

INDEPENDENT EXPERT

Independent Expert determination is a dispute resolution procedure where an independent third party is appointed to determine a dispute. The Independent Expert acts as an Expert rather than a Judge or Arbitrator.

The Independent Expert bases his/her determination on his/her own knowledge and his/her investigations to discover the facts and all other information including principles of law and other issues in dispute. The Independent Expert will have in depth knowledge of the subject matter to the dispute and will be an Expert in his/her field.

The Independent Expert's appointment is by the contract between the parties (typically the lease in a rent review dispute) which can either provide for the appointment by agreement between the parties of who the Independent Expert will be or an appointment nominated/appointed by the President of The Royal Institution of Chartered Surveyors (RICS) upon application by one of the parties.

The parties or their representatives can put forward evidence and arguments relating to the dispute but the Independent Expert is not bound by them.

The Independent Expert's decision is known as the Determination and is usually stated as being final and binding. There is no right of appeal unless the Expert has answered the wrong question or there is evidence of fraud or actual bias or there are contractual provisions permitting the parties to challenge the decision.

The Independent Expert does not have the power to determine who pays costs, unless the contract stipulates otherwise.

There is no governing applicable legislation for Independent Experts but there is some case law governing the appointment and conduct.

Detailed specialist advice should be obtained before taking or refraining from any action as a result of the comments made in this publication, which are only intended as a brief introduction to the particular subjects. If you wish to discuss any of the issues referred to then you should consult your normal contact in the firm or your legal advisors. Strettons cannot take any responsibility and will not accept liability for action taken (or not taken) as a result of comments within this guide. Strettons Copyright – May 2015

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