

## **Duties of an Engineer advising a Surveyor appointed under Section 10 of the Party Wall etc. Act 1996 by an Adjoining Owner**

### **The Basis of Appointment**

The engineer is to advise the adjoining owner's surveyor – not the adjoining owner. If appointed to advise the adjoining owner, it could be said to be outwith the Act and the building owner could refuse to pay his fees.

Secondly, he is to restrict his advice to matters covered by the Act, to avoid the building owner's surveyor refusing to take any notice of his comments and also not wanting to know about his fees.

Basically, he needs to establish how the proposals are likely to affect the structure or foundations of the party wall and/or the adjoining owner's building, and to discuss what temporary and/or permanent works are proposed to minimise those effects and to comment on the practicality.

It should not be necessary to check the proposals in minute detail, but rather to establish that they are adequate and practical and are based on sound principles, and can be carried out as simply and quickly as possible, with the minimum of inconvenience to the adjoining owner.

Nor should it be necessary to check calculations in detail, but only to consider the principles and assumptions on which they are based, and to consider the conclusions. If the principles and assumptions are dubious, or are too optimistic, or if the conclusions appear inconsistent, he should ask for the calculations to be re-worked on an agreed and more realistic or more conservative basis.

A site inspection is likely to be needed to see the buildings and assist in understanding the proposals. It may also be desirable to accompany the building owner's engineer on inspections of exploratory work and/or trial holes, but it should not be necessary to witness all such matters, unless requested to do so or unless inconsistencies are expected or there are deficiencies in the information provided.

The general idea is to ensure that the building owner's advisors are doing their work properly and to encourage them so to do, not to try and do it for them.

At least one, and possibly more, site inspections of the work in progress may be desirable to see that it is proceeding generally in accordance with the agreed details, method statements and sequence.

An engineer advising an adjoining owner's surveyor should generally limit his involvement to checking that the building owner's engineer is acting safely and responsibly in all matters which affect the structure of the adjoining owner's building.

The engineer should also consider carefully if the structural work proposed prejudices the adjoining owner's future rights from a structural point of view, and advise accordingly.

### **Fees**

On appointment the engineer can do no more than quote an hourly rate for his time. He cannot quote a fee at that stage, because he does not know what quality of information will be provided, nor how long it will take to get the details into an acceptable state for attachment to the Award.

He is unlikely to be able to predict his fee until he is able to recommend the documents for attachment to the Award.

At this stage, just before the Award is signed, he can state a fee for his time to date and allow for a specified number of visits to site to see the work in progress. Because he is advising the adjoining owner's surveyor, that fee should be included in the Award and be paid at the same time as the surveyor's fee. Since the engineer has no contractual relationship with the building owner, the responsibility for payment of his fee rests with the surveyor whom he is advising, who should either include it as a disbursement or otherwise ensure that it is paid as promptly as his own fees.

There should be no need for a further fee unless problems arise on which his advice is sought, or unless the work is varied.