

The Party Wall etc. Act 1996

What is it?

The general principle of the Party Wall etc. Act 1996 (“The Act”) is to enable an Owner of a building to undertake certain works, repairs or improvements to their building, whilst giving protection to potentially affected neighbours. The Act is not in place to prevent works, it is simply in place to facilitate their execution.

Both Building and Land Owners may be affected by The Act. This can be through acquiring/constructing a new building/property, maintaining existing stock, or simply just as an Owner of a property affected by relevant work being carried out by a neighbour. Martin Arnold Ltd can provide you with help and advice to ensure that everything is completed in line with the legislation.

When constructing a new building or undertaking necessary improvement/alterations, certain works require “Notification” to be served on the Adjoining Owner(s) under the provisions of The Act. Martin Arnold can provide a Preliminary Assessment of these works on your behalf and provide comment on the proposals in respect of which Notices are required under The Act. As part of the assessment we identify the relevant adjoining properties that may be affected, obtain Land Registry searches to establish the exact details of Adjoining Owners, confirm what information might be required to facilitate agreement of any Party Wall Awards and flag up any issues that might need to be included and managed on a Project Risk Register.

An early assessment, typically at acquisition/feasibility stage is advised to allow for such matters to be fully appreciated and included in the scheme design and project execution plan.

At Martin Arnold we adopt a personable approach when appointed to commence Party Wall negotiations. When acting as Building Owner’s Surveyor our experience tells us that rather than simply serving the Notices on the Adjoining Owner, we will, where possible, hand deliver them or speak with neighbours as early as possible within the process. This enables us to discuss the scheme, timescales and our appointing Owner’s objectives as governed by The Act, whilst ensuring that neighbours can discuss any concerns whilst knowing that these have been appreciated and considered, rather than simply dissenting to the works immediately.

Should consent not be received and a ‘dispute’ arises under The Act the appointed Surveyors undertake an inspection to produce a detailed schedule of condition before arranging for a Party Wall Award to be put in place.

We are regularly appointed by Owners of existing properties whose neighbours have served notice of their intention to undertake works covered by The Act. As an Adjoining Owner, you are entitled to engage a surveyor to act on your behalf whenever notifiable works are being undertaken to an adjoining property. At Martin Arnold we fulfil this role and provide added value by providing you and/or your tenants/occupiers with a personable approach, as well as undertaking inspections before and after the works to safeguard your building. Our fees are in most cases covered by the neighbour who will be undertaking the works, so you receive the best professional advice and service, often at zero cost.

Tom Hopkins BSc (Hons) MFPWS MRICS, an Associate within the practice is an accredited member of the Faculty of Party Wall Surveyors (FPWS) and a member of the Pyramus & Thisbe Club (P&T), and would be more than happy to provide any further advice on these matters.

The FPWS are a nationally recognised organisation with the objective of promoting the highest standards of professional practice in this field of expertise. The P&T Group seek to advance the knowledge of Party Wall matters within the industry and were pivotal in the framing of the present legislation.

To find out more about our Party Wall expertise or to arrange an in-house seminar for your team, please visit our website martinarnold.co.uk and contact Tom Hopkins thopkins@martinarnold.co.uk or Martin Lock mlock@martinarnold.co.uk who would be happy to help you.

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When does The Act most typically apply?

The Act most typically applies where a Building Owner wants to undertake any of the following;

- Construct a wall astride of the boundary, between the Building Owner's land and the land of the adjoining property (Section 1(2)),
- Construct a wall on the Building Owner's land, however only up to the boundary line (Section 1(5)),
- Where a Building Owner intends to excavate to a level below the bottom of the Adjoining Owner's foundations, and within 3m (Section 6(1)(a)&(b)),
- Where a Building Owner intends to excavate within 6m of any part of an Adjoining Owner's building or structure and any part of the excavation dissects a plane drawn downwards at an angle of 45° towards the excavation, commencing from the outside face of the Adjoining Owner's wall and bottom of their foundation.
- Where a structure exists, either astride of the boundary, or is an external wall forming the boundary, then Notice must be given under Section 3, to exercise rights given under Section 2, the most common of which are:
 - To underpin, thicken or raise the Party Wall,
 - To make good, repair or demolish the Party Wall, which is either insufficient for purpose, non-conforming with Building Regulations or simply requires repair,
 - To demolish a Party Structure which is of insufficient strength or height for the purposes of any intended building and re-build.
 - To cut into a Party Structure for any purpose, including for the insertion of a damp proof course,
 - To cut away any projections or over-hangings from a Party Wall,
 - To cut away or demolish parts of any wall or building of an adjoining owner overhanging a Building Owner's land,
 - To cut into the wall of an Adjoining Owner's building to insert a flashing or weather proofing solution,
 - To raise or demolish a Party Fence Wall for use as a Party Wall where necessary.
 - To expose a Party Wall or Party Structure subject to the provision of adequate weathering.

What is the role of a Surveyor?

A Surveyor can be involved at different stages of a Party Wall matter, whether it be on behalf of the Building Owner prior to serving notice, or on behalf of the Adjoining Owner when they have had a notice served upon them. Principally however, the Surveyor's role is to safeguard both parties in relation to the proposed works and to ensure the work is carried out to avoid any unnecessary inconvenience to an Adjoining Owner.

Once appointed, the usual procedure is the Surveyors prepare a schedule of condition of the Adjoining Owner's property, taking into consideration any areas which could potentially be affected by the Building Owner's proposed work. The principal is to protect both parties from any unjust claims.

The schedule of condition is incorporated into a document called a Party Wall Award which is agreed by the appointed surveyors, The Award confirms the right to carry out the work, the time and manner of executing the work, the costs associated with making the Award and any other incidental matters. This will typically contain any related drawings, structural information or method statements describing how the work is to be carried out, any access requirements, temporary support or weathering protection and sets out the rights and obligations of each owner in respect of the awarded works. Upon completion of the work, the Adjoining Owner's property is further inspected to check the original Schedule of Condition and to ensure that no damage has occurred.

Once a Notice has been served a Surveyor can act either solely on a matter as the Agreed Surveyor, providing this is confirmed in writing by both parties, and then progress to prepare and serve a Party Wall Award. Alternatively the Surveyor can act as either the Building Owner, or Adjoining Owner's Surveyor, on which occasions both Surveyors will work together to produce the Award. When two surveyors are involved, both will agree on the selection of an independent Third Surveyor to settle any matters that they cannot agree between themselves.

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How much does it cost?

The cost of a Party Wall Surveyor to you personally can vary, dependant on the circumstances of each matter.

In most scenarios, the Building Owner (the Owner who is instigating the work) is responsible for the fees of any appointments under The Act. This may not just be for their own Surveyor but may also be for any Surveyors or checking Engineers who may be appointed on behalf of an Adjoining Owner.

Where notifiable works are proposed by the Building Owner to a party wall or party fence wall due to a defect in the wall, and the responsibility for the defect is shared to some degree between both Owners, the appointed Surveyors will assess the matter and advise whether and to what extent cost for the works may be apportioned between the owners.

Fee rates can vary between different Surveyors appointed, and it is always important to clarify with a Surveyor the hourly rate charged, along with the estimated time to undertake related tasks for the particular matter at hand. Often, Adjoining Owner's Surveyors will provide fees based upon this given rate and a timesheet, however with Building Owner's Surveyors a fixed fee may sometimes be agreed in advance.

At Martin Arnold Ltd we base our Party Wall fees on competitive rates for Senior Professionals. The amount of hours to complete each matter will very much depend on pivotal factors of each instruction, and we therefore encourage you to make contact to discuss your particular requirement so that we can tailor a quotation to suit your needs.

BOUNDARY LINE



Martin Arnold Ltd
4 Gunnery Terrace
The Royal Arsenal
London
SE18 6SW

T: 020 8317 7557
F: 020 8317 7741
E: general@martinarnold.co.uk
W: martinarnold.co.uk

