It's the law ...

Failure to comply with this legislation may result in the works being unlawful. If you are unsure you should seek professional advice.

Party Wall etc. Act 1996

An Explanatory Guide

The Faculty of Party Wall Surveyors

FPWS

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INTRODUCTION

In 1997 the Government introduced party wall legislation across the whole of England & Wales in the form of the Party Wall etc. Act 1996. This guide has been created by the Faculty of Party Wall Surveyors to give a general overview of the act. It is not intended to be exhaustive or to give specific advice, but to give the reader a general awareness of the act and its implications. We would always recommend taking professional advice before embarking on any sort of works to which this legislation may apply.

The objective of the Faculty of Party Wall Surveyors is to promote the highest standards of professional practice in this field of expertise and to expand the knowledge and study of all matters to do with party walls, to encourage the exchange of information and ideas amongst its Members.

If you would like further information or advice please visit our website where you can also find Party Wall Surveyors in your area. Alternatively you can contact us by email or telephone.

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Party Wall etc. Act 1996

This legislation was enacted on 1st July 1997 and with a very few exceptions affects virtually all property in England and Wales . The Act is intended to enable development W h i l s t protecting adjoining owners and occupiers.

It places obligations on the owner who wishes to undertake such development to notify his neighbours in writing of what is proposed. If necessary, the Act then provides statutory procedures for appointing surveyors who then resolve matters by way of an 'award'. An award prescribes the format that the person carrying out the work is required to adopt.

It does not allow an adjoining owner to stop someone exercising his or her rights to conduct work under the Act, but it does ensure that the works are performed in such a manner that protects the adjoining owners' interests.

Disclaimer

This guide is published for general information only. The FPWS cannot take responsibility for any loss or damage suffered as a result of any inadvertent inaccuracy contained in this document.

WHAT IS A PARTY WALL?

Party walls are walls used by more than one ‘owner’. The dividing wall between two houses is the most obvious example. Floors between flats are ‘party structures’ and boundary walls can be ‘party fence walls’.

The Government introduced a new law for England and Wales in 1997 - the ‘Party Wall etc. Act 1996’, designed to regulate building works to these special types of wall, as well as neighbouring excavation works.

The Act imposes rights and obligations on land owners wishing to conduct such works, but equally imposes rights and obligations on those land owners and occupiers who will be affected by the works. Before commencing any building work e.g. a loft conversion or an extension, you should check to see if the Party Wall Act applies.

WHAT BUILDINGS ARE COVERED BY THE ACT?

All types of buildings are covered - residential; commercial and industrial. If you share a party wall, party structure or a party fence wall with another person you may be governed by the provisions of this Act if you or your neighbour carry out works to that structure.

WHAT KIND OF BUILDING WORK IS COVERED BY THE ACT?

Most work of a structural nature including the following:

●Work that affects an existing party wall such as carrying out structural repairs, underpinning or raising the wall, removal of a chimney breast, or cutting steel beams into a wall for a loft conversion, are all common examples.

●Excavations in close proximity of another building or structure to a depth that exceeds that of the neighbour’s foundations. Excavations for foundations to support new walls or steel columns are examples.

●Demolishing and re-building or altering a ‘party fence wall’ that is a masonry garden or yard wall.

WHAT SHOULD I DO IF THE WORK I WISH TO CARRY OUT COMES WITHIN THE ACT'S REMIT?

You are obliged to give written notice to anyone with an interest in the party wall or in nearby properties in the case of excavations. This notice should fully identify the owners who intend to have the work undertaken and describe the work proposed, providing plans and details if possible to ensure the recipient fully understands what is proposed.

Work involving party walls or party structures requires two month's notice, whereas for certain excavations or new walls built at the boundary, one month's notice is required.

The adjoining owner(s) then have 14 days in which to reply. If they agree to the proposed work then that agreement must be in writing.

WHICH 'OWNERS' ARE AFFECTED?

Those owners of land who wish to conduct such works ('building owners') as well as the owners and certain occupiers of adjoining land or buildings ('adjoining owners'). There may be several 'owners' to consider e.g. lessees and freeholders.

WHAT IF THE ADJOINING OWNER DOES NOT AGREE OR FAILS TO RESPOND?

If an adjoining owner expressly disagrees or does not reply to a notice within 14 days of receipt then he is deemed to have dissented and a statutory 'dispute' arises. Adjoining owners may also serve a counter notice indicating additional work they would like included for their own benefit and at their own cost.

WHAT ARE THE DUTIES OF PARTY WALL SURVEYORS?

The surveyors act in a similar, though not identical manner to arbitrators, and therefore must produce an 'award'. An award regulates the way in which the works are to be conducted as well as dealing with any other related incidental matters such as costs and compensation. The award is a legally binding document. Accordingly, the surveyors should provide a service that for the most part is impartial. Whilst they should be receptive to their appointing owner's wishes, the usual relationship between client and professional advisor does not apply.

A party wall surveyor's remit is strictly limited to those matters governed by the Act. Consequently, their primary duty is to ensure that the Act's requirements are administered properly, efficiently, and fairly. Once an award has been produced, the surveyor may choose to inspect the works during their course to see they are being properly carried out, and/or at their completion check for any damage to the adjoining owner's property.

Remember - Failure to comply with this legislation may result in the works being unlawful. If you are unsure you should seek professional advice.

Members of The Faculty of Party Wall Surveyors have been trained and been assessed for competence in party wall matters and are bound by the Faculty's Code of Conduct.

WHAT HAPPENS IF A DISPUTE ARISES?

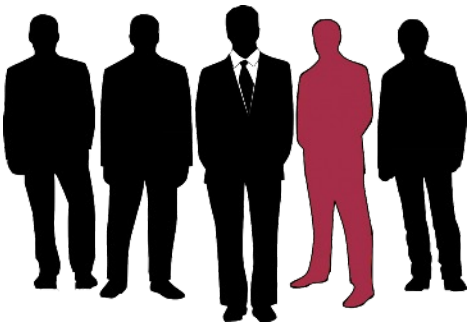
Each owner must appoint a party wall surveyor to act for them individually, or agree on a single surveyor to act for both owners. Where two surveyors are appointed to act for each owner individually, two surveyors have to select another surveyor, the third surveyor. If required, the third surveyor acts as a point of reference for the owners or the other two surveyors.

In this context a 'surveyor' means anyone other than the owners themselves, but a suitably experienced person, such as a construction professional with knowledge of the requirements of the Act is preferable. For example, he or she could be a structural engineer or architect with specialist knowledge of party wall matters, as well as a building surveyor.

WHO CAN ACT AS A SURVEYOR IN PARTY WALL CASES?

It is clearly advantageous to appoint a person with the requisite technical skills and experience of administering the legislation. Where the works relate to specialist or technically complex buildings the party wall surveyor himself, where necessary, may engage the assistance of a consultant, for example an engineer.

Members of The **Faculty of Party Wall Surveyors (FPWS)** have specialist training in the application and administration of the legislation and can be contacted via our website or one of our members may have stamped his or her firm's name in the box opposite. Alternatively, you can call the FPWS who will put you in touch with one of our members in your local area.



NEED ADVICE? DO YOU INTEND TO CARRY OUT WORK WHICH INVOLVES: ?

- Work on an existing wall, ceiling or floor structure shared with another property?
- Building on or at the boundary with another property?
- Excavating near a neighbouring building or structure?

If so you must find out whether the work falls within the scope of the Act. If it does you must serve the statutory notice on all those defined in the Act as 'adjoining owners'.

The notice may have to be served up to two months (timings vary) before work commences. Once a notice has been served, try to obtain an amicable written agreement (consent) to the proposed works with the adjoining owner (s) is usually the best solution.

However, if you cannot agree, or your notice is ignored, then the Act provides for the appointment of an independent surveyor to provide a fair resolution to the dispute by making a party wall award. If you do not comply with the Party Wall etc. Act 1996 by serving the necessary notices and obtaining the necessary agreement or resolving matters by way of an award, your building works could be delayed, declared unlawful, possibly incurring legal claims and costs against you.

In order to be clear if your planned work comes within the Act, you should seek professional advice from an experienced party wall surveyor.

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