
Information Sheet on The Party Wall etc. Act 1996

The Party Wall etc. Act 1996 can be split into two stages; firstly, the Notifying Stage and secondly, if required, the Disputed Stage. The first stage is where the Building Owners have a legal obligation to serve a formal Notice detailing the proposed works upon the Adjoining Owners. If the Adjoining Owners are satisfied that the Building Owners' proposed works will be of no inconvenience or, pose no threat of damage to their property, the Adjoining Owners only need to confirm, in writing, that they consent to the works and the Party Wall etc. Act 1996 could end there.

The second stage would only be triggered if the Adjoining Owners had any concerns relating to the Building Owners' proposals or chose to ignore the Notice served by the Building Owners. A dispute would then be deemed to have arisen and, the framework provided by the Party Wall etc. Act 1996 enables a resolution so that the Building Owners could undertake works whilst providing protection to both parties. At the point of a "dispute" having arisen, both the Building Owners and the Adjoining Owners have to appoint a Party Wall Surveyor to proceed with resolving the dispute. This could be via separate surveyor appointments or, by agreeing to a single surveyor, called the Agreed Surveyor.

If you are the Building Owner -

If you are carrying out works governed by the [Party Wall Act](#), you need to serve a party wall notice on your neighbours. This must be done at least two months before the notifiable works begin, and at least one month before the notifiable excavation works begin. Notifiable work is either building work which affects a party wall or boundary line, or excavations within three or six metres of a neighbouring property (depending on the depth of the foundations you are making). This will include most extensions and basement and loft conversions.

You need to serve notice on all the owners of every neighbouring property affected by the works, both freeholders and leaseholders. You don't need planning permission for your plans to serve notice, and once you've done so you can take up to a year to start work.

If your plans change slightly after you've served notice – for example, if you decide to increase the depth of your extension – you should be able to submit revised drawings to your neighbour without having to serve a new notice.

There is "realistic potential" for damage when undertaking party wall works, according to the Royal Institution of Chartered Surveyors (RICS). So it's not surprising that failure to comply with the act could result in your neighbour taking you to court and obtaining – at your expense – an injunction to prevent you from continuing with the work. Furthermore, if you haven't obeyed the rules noted in the Act and you cause major damage to your neighbour's property, the judge can award compensation for any loss or damage resulting from the works, including legal costs.

If, on the other hand, you correctly serve notice on your neighbours and damage occurs, any disputes over that damage will be dealt with by surveyors rather than at common law. Surveyors have no scope to award damages for non-quantifiable things such as stress and inconvenience, unlike the courts, so costs would typically be much lower.

If you are the Adjoining owner -

If your neighbour intends to have building works carried out that involve alterations to your Party wall or excavations within 3 metres of your property, the Act requires that you are given due notice of the proposals and that agreement as to the execution of the works is in place prior to their commencement.

If you have received a Notice about proposed works your neighbours plan to carry out to their property, you are required to respond in writing within 14 days from the date on the Notice. If you would like Help or Advice in responding to any Notice served, please contact us.

There are two main ways you can respond:

Consent to the Notice

If you are going to consent to your neighbours' proposed works, without a Party Wall Award being produced, we recommend you do so on the basis of having a Party Wall Agreement put in place. It is a document agreed between the person wishing to complete the work and their neighbours. The purpose of the agreement is to provide both parties with a written detailed framework of the proposed works. It also includes a Schedule of Condition.

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We do advise our clients who consent to a Notice to request that a 'Schedule of Condition' be undertaken by a Surveyor, who will produce a record of the current condition of the adjacent areas prior to works commencing so that in the unlikely event of damage being caused it can be easily identified. The Agreement fee should be paid by the party proposing the building works.

Dissent to the Notice

If you are concerned that the proposed works may adversely affect your property and thus dissent to the Notice, a Party Wall Award would be required before the work could start.

It is a fair and impartial report, prepared by the Surveyor which will deal with the right to execute the party wall works, the time and manner of executing the work, and any other matters that arise between the parties concerned.

Dissenting to the Notice is not a tool to delay or stop the proposed works.

You may concur on an Agreed Surveyor or each appoint an Independent Surveyor:

Agreed Surveyor

– appointed by both parties, by the Building and Adjoining Owner, and is required to act impartially to administer the rights and duties of both owners. The process can be quicker and more cost effective.

Independent Surveyor

You may appoint an independent Surveyor of your choice. Your surveyor's reasonable fees in all normal circumstances will be met by the Building Owner.

Not responding will not delay the proposed works.

If no response is received by the Building Owner within 14 days a further follow-up "Ten Day Notice" will be served stating that the parties are now deemed to be in dispute and a Surveyor must be appointed.

If no written response is received a Surveyor will be appointed for the Adjoining Owner by the Building Owner's Surveyor under Section 10(4) of the Act.

The Party Wall Agreement or 'Award'

A Party Wall Agreement (technically called an “award”) is the document produced by the two-party wall surveyors (or the “agreed surveyor”) acting for the respective owners.

It will usually consist of three parts:

1. The award itself i.e., a set of guidelines governing how the proposed works should progress
2. A “schedule of condition” of the adjoining property, often supported by a set of photographs (This is not required by the Party Wall etc. Act 1996 but it is prudent to have one).
3. Drawing(s) showing the details of the proposed works

The award should clearly state details of the two properties, their owners and their owners' addresses. It should also contain full details of the two surveyors (or agreed surveyor) and the “Third Surveyor” (if an “agreed surveyor” is used there will be no Third Surveyor).

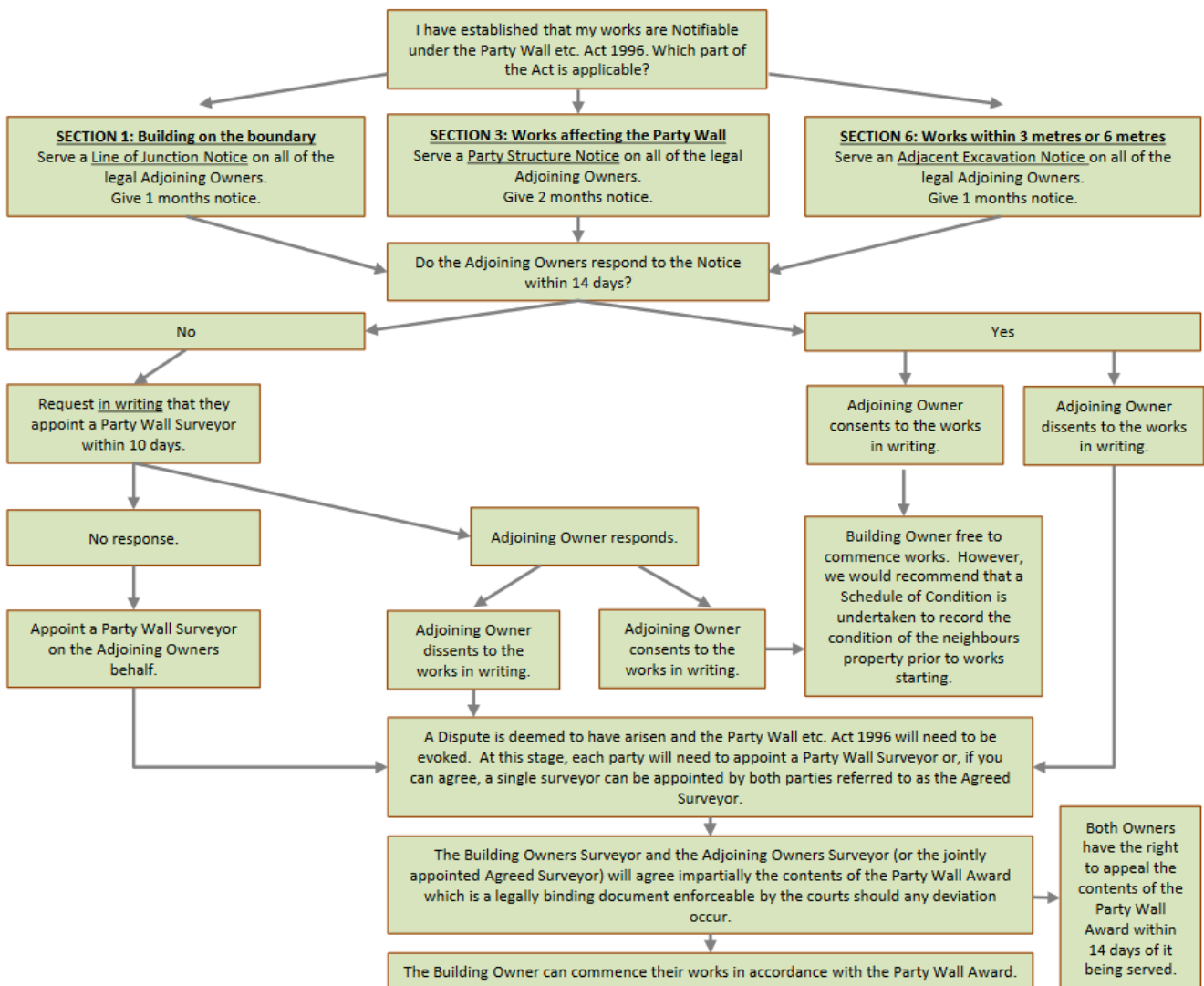
Other items covered include:

- Brief details of the proposed works
- Working hours; normally 8am to 5.30pm weekdays only of residential work
- Assurances regarding the contractor’s public liability insurance
- Indemnities by the building owner in favour of the adjoining owner
- Access arrangement for the surveyors
- A time limit for commencement of the works, usually 12 months
- The adjoining owner’s surveyor’s fee

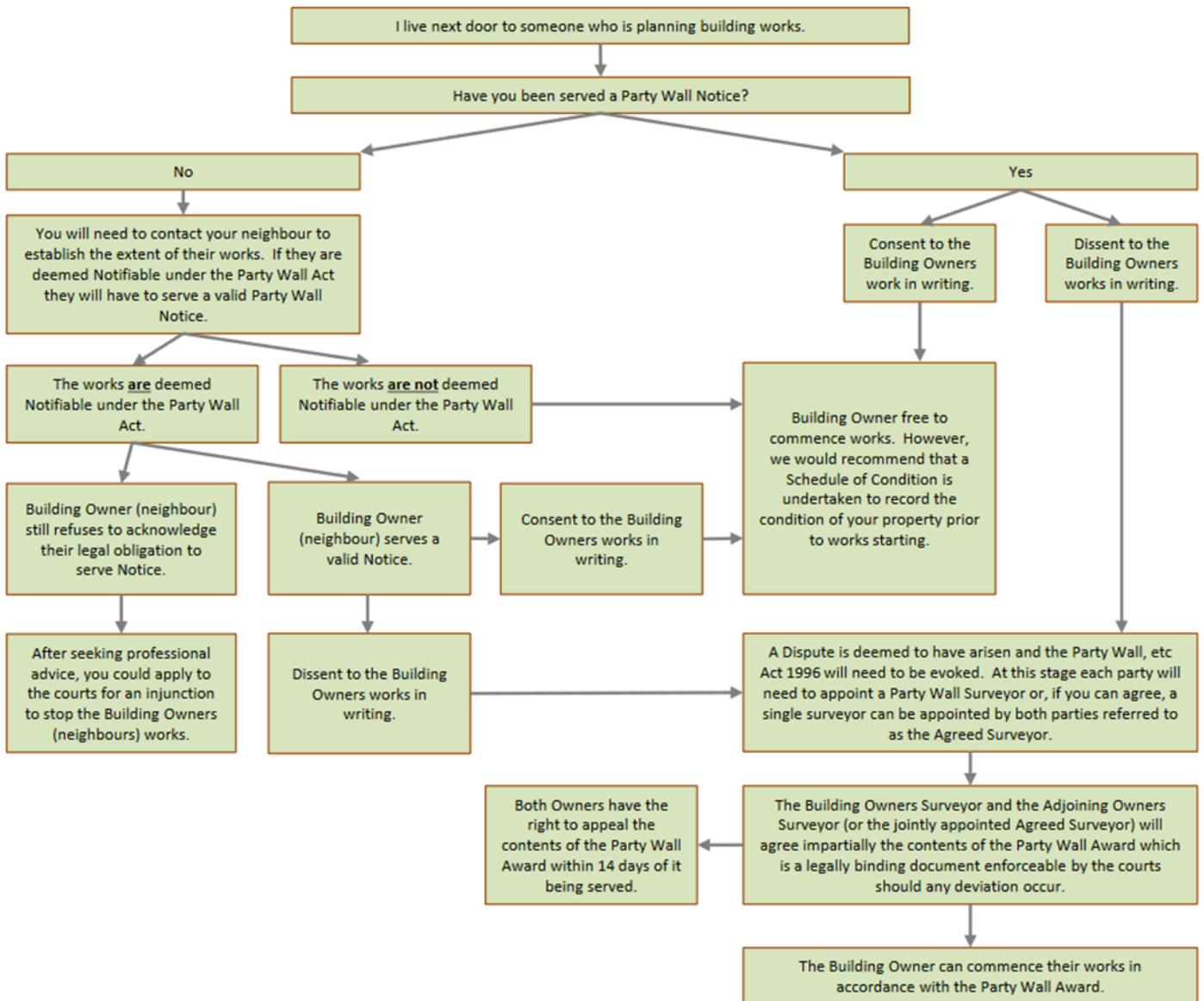
Once the award has been agreed between the two surveyors it is “published”. In practical terms this means that a signed and a copy is sent to the two owners by their appointed surveyors. Although there is a 14 day right of appeal if either owner believes the award to have been improperly drawn up. This is seldom observed.

A copy of the award should be passed on to the building contractor by the building owner.

PARTY WALL PROCESS FOR BUILDING OWNERS



PARTY WALL PROCESS FOR ADJOINING OWNERS



Our Party Wall Fee Structure

The fees below are based on a standard rear extension or loft conversion to a residential building.

Our fixed price packages for making Party Wall Awards are as follows:

£875 as the Building Owners Surveyor in preparing the Party Wall Agreement (Award) for the first Adjoining Owner.

£1,150.00 as the Agreed Party Wall Surveyor in preparing the Party Wall Agreement (Award) for the first Adjoining Owner.

£400 each in preparing the Party Wall Agreements (Awards) for subsequent Adjoining Owner's (if required)

Acting for Adjoining Owner(s)

When acting as the Adjoining Owner's Surveyor it is not possible to charge a fixed fee in the same fashion. The reason for this is that as Adjoining Owner's Surveyor we are checking the information, Schedule of Condition and Party Wall Agreement supplied by the Building Owner's Surveyor. If further information is required or amendments need to be made to documents further time is required. For this reason, our fee for acting on behalf of Adjoining Owner's is £125 per hour.

The reasonable fees of the Adjoining Owner's Surveyor are paid by the Building Owner and therefore in all usual circumstances our services, there will be at no charge to the adjoining owner. In acting for you as the Adjoining Owner we will check the notices and supporting documentation served upon you by the Building Owner and explain their likely impact upon you. We will accompany the Building Owner's surveyor when he inspects and records the schedule of condition of your property adjacent to the works to ensure he makes an accurate recording of the condition. We will review the draft Party Wall Agreement provided by the Building Owner's surveyor, ensuring it correctly records the rights and liabilities of the parties and how the party wall works will be executed.

Party Wall Notices served: £95.00 per Notice (An additional £80.00 for each subsequent Adjoining Owner (if required))

- prepare and serve a professional and bespoke notice(s) to your neighbour(s) by 1st Class Post together with a stamped reply envelope (unless you choose to hand deliver).
- perform Land Registry search to verify your neighbour(s) identity and address and write to letting agents when required.
- * annotate your designer's drawings to ensure the notice is valid and for clarity. *
- provide explanatory notes where required
- provide an Acknowledgement / Form of Consent
- provide a follow-up "Ten Day Notices" if required
- Notices can omit or include the offer of a Schedule of Condition (we recommend a Schedule of Condition)

*** Please note that if the drawings are inadequate and time has to be spent on advising on changes or on additional drawings that will be required, this will be charged at an additional £125 per hour***

If additional involvement or attendance is required after the Award or Agreement is served, then our usual hourly rate will apply. Our fee excludes any time after service of Awards. We will confirm this with you before incurring costs.

For complete clarity and confirmation of our costs, our hourly rates of our surveyors are £125 per hour.

You will additionally be responsible for the costs of your neighbour's surveyor — these may be more than ours.

You will need to send us a signed letter of authority to act before we can send notices. We shall send a copy to you for you to sign and return to us.

We will ask you for necessary information. We will not prepare drawings or undertake any design work — this is your responsibility. You will need to send us drawings and details of your proposed work. This might include structural calculation and designs. If your scheme is not fully prepared, or changes, this will cause delays and we may need to charge for additional time.

For excavation work, if we do not have a drawing and section showing the depth and location of your excavation, we cannot serve the notice.

Schedule of Condition

To make a Schedule of Condition with one Adjoining Owner for ANY domestic project:

£390-£590 per Schedule of Condition for Flats (Depending on Size)

£425-£550 per Schedule of Condition for Houses (Depending on Size)

Other Property

Depending on the complexity the fee can be from £600 upwards

Additional fees would arise in the following situations:

Building Owners Fees

(a) Calculation of Section 11(11) payment

The Party Wall Act provides that if a Building Owner uses a Party Wall or structure previously constructed by an Adjoining Owner then the Building Owner must pay the Adjoining Owner a sum equivalent to 50% of the cost of the section of wall or structure used. If this sum cannot be agreed and we are required to calculate and award a payment due we would charge an additional fee (Fixed fee for domestic enclosure calculation is £150 per instance of enclosure)

(b) Referral to Third Surveyor

The Third Surveyor is selected by two appointed surveyors and can make an Award to determine matters if the two appointed surveyors cannot agree. Either surveyor or either party to the dispute can refer to the Third Surveyor to determine any matter to which the notices relate.

We would not normally make a referral to the Third Surveyor without discussing and agreeing this with our appointing owner. In this case we would agree to charge additional fees at our current hourly rate (£125/hr) for the time involved. (These fees and other costs may be recoverable if the Third Surveyor determines that another person is liable for them).

(c) Section 12 Security for Expenses

The Party Wall Act provides that an Adjoining Owner may serve a notice requiring the Building Owner to place a sum of money in an Escrow account to cover costs or loss arising from the work. If an Adjoining Owner serves a notice and the sum cannot be agreed between the owners and we are required to calculate a sum for inclusion in an Award we would charge an additional fee to cover the additional time and any professional advice we may require to determine the sum. (Negotiation charged at hourly rate of £150 - Fixed fee for managing deposit and release £150)

d) Inadequate or defective design information

This can cause us additional work. We would advise you at the time if this arises,

(e) Design Changes, Revisions & Site Visits

If design information changes during the Party Wall process or if we are required to study new or revised drawings after serving notice to verify if there are relevant changes or if we are requested or compelled to make additional site inspections, we reserve the right to charge an additional fee to cover time expended. If this situation arises, we will warn you in advance.

(f) Damage Caused or Breaches of the Terms of an Award

If damage caused or breaches of the terms of an Award cannot be resolved by the two owners the Surveyor(s) must determine the matter.

Adjoining Owners fees

We undertake not to hold Adjoining Owners liable for our fees EXCEPT: -

(a) Where notice is served for maintenance works to a Party Wall or shared structure and in that case, we will advise you of any liability in advance and obtain your written agreement before proceeding.

(b) If a Building Owner refuses to pay the fees that are due and the Adjoining Owner does not assign the right of claim against the Building Owner to us. (This may be necessary for us to pursue the debt in the Courts).

(c) If an Adjoining Owner first dissents and appoints us then consents to proposed works before an Award has been served if we have expended time in respect of the appointment.

(d) If an Adjoining Owner demands an inspection when we do not consider an inspection is necessary (or find it to have not been necessary), or fails to provide access for a pre-arranged necessary inspection.

Information provided for notice

Our Notices are prepared based upon the drawings and information provided to us by the Building Owner or their consultant(s). We do not automatically make a prior inspection to verify the drawings and we will make enquiries and reasonable assumptions to obtain any information which is not provided but we cannot be responsible for any losses that may arise from any defects with the notices arising from errors or omissions in the information provided. If requested to do so we will make a prior inspection but this would incur an additional fee.

If structural engineering drawings are not available, to assist and for no additional fee, we will annotate designers' drawings to show information relating to excavation depths necessary to validate a Notice of Adjacent Excavation. We will do this based on our judgement but we will not accept responsibility for any losses arising from this, therefore, if this risk is to be avoided notices should not be served until adequate engineering information is available.

The Party Wall Act requires that notice be served on any person who has a tenancy agreement of more than 1 year and such tenants would not be listed on the Land Registry. We would serve notice on owners who are listed on the Land Registry and any other persons or entities that you advise us are owners. We would also make enquiries with freeholders when and if they respond to our notices but we would not accept responsibility for failing to serve notice on adjoining owners that, following the above process, we are not aware of.

Payment of fees

In general, fees for the preparation and service of an Award will become payable immediately upon service of the Award (*even if a subsequent final inspection is included).

Our fees are paid by the beneficiary of the works, usually this is the Building Owner. In some cases, the Adjoining Owner may be liable for some costs.

The appointing owner will be liable for the appointed surveyor's fees. The obligation to pay those fees applies to work carried out as the Building Owners Appointed Surveyor / Agent or as the Adjoining Owners Appointed Surveyor / Agent and it arises regardless of whether an award is subsequently made providing for some or all of those fees to be paid by the other owner.

Abortive fees will be chargeable upon the Client's/Appointing Owner's termination of the Consultant's/Party Wall Surveyor's services. This will generally be based upon a reasonable account of the work completed up to the point of termination, but in certain circumstances will be subject to a minimum charge as follows:

Time charge appointments – An account of time expended at the hourly rate of £175. In all circumstances a minimum fee of £300.00 plus VAT will become due.

Fixed Fees – Minimum of 50% of the agreed total fee due, unless the task was more than 75% complete at the point of termination, whereby 100% of the fee will become due.