



THE COMPLETE PARTY WALL SERVICE

‘We offer a complete personal service of the highest quality with pro-active members of staff to guarantee a rapid delivery.’

The Party Wall etc Act 1996

Many people undertaking renovations, extensions or construction works on their home can be surprised to discover that you need to have a party wall survey conducted and then have a party wall award/agreement drawn up between you and your neighbour. Obtaining planning permission or complying with the Building Regulations does not remove the legal obligation to comply with the Act where it is applicable.

FinleyHarrison Ltd are specialist Party Wall Surveyors, with a practical approach who can assist you with this process. With our experienced surveyors we are able to obtain value for money for our clients by agreeing Awards effectively and efficiently.

The Party Wall etc Act works to protect all parties involved including the owner who is carrying out the work and his neighbours. Whether or not you get on with your neighbours, the Act is important to you and should not be regarded as an obstacle to development as it cannot prevent works that already have approval. The Act does however put in place procedures to ensure that neighbour issues are dealt with to the benefit of both parties and protects against spurious claims for damage.

What work is covered by The Party Wall etc Act 1996?

The Party Wall etc Act 1996 covers three distinct types of work; alterations to a shared (party) wall; the construction of new walls on the boundary; and excavation work close to neighbouring properties. Listed below are examples of some of the most common types of works carried out where notification may be required:

- Building an extension.
- Building a loft conversion.
- Building a conservatory.
- Excavations within 3m (or 6m for deep excavations) of the Adjoining Owner's building.
- Underpinning the whole thickness of the party wall, along part or all of it.
- Demolishing and rebuilding the party wall.
- Internal /external structural alterations (inserting a structural beam).
- Damp proofing.

Many types of building works covered by the Act may take place entirely on the property of the person carrying out the works, but there is still an obligation to comply with the Act.

What is a Party Wall?

In simple terms a party wall divides the buildings of two owners with the boundary between ownerships usually, but not always, positioned at the centre of the wall.

The Party Wall etc. Act 1996 recognises two different types of party wall:

1 A wall that stands astride the boundary of land belonging to two (or more) different owners. Examples include walls separating terraced or semi-detached houses or walls that form the boundary between two gardens, known as a 'party fence wall'

2 A wall that stands wholly on one owner's land, but is used by two (or more) owners to separate their buildings. Examples include where one neighbour has a structure that leans against a wall that is owned by the other neighbour. Only the part of the wall that is enclosed by the lean-to is a Party Wall.

Only the part of the wall that does the separating is 'party' – sections on either side or above are not 'party'.

What are my legal duties under the Act?

Where work falls within the scope of the Act it is necessary for a Building Owner to inform all adjoining owners of your intentions via a Party Wall Notice and obtain the affected Adjoining Owner's consent. If that consent is not forthcoming, the parties are deemed to be 'in dispute' under the Act and surveyors must be appointed so that the dispute can be resolved by way of a Party Wall Agreement (technically called an 'Award').

Building Owner

This is the person (or persons if jointly owned) or company who own(s) the land and want to undertake the works. Ownership of land is further defined in the Act.



Adjoining Owner

Any owner and any occupier of land, buildings, storeys or rooms adjoining those of the Building Owner. Accordingly, in respect of a single building, Adjoining Owners needing to be notified of impending works by the Building Owner may include a freeholder, a long leaseholder, one or more tenants and possibly sub-tenants with an interest in the property greater than one year.

Party Wall Notice

There are three types of notice that a Building Owner may serve upon an Adjoining Owner to make them aware that he intends to carry out work which falls under the scope of the Act.

1 Party Structure Notice – Generally these are alterations to the party wall itself and include common jobs such as cutting holes to insert beams and padstones, cutting in flashings and removing chimney breasts.

2 Notice of Adjacent Excavations (a) Excavating within 3 metres of your neighbour's building and to a depth lower than the bottom of their foundations (b) Excavating within 6 metres of your neighbour's building, if any part of that excavation intersects with a plane drawn downwards at an angle of 45 degrees from the bottom of their foundations.

3 Line of Junction Notice – The construction of a new wall adjacent to a boundary or the construction of a new wall astride a boundary.

It is obviously best to discuss your planned work fully with the Adjoining Owners before you (or your professional adviser on your behalf) give notice, in writing, about what you plan to do.

Finley Harrison Ltd, will ensure the correct notices are served and the required information is contained within the notices. You will need to give at least one months notice (sometimes two months) before commencing works on the party wall. (Although the adjoining owner can agree to allow the works to start earlier.)

Should you commence work without having given Notice, an Adjoining Owner may seek a Court Injunction to prevent you continuing and/or requiring you to remove any work already carried out.

Disputes

The adjoining owner receiving the Notice(s) has three options available:

- 1** Consent to the works as notified (this must be in writing). FinleyHarrison recommend under these circumstances the preparation of a Schedule of Condition to protect both parties should any damage arise as a direct result of the works.
- 2** Dissent to the works. FinleyHarrison would agree and prepare a Party Wall Award.
- 3** Ignore the Notice. FinleyHarrison would agree and prepare a Party Wall Award.

The adjoining owner has a right to appoint their own surveyor. FinleyHarrison recognise the potential spiraling costs of party wall surveyors fees under simple residential works and always seek consent as item 1, or if under items 2 and 3, attempt to obtain a Joint Surveyor appointment acting impartially for both the Building and Adjoining owner to limit potential fee expenditure.

The Building Owner, under all normal circumstances pays the surveyor's fees for both building owner & adjoining owner and valid ancillary costs.

The Role Of A Party Wall Surveyor

The term 'surveyor' is defined in the Act as any person not being a party to the matter appointed or selected under section 10 to determine disputes in accordance with the procedures set out in this Act. Neither the building owner, nor the adjoining owner are allowed to act as the surveyor. However, the person chosen should be knowledgeable about construction and be well versed in party wall procedures, and ideally they should have a relevant qualification. Due to the intricacy of the Act a professional advisor such as FinleyHarrison should always be appointed.





If a dispute has been deemed to arise and you cannot reach agreement with the Adjoining Owners, the next best thing is to agree with them on appointing what the Act calls an 'Agreed Surveyor' to draw up an 'Award'. Alternatively, each owner can appoint a surveyor to draw up the award together. In all cases, surveyors appointed under the dispute resolution procedure of the Act must consider the interests and rights of both owners and draw up an Award impartially.

An Award may determine:

- 1 The right to execute any work
- 2 The time and manner of executing any work
- 3 Any other matter arising out of or incidental to the dispute including the costs of making the Award

Once the award has been agreed between the two surveyors it is 'published'. In practical terms this means that a signed and witnessed 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.

The Award will determine who pays for the work if this is in dispute. Generally, the building owner who started the work pays for all expenses of work and the reasonable costs, but these will be apportioned between the owners where appropriate.

The surveyor will usually also draw up a schedule of condition of the adjoining owner's property in order to properly assess damages should there be any damages inflicted on your neighbours property during construction works.

Schedule Of Condition

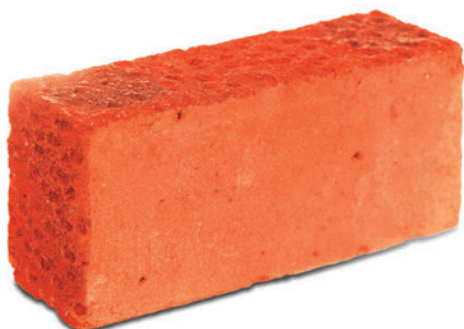
A condition survey provides a detailed documented and photographic representation of the physical condition of a property or building, varying upon the clients need for information and project.

Adjoining owners gain documented proof supporting subsequent claims for damages. Building owners are protected against potentially false or extravagant claims. It is standard practice for the relevant parts of an Adjoining Owner's property to be inspected by the surveyor(s) in order to prepare a schedule of its condition before the Building Owner carries out any works. This safeguards not only the Building Owner from spurious claims, but protects your position by establishing a reference point against which the extent of damage caused by the works, if any, can be assessed.

Normally the schedule will be in written form, cross referenced to photographs, and be appended to an Award.

It is not a requirement of the Act that such a schedule be prepared, but legal judgments have indicated that the Courts expect surveyors to do so. Accordingly, it is in your interest to allow a survey to be undertaken.

<https://www.gov.uk/party-wall-etc-act-1996-guidance>





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