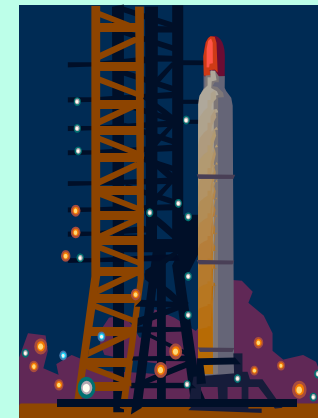
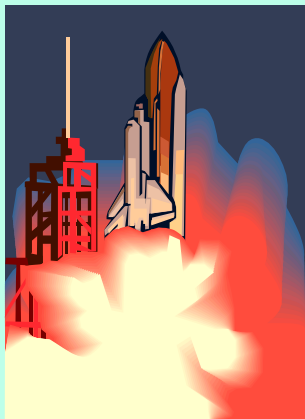


Final Count Down

Last two weeks

Expert Witness



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Review?

- **Week 1 – Exam Review**
- **Week 2 – Important Exam Review**
- **Week 3 – Very Important Exam Review**



Today - Now

First Part

What's in the exam and what you need to know

Second Part

Guest Speaker

Last Hour

More exam stuff

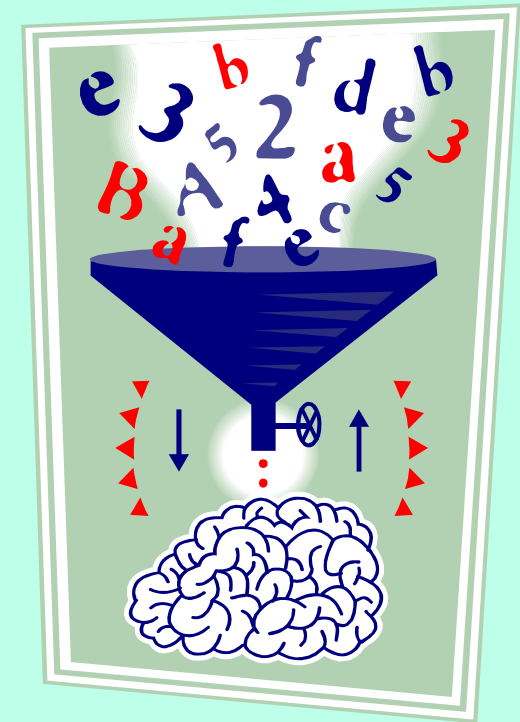
Last ten minutes

Hot exam tips



What Learning's about

1. **Start level – Memorising and repeating**
2. **Basic level – Understanding and repeating**
3. **Average level – Thinking and applying**



What are exams about?

1. **Start level – Memorising and repeating**
2. **Basic level – Understanding and repeating**
3. **Average level – Thinking and applying**



Getting Great exams results?

**3. Average level –
Thinking and applying**

**4. Developing and
communicating a
good critical view
points**

**5. Broadness of view
Illustrated with case
law or relevant GN &
PN**



Basic Exam Preparation

Know what's in the exam

- **Dilapidations**
- **Disputes - Party Walls**
- **Disputes - ADR**



Exam Preparation

**Know how many
questions you need to
answer**

3 out of 5

Retake 3 out of 3



Exam Dates ?



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Test and Measure Yourself

- **Have a plan of revision**
- **Review and amend the plan!**
- **Don't lose sight of your goal**
- **GOAL = To pass the exam –
so test yourself on exam
style questions**



Resources for you - Dilapidations

Dilapidations

- **Read the RICS Dilapidations Guidance Note**
- **www.DilapsHelp.com**
Includes book reviews if you want some bed time reading

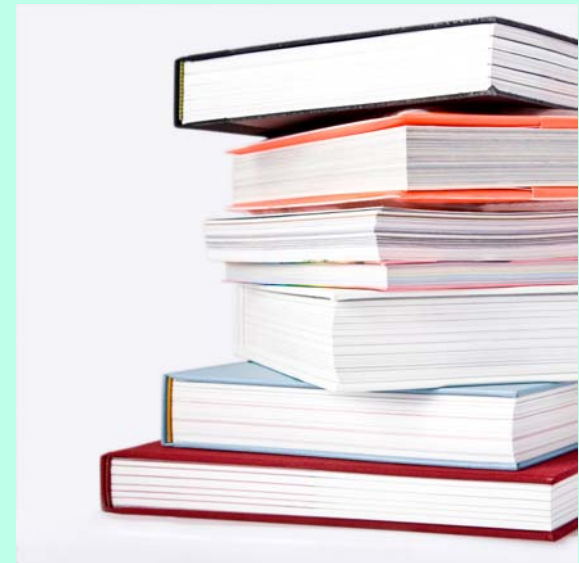


Dilapidations Process

1. **Client rings for advice/ quote**
2. **Talk to client**
3. **Confirm instruction and T & Cs**
4. **Gather available information**
5. **Inspect property**
6. **Prepare Schedule of Condition or Dilapidations report**
7. **Advise and agree way forward with your client**
8. **Meet other surveyor**
9. **Negotiate and agree**
10. **Negotiate and Disagree and ADR or go to court**

Disputes – Party Walls Resources for you –

- **Disputes – Party Walls**
- **Any (every) book by
John Anstey on Party Walls**
- **www.DisputesHelp.com**

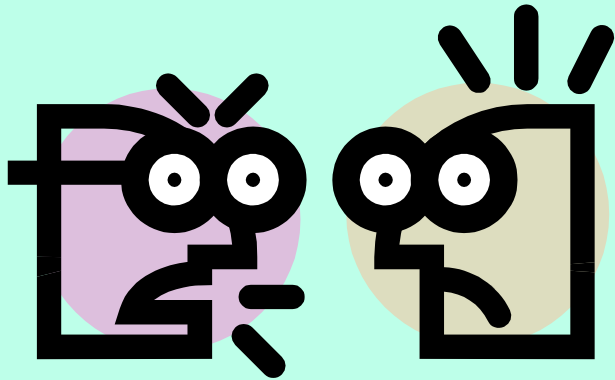


Party Wall Process

1. **Client rings for advice/ quote**
2. **Talk to client explain your PW role BO or AO**
3. **Confirm instruction and T & Cs**
4. **Gather available information, drawings, specification**
5. **Inspect property use site notes and use PW flow charts**
6. **Talk to other PW surveyor or appoint one**
7. **Agree a Third Surveyor assuming your not the agreed surveyor**
8. **Meet other surveyor**
9. **Negotiate and agree produce notice use PW flow chart**
10. **Negotiate and Disagree and refer to Third Surveyor or ADR or court**
11. **Monitor work to ensure as agreed and 8 to 11 until completed**

Disputes – ADR

Resources for you



- **Disputes – ADR**
- **Read the RICS Expert Witness Guidance Note**
- **Know the different ADR options and who does what**
- **Know what role a chartered surveyor can play**
- **www.DisputesHelp.com**

ADR Process

1. **Client rings for advice/ quote**
2. **Talk to client**
3. **Confirm instruction and T & Cs**
4. **Gather available information**
5. **Inspect property**
6. **Prepare S of C OR Dilaps OR building survey OR any other sort of Surveying work**
7. **Advise and agree way forward with your client**
8. **It all goes wrong**
9. **Negotiate use RICS complaints procedure**
10. **Negotiate and Disagree use ADR or go to court**

Exam Preparation

Know what's in the exam

- **Dilapidations**
- **Disputes - Party Walls**
- **Disputes - ADR**



Exam Preparation

**Know how many
questions you need to
answer**

3 out of 5

Retake 3 out of 3



Preparation is the mother of learning

Know how many questions you need to answer and say something!



What's life about?

Acapulco tape

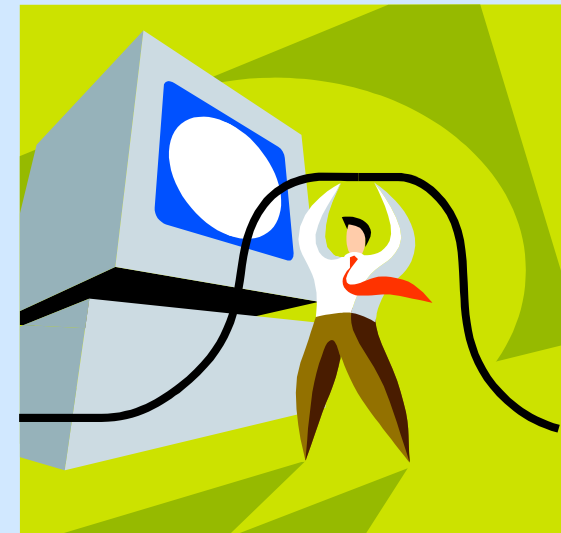


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ADR

**Read the 'Surveyors
Acting as Expert Witness'
– may be downloadable
from Isurv or the RICS
shop**



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'Surveyors Acting as Expert Witness' – What's in it?

- **Read it**
- **It's a PS and GN**



Practice Statement – Remember this!



- **Under RICS Bye-Laws and conduct rules it is the duty of every member to comply with the contents of the PS**
- **“Failure to comply with the PS is likely to be adjudged negligent”**
- **Departure from the PS only under special circumstances and produce a clear declaration in writing – if RICS not satisfied it will take disciplinary measures**



PS Principle Message

“Expert evidence provided by chartered surveyors must be, and must be seen to be, the independent product of the surveyor. The surveyor must believe that the facts upon which he or she relies are complete, true and that his or her opinions are correct.”





Expert Witness PS

Read it

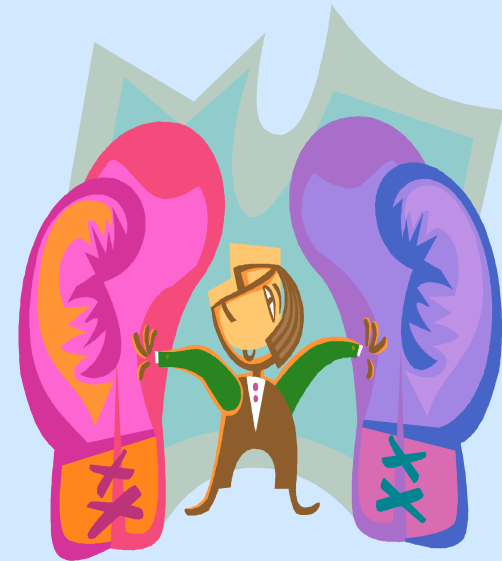
1. Application of this PS
2. Duty in providing evidence
3. Acceptance of and changes to instructions
4. Inspections
5. Reports
6. Amendments of the contents of written evidence and/or reports
7. Agreeing facts and resolving differences
8. Single joint experts and dodos!
9. Advocacy



Advocate



- **Expert and advocate are not the same!**
- **Refer to 'Chartered Surveyors acting as Advocates'**
- **The Chartered Surveyor should consider the wisdom of undertaking both roles**
- **Can you be the referee and support one side?**



RICS Guidance Notes



Guidance Notes are not compulsory

But - to quote to the Dilaps Guidance Note:

In the opinion of the RICS a member conforming to the practices recommended in this note should have at least a partial defence to allegation of negligence by virtue of having followed those practices. However, members have the responsibility of deciding when it is inappropriate to follow the guidance

Not Necessarily

But it does not follow the members are negligent

I think you would be on the defensive unless you had good reason not to

Expert Witness PS & GN High lights



Introduction

- Explains how the role is interlinked with the CPR
- What does Lord Wolf think?
- The expert witness case:

National Justice Compania Naviera SA v Prudential Assurance Co Ltd 1993

says what?

Expert Witness PS & GN Highlights



General duty and roles

- **The duty of care to the client becomes secondary to the judicial body – why?**
- **Roles for chartered surveyor (full details in GN)**
 - a. assisting with facts**
 - b. expert opinion evidence to judicial body**
 - c. factual evidence based on special experience**
 - d. Enquiries and reporting for judicial body**

Expert Witness PS & GN Highlights



Duty to client

- **Initial advise as usual - professional adviser relationship**
- **Recommends legal advice**
- **Discusses CPR**
- **Re - Clarification of role to client**
- **CPR – Makes crystal clear – duty of expert witness to court is over riding**

Expert Witness PS & GN Highlights



- **Duty to judicial body**
- **Expert witness role defined**
- **Importance of CPR**
- **Not happy - decline instruction!**

Expert Witness PS & GN Highlights



Acceptance of instructions



- **Talk to and understand client to advise**
- **Check no conflict of interest**
- **Use standard terms of engagement**
- **In CPR cases surveyor can request assistance (written request)**
- **In CPR case you can put written questions to other expert**
- **Expert to provide a likely time table to client/ appointer**
- **In CPR case state source and substance of all material – just like course work**

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Expert Witness PS & GN Highlights – your turn

- Purpose of evidence
- Evidence of fact
- Evidence of opinion
- Questions to experts and answers
- Documents
- Oral evidence
- Adviser advocates
- Expert written reports
- Amendment of the contents of written evidence and/or reports
- Form and content of an experts written report
- Meeting between the expert witness and the client/solicitor/counsel
- Meetings between experts
- Basis of charging fees
- Contingency fees
- Responsibility for fees
- Single joint expert
- The two roles of expert and advocate
- Appendix A Sample terms of engagement of an Expert Surveyor
- Appendix B Hearsay Evidence



Quote for the Day

***"We are not creatures of
circumstance:
we are creators of circumstance"***

Benjamin Disraeli