

## The Role of the Party Wall Surveyor

1. The Party Wall Surveyor fulfils a 'quasi-judicial' function in the capacity of a statutory tribunal. The Party Wall Surveyor's appointment is, therefore, made under statute and not contract. Accordingly, a Party Wall Surveyor does not have a client, but an 'appointing owner'.
2. The Party Wall Surveyor's sole purpose is to determine the dispute that has arisen between the parties under the Party Wall etc. Act 1996 ("the Act"). This is done by way of an 'Award' which is a legally binding statutory determination that resolves the dispute and authorises the notifiable works to proceed lawfully.
3. The Party Wall Surveyor cannot be disinstructed or unappointed by the parties. The only way in which the Party Wall Surveyor's role may come to an end is if he dies, becomes or deems himself incapable of acting, refuses to act effectively, or neglects to act effectively within 10 days of a request being made to act. This is set out in sections 10(5), 10(6) and 10(7) of the Act.
4. The Party Wall Surveyor's role is not to provide design advice or to make recommendations. However, the Party Wall Surveyor may highlight the legal implications associated with certain design proposals advanced by either of the parties and may determine the manner of executing works.
5. The Party Wall Surveyor is under no statutory or professional obligation to recommend or advise upon the adequacy of appropriate insurance for the works. The parties to the dispute must make their own insurance enquiries as necessary.
6. The Party Wall Surveyor has no statutory obligation to monitor or sign off the works after the Award is served. Upon service of the Award the Party Wall Surveyor is '*functus officio*', unless any further dispute arises requiring the Party Wall Surveyor's involvement.
7. The Party Wall Surveyor has a duty of care to both parties, whether appointed under section 10(1)(a) of the Act as an 'Agreed Surveyor', or as a party appointed Surveyor under section 10(1)(b) of the Act. The Party Wall Surveyor shall, therefore, endeavour to remain impartial regardless of which party is ultimately responsible for his fees and may, therefore, determine matters that find against his appointing owner.
8. In the event a party is aggrieved by anything the Party Wall Surveyor has determined in an Award, the only recourse open to the aggrieved party is to appeal the Award pursuant to section 10(17) of the Act. The appeal must be made within 14 days of service of the Award in the county court.
9. The Party Wall Surveyor is under no statutory obligation to deal with any complaints concerning his statutory role. While the Party Wall Surveyor may agree to provide a Complaints Handling Procedure, it will not apply to any appointments held under section 10(1) of the Act.