



# The Party Wall etc Act 1996

**Building works planned to commence ???**

***Have you served a Party Wall Notice ?  
..... or have you been served with one ?***

**No!!! .... THEN YOU SHOULD READ THIS ARTICLE**



Whether you're the Building Owner about to start building works or one of the Adjoining Owners close to the proposed works, there are important points you should be aware of in complying with **The Party Wall etc. Act 1996**.

The Act came into force on 1<sup>st</sup> July 1997 and applies throughout England and Wales.

The Act provides a framework for preventing and resolving disputes in relation to proposed building works on party walls, boundaries and excavations up to six metres from neighbouring buildings. The implications and working of the Act is too varied and complicated to explain herein, but there is a very helpful explanatory booklet available on line at: [www.communities.gov.uk](http://www.communities.gov.uk) which gives a simplified version of the Act.



It is advisable, as with all matters like these, that you seek professional advice as soon as possible as Notices vary from 4-8 weeks and subsequent Party Wall negotiations can extend beyond this. It is also important to have the Party Wall Award in place when appointing a Contractor for the works so they can be made responsible under their building contract to comply with the Award stipulations.

All too often *Invalid* Notices are served, - or not served at all - which invalidates the whole process. This can delay the works and can lead to potential claims during the building process, or injunctions to stop works.

Such claims can take the form of structural damage and subsidence to neighbour's properties many years after the building works are completed and the builder has long since gone. Without a *Schedule of Conditions* and an accompanying *Award* the Building Owner will be in a very weak position to defend his



standpoint. With no evidence of defects before building works commenced, the Building Owner can find that they end up paying for complete rectification of defects be they wholly responsible or not

The condition survey appended to awards, once the works in the award have been completed and signed off by the party wall surveyors, can be kept to serve as a record for safeguarding positions should a future claim arise for example from a latent building defect. When it comes to selling these documents are very important.






Adjoining neighbours should be wary of employing unscrupulous "Ambulance Chasing" Party Wall Surveyors. These surveyors target adjoining neighbours by obtaining information from planning applications and use this to tout their services *free of charge*. Although it is usually the party who is having the building works carried out who has to pay their fee, remember that after the work is completed you will still be living next door to your neighbours and will want to get on well with them. If they are faced with a very expensive bill from a surveyor who **you** have appointed they may be highly displeased. This could lead to bad feelings between neighbours which may last for years to come. Once they have your signature on an appointment letter they can run up fees totalling thousands of pounds. This can lead to a dispute in itself as sometimes they can hold the building owner to ransom by refusing to act unless their fees are paid first. Once you sign their Appointment Letter you are effectively handing over all control of your affairs in relation to the proposed works.





The Faculty of Party Wall Surveyors holds a list of locally qualified Party Wall Surveyors in your area whose services are advertised at the end of this article.

Party Wall Surveyors have the following functions to carry out:-

-  Set out the building work that will be carried out
-  State how the work is to be carried out (for example, not at weekends if the buildings are domestic properties).
-  Specify any additional work required (for example necessary protection to prevent damage)
-  Record the condition of the adjoining property before the work begins (so that any damage to the adjoining land, or buildings, can be properly attributed and made good)
-  Arrange access for surveyor(s) to inspect the works while they're going on (to see that they are in accordance with the award).







#### Who pays the surveyor's fees?

Usually the Building Owner will pay **all** costs associated with drawing up the Award if the works are solely for his benefit, but not always as a Third Surveyor may apportion costs if he sees fit.

#### Mitigating Party Wall surveying fees.

As you can imagine with two surveyors involved and sometimes three the costs can get quite high for the Building Owner. By agreeing to appoint an impartial **Agreed Surveyor** from the Faculty of Party Wall Surveyors the costs can usually be dramatically reduced.

#### Neighbours affected by building works have the right to?

-  Be notified when works are likely to commence.
-  Appoint a Surveyor to resolve any dispute.
-  Require reasonably necessary measures to be taken to protect their property from foreseeable damage.
-  Not to suffer any unnecessary inconvenience. - such as the right to have the works safely screened off.
-  Be compensated for any loss or damage caused by relevant works.
-  Ask for security of expenses before you start significant work so as to guard against the risk of being left in difficulties if you stop work at an inconvenient stage.



So if you're about to commence building works, or your neighbour is, you should at your earliest opportunity enquire into the **Party Wall etc. Act 1996**. More information is available from the Party Wall Faculty website: [www.fpws.org.uk](http://www.fpws.org.uk) or email enquiries to [enq@fpws.org.uk](mailto:enq@fpws.org.uk)



Remember the Act is there to protect the interests of *both* parties and it is intended to create a framework by which works can be carried out without disastrous consequences.



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**Planning to build close to your neighbour?**

**The Party Wall Act entitles your neighbour to the services of a surveyor at your cost**

#### SAVE COSTS

As a qualified practitioner and fully qualified Party Wall Surveyor I can represent you *and* your neighbour and impartially protect both your interests.



Expert, non-confrontational service available for a fixed, competitive fee.

**Contact: Carl O'Boyle**

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