule 4.3); or
- object to the complaint being considered as its outside the scope of the Service (Rule 4.4); or
- submit its response to the complaint (Rule 4.5).

What types of cases can the RICS Service consider?

In order to bring a claim, the subject matter of the customer's complaint must fall within the scope of the Service Rules, which is set out at Rule 2.1.

The RICS Service can only deal with complaints made about one or more surveying activities provided by the Member Firm and/or the quality of the customer service provided by a Member Firm to the customer.

What types of cases can the RICS Service not consider?

The RICS Service cannot deal with a customer's complaint if one or more of the exclusions set out in Rule 2.2 applies.

The RICS Service administration team assess all applications against the above criteria, and those that do not fall within the scope of the Service will be withdrawn.

Can a Member Firm object to a complaint being considered by the RICS Service?

Yes. Although the RICS Service administration team carry out an initial assessment on the validity of a customer's application, this may not cover all instances in which a case may be outside the scope of the Service – particularly where it is not clear, on the face of it, that one of the exclusions applies, or if further evidence is required to show an exclusion applies.

If a Member Firm receives a case through the Service that it feels cannot be considered, an objection can be made setting out the reasons why it is outside the scope of the Service under Rule 2.2.

The objection process, set out at Rule 4.4, will then be followed:

- An adjudicator will decide whether or not they agree that the Member Firm has shown that part or all of the complaint falls outside the scope of the Service.
- If an adjudicator does not agree that the Member Firm 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 Member Firm has shown that 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.

What should be included in a Member Firm's response to the complaint?

The principle purpose of a response (or defence), is to respond to each of the points that the customer has raised in their application to the RICS Service. The Member Firm should deal with each and every complaint point that the customer has set out, stating clearly whether it agrees or disagrees and why.

The danger of not responding to all of the complaint points is that the adjudicator will only have one side of the story for those aspects of the customer's application that a Member Firm remains silent on. This could result in the adjudicator finding in the customer's favour, on the balance of probabilities, on that point.

Where a Member Firm disagrees with the customer and wishes to put across an alternative point of view, it should provide evidence to support its position. Adjudication is an evidence-based process, so a Member Firm will need to show, to the adjudicator's satisfaction, that its position is correct.

Below are examples of evidence a Member Firm may wish to include (although this list is not exhaustive):

- The contract between the Member Firm and the customer;
- A copy of the relevant terms & conditions;
- Any relevant bills or invoices;
- Any letters or e-mail correspondence that have been exchanged in relation to the dispute;
- Any relevant call recordings or account notes.

What if the parties decide to settle the complaint before adjudication?

The Member Firm and the customer can still settle the matter between themselves at any point before the adjudicator makes a final decision. The process allows for this specifically and is explained at Rule 4.3.

If this happens, the Member Firm will need to let the RICS Service know, providing evidence of the settlement mutually agreed. The case will then be closed as settled, and the reduced case fee will apply.

How does the adjudicator decide how much compensation (if any) to award?

The adjudicator will take into account how much the customer has claimed, all the circumstances the parties have described in the evidence, and the terms and conditions of the service. In particular, they will have regard to direct and consequential loss, if applicable, and any distress and inconvenience suffered.. They will also consider the law and any relevant customer service standards.

N.B. Awards made in respect of distress and inconvenience are capped at £1000.

How long does the adjudicator take to publish their decision?

The adjudicator usually issues their decision within three weeks of receiving all the case files.

Does a Member Firm need a solicitor to represent them?

No, neither party needs a solicitor, but either party reserves the right to employ one should they wish to. However, parties cannot claim any charges a solicitor may make for their services in this respect.

Will the parties be expected to go to a hearing?

No, the whole process is done in writing.

Will a Member Firm be able to speak to the adjudicator by phone?

So that they stay impartial, the adjudicator has no direct contact with either party. But a Member Firm can speak to the RICS Service administration team, who will be able to provide guidance on how the Service works.

What happens when a decision is issued?

Once a decision is issued, the customer has 20 working days to either accept it in full or reject it.

If the decision is rejected, the Member Firm will be informed and no further action will be required. The decision will have no effect in law and will not be binding on either party.

If the decision is accepted, the Member Firm will be informed and the decision will become contractually binding on the Member Firm. Any actions/remedies directed will need to be complied with within 20 working days (unless otherwise specified in the decision).

In the event that a Member Firm is unable to complete the necessary actions within the time specified, it must advise CEDR and the customer of this and provide a substitute date before the expiry of the original timeframe.

Where the customer informs CEDR that the Member Firm has not completed the required actions within the time specified, CEDR will contact the Member Firm and request compliance.

If non-compliance persists, this will be referred to RICS and it may result in further appropriate action being taken (such as suspension of the Member Firm's access to the Service).

What are CEDR's obligations in respect of the RICS Service?

The RICS Service is operated under a set out Key Performance Indicators (KPIs) as agreed with RICS:

- More than 80% of calls to be answered in less than two minutes;
- More than 90% of calls to be answered in less than five minutes;
- 100% of cases concluded within 90 days from receipt of complete case file to the issuing of an adjudicator's final decision; and
- 100% of written correspondence to be replied to within 10 days.