



Chartered property,
land and construction
surveyors

Practice Information

PARTY STRUCTURES UNDER THE LAND AND CONVEYANCING LAW REFORM ACT 2009

First edition



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Acknowledgements

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Contents

Acknowledgements	2
SCSI/RICS Documents Status Defined	3
Glossary	5
Executive Summary	6
1. Introduction	7
1.1 Professional Roles and Responsibilities	7
2. The Land and Conveyancing Law Reform Act 2009	8
2.1 Nature and Purpose of the Act	8
2.2 Provisions Relating to Party Structures	8
2.3 Impact on Adjoining Owners	9
2.4 Future Use and Cost Sharing of Party Structures	9
3. Advising on the Application of the Act	10
3.1 Taking Instructions	10
3.2 Works to Party Structures	11
3.3 Surveyor's Role	11
4. Works Orders by the District Court	12
4.1 Preparing Technical Documentation for a Works Order	12
4.2 Content of Works Order	12
4.3 Enforcement of Works Order	13
5. Surveyors' Role in Advising upon the Works Order	14
5.1 Pre-Works Inspection	14
5.2 Provisions for Disturbance, Making Good and Compensation	14
5.3 Acting for an Adjoining Owner Seeking Relief under Section 44(4)	15
5.4 Expenses of the Works	15
5.5 Professional Fee Advice	15
5.6 Service of the Works Order	16
5.7 Entry onto Adjoining Land	16
5.8 Costs, Expenses and Compensation	17
6. Surveyors' Role Subsequent to Service of the Works Order	18
6.1 Interim and Final Inspections	18
6.2 Design Changes	18
6.3 Where Additional Work Becomes Necessary	19
6.4 Awarding Compensation	19
6.5 Making Good and Payment in Lieu	19
6.6 Changes of Ownership	20

Glossary

Term	Definition
Legal Terms	
Building Owner	The owner for the time being of any estate or interest in a building or unbuilt-on land who wishes to carry out works to a party structure.
Adjoining Owner	The owner of any estate or interest in a building or unbuilt-on land adjoining that of the building owner.
Rights of Entry	Legal rights to enter adjoining land when authorised by a Works Order for carrying out works (see Section 5.7).
Assent	Agreement to the proposed party structure works.
Dissent	Refusal to agree to the proposed works, possibly requiring a Works Order.
The Court	The District Court, which deals with party structure matters under the Act
Technical Terms	
Party Structure	Any wall, fence, floor, or other structure dividing adjoining properties or requiring access for works. Includes walls, ceilings, boundary fences, trees and hedges (see Section 2).
Works	Repairs, alterations, or other works to a party structure permitted under Part 8, Chapter 3 of the Land and Conveyancing Law Reform Act 2009, including works necessary for compliance or preservation.
Works Order	A Works Order is a formal District Court Order made under Section 45 of the Land and Conveyancing Law Reform Act 2009. It authorises a building owner to carry out specified works to a party structure, subject to any terms and conditions the Court considers appropriate.
Schedule of Condition	A detailed record of the adjoining property's condition before works begin. Helps assess damage later (see Section 5.1).
Substantial Inconvenience	Significant disruption caused by works considered when granting a Works Order. Examples include noise, dust, and restricted access (see Section 2.3)
Making Good	Restoring any damage caused by works to its original condition or paying compensation in lieu (see Section 6.5)
Payment in Lieu	Monetary compensation instead of physical restoration of damage (see Section 6.5).
Compensation	Payment for inconvenience or damage caused by works under Section 44 of the Act (see Section 6.4)

Executive Summary

This practice information paper provides practical advice for Chartered Surveyors on the application of Part 8, Chapter 3 of the Land and Conveyancing Law Reform Act 2009 (the LCLRA or ‘the Act’), which introduced a statutory framework for works affecting party structures. The Act defines a part structure as:

Any arch, ceiling, ditch, fence, floor, hedge, partition, shrub, tree, wall or other structure which horizontally, vertically or in any other way:

- Divides adjoining and separately owned buildings; or,
- Is situated at or on or so close to the boundary line between adjoining and separately owned buildings or between such buildings and un-built-on lands that it is impossible or not reasonably practical to carry out works to the structure without access to the adjoining building or unbuilt-on land and includes any structures which are:
 - (i) situated entirely in or on one of the adjoining buildings or unbuilt-on lands; or
 - (ii) straddles the boundary line between adjoining buildings or between such buildings and unbuilt-on lands and is either co-owned by their respective owners or subject to some division between them.

These provisions replaced older common law principles and the Dublin Corporation Act 1890, creating a clear legal process for resolving disputes between adjoining property owners.

The document outlines:

- Key statutory provisions governing party structures, including notice requirements, rights of access, and the District Court’s role in granting Works Orders.
- Surveyors’ responsibilities, which are primarily technical and advisory, focusing on accurate documentation, risk mitigation, and practical measures to minimise inconvenience.
- Best practice for taking instructions, preparing technical submissions, and supporting clients through the statutory process without interpreting legal rights.
- Limitations of surveyors’ role, emphasising the need for collaboration with legal advisers and avoiding actions outside professional competence.

The aim is to help surveyors deliver clear, impartial technical advice while reducing the risk of disputes and ensuring compliance with statutory obligations. Legal advice should always be sought where interpretation of rights or enforcement of obligations is required.

1. Introduction

Party structures, often referred to as party walls, are physical elements that sit on or near the boundary between two properties. They can include walls, fences, floors, ceilings, or other structures that separate adjoining buildings or land and can also include trees, hedges or shrubs. Because these features often affect other owners, any alteration or repair can raise sensitive issues about access, amenity, and cost.

This practice information paper outlines how the Land and Conveyancing Law Reform Act 2009 (LCLRA), as amended, applies in practice to party structure matters. The relevant provisions were introduced by the LCLRA and came into effect on 1 December 2009, replacing older common law principles with a statutory framework for works affecting party structures, i.e. the shared boundary. The Dublin Corporation Act 1890 previously addressed party wall matters within the city of Dublin. These provisions have now been replaced, and this practice information paper recommends relying exclusively on the LCLRA 2009 and discontinuing any use of the older Act to avoid inconsistency and legal uncertainty.

This document aims to outline the recommended approach for surveyors in planning, advising, and documenting such works, while reducing the risk of disputes and maintaining professional integrity. In most cases, surveyors will act for a single client, and this remains the clearest and most common approach. Acting for both parties should be approached with caution, as it creates a significant risk of actual or perceived conflict of interest and potential liability, particularly if a dispute arises.

Surveyors' primary responsibility remains technical: preparing robust measured surveys (where necessary), condition survey, accurate drawings, specifications, method statements, and helping clients engage with adjoining owners constructively. Early communication, clear presentation of proposals, sharing of drawings and practical measures to minimise inconvenience are essential. If informal agreement proves impossible, surveyors should collaborate with their client's legal advisers to ensure any formal process is underpinned by clear, accurate technical documentation.

In this practice information, 'the formal process' means an application to the District Court for a Works Order under Section 45 of the Act.

1.1 Professional Roles and Responsibilities

For clarity, this practice information adopts the terminology used in the Land and Conveyancing Law Reform Act 2009 and the District Court (Land and Conveyancing Law Reform Act 2009) Rules 2010 (S.I. 162 of 2010). The **building owner** means the owner for the time being of any estate or interest in a building or unbuilt-on land who wishes to carry out works to a party structure.

The **adjoining owner** means the owner of any estate or interest in a building or unbuilt-on land adjoining that of the building owner.

A **surveyor** is a Chartered Building Surveyor, Chartered Geomatics Surveyor or other suitably qualified professional appointed to provide technical advice. While surveyors may assist in preparing documentation, they have no standing in court proceedings and should not serve legal notices or interpret legal rights.

A **solicitor** advises on legal obligations, prepares and serves notices, represents parties in court, and manages appeals or modifications.

2. The Land and Conveyancing Law Reform Act 2009

2.1 Nature and Purpose of the Act

The Land and Conveyancing Law Reform Act 2009 ('the Act') constituted a comprehensive overhaul of Irish land law, consolidating and modernising a historically fragmented and antiquated legal framework. Before its enactment, the law governing land ownership and conveyancing was dispersed across numerous statutes and common law doctrines, many of which were rooted in archaic principles and no longer aligned with contemporary legal or societal needs.

The Act's principal objective was to simplify and rationalise the law relating to land and conveyancing, thereby enhancing legal certainty and accessibility. It abolished obsolete tenures such as fee-tail and feudal tenure, reformed the law on co-ownership, easements, and mortgages, and introduced statutory mechanisms for dispute resolution. Notably, the Act also introduced, for the first time in Irish law, a statutory procedure for party structure matters, replacing reliance on common law and informal arrangements in this frequently contentious area.

By codifying and clarifying key areas of property law, the Act seeks to reduce litigation, facilitate efficient land transactions and provide a coherent legal framework suited to modern Ireland.

2.2 Provisions Relating to Party Structures

Part 8, Chapter 3 of the Act (Sections 43–47) provides a statutory procedure governing party structures, including party walls, fences, and other shared boundaries between adjoining properties. This represents a significant departure from the previous general reliance on common law principles and informal arrangements.

The Act defines a party structure as:

any arch, ceiling, ditch, fence, floor, hedge, partition, shrub, tree, wall or other structure which horizontally, vertically or in any other way—

- (a) divides adjoining and separately owned buildings, or*
- (b) is situated at or on or so close to the boundary line between adjoining and separately owned buildings or between such buildings and unbuilt-on lands that it is impossible or not reasonably practical to carry out works to the structure without access to the adjoining building or unbuilt-on land,*

and includes any such structure which is—

- (i) situated entirely in or on one of the adjoining buildings or unbuilt-on lands, or*
- (ii) straddles the boundary line between adjoining buildings or between such buildings and unbuilt-on lands and is either co-owned by their respective owners or subject to some division of ownership between them*

It should be noted that structures close to the boundary line (not intersected by the boundary line) are not 'party structures' but are included in the Act for the purposes of acquiring a Works Order for necessary works.

The Act confers on a building owner the right to carry out works to such a structure, subject to the requirements of giving prior notice to the adjoining owner. Where consent is not obtained, the Act provides for the building owner to apply to the District Court for a Works Order, which, if granted, authorises the proposed works under specified conditions.

In determining whether to grant a Works Order, the Court must consider the necessity and reasonableness of the proposed works, the likely impact on the adjoining property, and whether compensation is appropriate. The Act also provides for the discharge or modification of a Works Order where circumstances change.

2.3 Impact on Adjoining Owners

Under Section 44 of the Act, a building owner may carry out works to a party structure for specific purposes, including compliance with statutory obligations, planning permissions, or preservation of the structure. However, such works must not cause substantial damage or inconvenience to the adjoining owner, unless it is nevertheless reasonable to carry them out.

The Act does not define this threshold, but it is likely to be interpreted having regard to the nature, duration, and impact of the works on the adjoining property. Even relatively minor works can give rise to significant disruption, particularly in built-up areas or where access is constrained. These issues can quickly become complex, both legally and practically, and the skills, experience, and professional judgement of the Chartered Surveyor can be invaluable in navigating them effectively.

Surveyors advising building owners should ensure that proposed works are reasonable and proportionate, and that practical measures are adopted to minimise disruption. This includes careful sequencing, protective measures, and clear communication with the adjoining owner. Where inconvenience or damage cannot be avoided, Section 44(2)(b)(i) states that the building owner shall pay to the adjoining owner the reasonable costs of obtaining professional advice with regard to the likely consequences of the works. Section 44(2)(b)(ii) states that the building owner shall pay to the adjoining owner reasonable compensation for any inconvenience caused by the works. Early engagement and a thorough measured survey (where necessary), together with project-specific documentation are essential to managing risk and maintaining good neighbourly relations.

For further information on resolving disputes, please see [SCSI's Alternative Dispute Resolution Information Paper](#).

2.4 Future Use and Cost Sharing of Party Structures

The Act does not create an automatic obligation on an adjoining owner to contribute to the cost of a party structure, nor does it oblige the adjoining owner to reimburse the building owner simply because the structure is later “used”. The term “use” can be ambiguous; it may refer to building onto the structure or simply benefiting from its presence. In practice, any cost-sharing arrangement should be agreed between neighbours in advance or at the time of construction or other works.

Surveyors should advise building owners that if they wish to secure a contribution from the adjoining owner for future use to document this in a private agreement. Without such an agreement, the adjoining owner should be made aware that they cannot assume a right to use or alter a structure without consent. Any consent should be set out in writing, properly recorded and executed by both parties.

Clear communication and early agreement on these points can prevent disputes later. Where neighbours are willing, Chartered Surveyors can assist in drafting practical arrangements, but these remain civil contractual matters outside the scope of the statutory provisions.

3. Advising on the Application of the Act

Having outlined the statutory framework in Section 2, this section considers the practical steps for Chartered Surveyors when advising clients on party structure matters under the Act. The first stage is taking clear instructions.

3.1 Taking Instructions

Before providing any technical advice, the surveyor should establish a clear and documented understanding of the client's requirements. This begins with confirming whether the client is the building owner proposing works or the adjoining owner responding to them. The purpose of the works should be clarified, whether they arise from statutory compliance, planning permission, or preservation of the party structure. Any relevant drawings, specifications, and planning conditions should be reviewed. Where planning permission is required, the application must address ownership and consent requirements and may require the adjoining owner's consent or declaration.

Instructions should be formalised in writing, by email or letter, and should set out the scope of services, exclusions, limitations, timescales, and fee arrangements. The surveyor should confirm the property address, the extent of the premises to be inspected, and any specialist involvement required. Where intrusive investigations may be necessary, indemnities should be agreed in advance. It is also essential to confirm access arrangements and any site-specific health and safety requirements before inspection.

A risk assessment should be undertaken to identify hazards and confirm safe access. The surveyor should advise the client of practical limitations, such as areas that cannot be inspected, the need for sampling, or the possibility of return visits. Where restrictions imposed by the client compromise the effectiveness of the process, this should be highlighted and recorded.

Liability should be addressed explicitly, including any restrictions on assignment and confirmation of professional indemnity insurance. The surveyor should remind the client that any report represents a point-in-time opinion and loses reliability over time. Ongoing involvement, such as interim inspections or monitoring works during construction, does not occur automatically and must be agreed in writing, with scope, frequency, and fees clearly defined.

The surveyor should ensure that advice aligns with the client's objectives and proposed use of the property. Where changes arise that may give rise to legal issues, affect third-party rights, or alter the statutory context in which the works are carried out, the surveyor should advise the client to seek independent legal advice from their solicitor.

Early engagement with the adjoining owner is strongly recommended, and where appropriate, the building owner may offer to cover the adjoining owner's reasonable professional fees to reduce friction and support informed decision-making. The emphasis should always be on transparency and collaboration to avoid disputes and minimise the need for formal proceedings.

3.2 Works to Party Structures

When advising on works to party structures, the surveyor should ensure that proposals fall within the scope of Section 44 of the Land and Conveyancing Law Reform Act 2009. Permitted works include repairs, alterations, and improvements necessary for compliance or preservation. These works must be reasonable and carried out in a manner that avoids substantial inconvenience to the adjoining owner wherever possible.

Clear technical documentation is essential. The surveyor should review and, where necessary, procure a measured survey of the party structure, prepared to an appropriate scale and level of detail having regard to the nature and complexity of the works (refer to *the SCSI Boundaries: Procedures for Boundary Identification, Demarcation and Dispute Resolution in Ireland (3rd edition, Guidance Note)*). The surveyor should also prepare accurate technical drawings, method statements and specifications that demonstrate how the works will be executed. Protective measures to safeguard adjoining property should be detailed, including temporary supports, weatherproofing, and vibration control. Practical considerations such as dust and noise management, sequencing of works, and safe access arrangements should be addressed at an early stage in planning the works.

The surveyor should advise the client that any works beyond the statutory scope, such as extensions or structural alterations that materially affect the adjoining property, may require consent of the adjoining owner or an application to the District Court for a Works Order. Where uncertainty exists regarding legal rights or procedures, the client should be advised to seek independent legal advice from their solicitor before proceeding. The surveyor's role is to provide technical clarity and risk mitigation, not to interpret legal rights or serve statutory notices.

Early engagement with the adjoining owner remains critical. Providing clear information and addressing concerns at the outset can prevent disputes and reduce the likelihood of formal proceedings. The surveyor should encourage transparency and collaboration throughout the process, ensuring that all works are executed in accordance with best practice and statutory obligations.

3.3 Surveyor's Role

The Chartered Surveyor's role in party structure matters is primarily technical and advisory. It involves reviewing proposals for compliance with the Act, assessing the reasonableness of works, and advising on measures to minimise inconvenience to the adjoining owner. The surveyor should ensure that all technical documentation, including measured surveys, drawings, method statements, and schedules of condition, is accurate and sufficient to support engagement with adjoining owners and, where necessary, to inform a potential application for a Works Order.

Professional impartiality is essential. Surveyors should normally act for one client only and avoid arrangements that could create a real or perceived conflict of interest. Their focus should remain on technical clarity, risk mitigation, and ensuring that works are executed in accordance with statutory obligations and best practice.

Chartered Surveyors should recognise that building owners are entitled to defend their civil property rights, including access, support, and protection of their property. Surveyors can play a key role in supporting the exercise of those rights by providing technical clarity; for example, by preparing accurate drawings, schedules of condition, and method statements. While interpretation and enforcement of legal rights remain the responsibility of the client's solicitor, the surveyor provides technical input and liaises with legal advisers to ensure that any Works Order or agreement is underpinned by robust technical documentation.

Ongoing involvement, such as monitoring works or advising on design changes during construction, must be agreed in writing as a separate commission. The scope, frequency of inspections, and reporting requirements should be clearly defined, along with fee arrangements. Surveyors should avoid assuming responsibility for contractor performance or legal compliance; their role is to provide technical oversight and advice.

4. Works Orders by the District Court

Where agreement cannot be reached between the building owner and the adjoining owner, the Land and Conveyancing Law Reform Act 2009 provides a mechanism to proceed with the work through the District Court. Under Section 45 of the Act, the court may issue a Works Order authorising specified works to a party structure and setting out conditions for their execution. The procedure for applying for a Works Order is governed by the District Court (Land and Conveyancing Law Reform Act 2009) Rules 2010 (S.I. 162 of 2010), which prescribes the forms, notice periods, and filing requirements. While the solicitor manages the legal application, the Chartered Surveyor plays an important role in preparing the technical documentation that supports the application.

4.1 Preparing Technical Documentation for a Works Order

When an application for a Works Order becomes necessary, the surveyor plays an important role in supporting the legal process. The solicitor will prepare and submit the application, but the surveyor must provide the technical clarity that enables the court to make an informed decision.

The surveyor should prepare a measured survey of the party structure, compile accurate drawings, method statements, and schedules of condition that describe the proposed works in detail. These documents should identify precisely the extent of the party structure affected, outline any protective measures required to safeguard adjoining property, and demonstrate that the works are reasonable and designed to minimise inconvenience. Where sequencing or temporary works are involved, these should be clearly explained to show how risks will be managed. The documentation should also allow for the possibility that the works may need to vary after initial opening up reveals a previously unknown structural or other issue.

The surveyor should liaise closely with the client's solicitor to ensure that technical information is presented in a format suitable for inclusion in the Works Order application. While interpretation and enforcement of legal rights remain the responsibility of the solicitor, the surveyor ensures that the application is supported by comprehensive technical evidence. This collaboration helps the court understand the practical implications of the proposed works and provides confidence that they can be carried out safely and in accordance with best practice.

The District Court may refuse to grant a Works Order where the proposed works are unnecessary, disproportionate, insufficiently defined, or would give rise to undue prejudice to the adjoining owner. Clear, accurate, and proportionate technical documentation is therefore critical in supporting any application.

4.2 Content of Works Order

A Works Order granted under Section 45 of the Land and Conveyancing Law Reform Act 2009 authorises the building owner to carry out specified works to a party structure and may include any terms and conditions the District Court considers appropriate under Section 46. These conditions usually address the scope of

works, rights of access, and measures to protect the adjoining property. The Court may also require the building owner to provide indemnity or security for damage, costs, and expenses, but it cannot authorise any permanent interference with easements or other legal rights.

The District Court Rules (Order 93A, Form 93A.5) provide a template for Works Orders, which typically sets out the authorised works, access arrangements, and any safeguards such as working hours, temporary works, or restoration obligations. Surveyors are not responsible for drafting the Order but play a critical role in ensuring that technical documentation is clear and comprehensive. This includes a measured survey, accurate drawings and specifications, method statements explaining how risks will be managed, and schedules of condition for adjoining property. Recommendations for protective measures and sequencing should also be included.

By anticipating likely Court conditions and addressing them in technical submissions, surveyors help ensure that any Works Order granted is practical, enforceable, and capable of implementation without unnecessary conflict.

4.3 Enforcement of Works Order

A Works Order granted by the District Court is a formal Court Order and creates legally enforceable rights and obligations between the parties. Failure to comply with its terms may result in legal consequences, including enforcement proceedings under the District Court Rules. Applications to enforce compliance or recover sums due are matters for the client's solicitor and the Court.

In addition to the Works Order itself, Section 44 of the Land and Conveyancing Law Reform Act 2009 imposes obligations on the building owner to make good any damage caused by the works or, if the adjoining owner prefers, to pay compensation. Where these obligations are not met within a reasonable time, the adjoining owner may apply to the District Court under Section 44(4) for an order requiring compliance.

Surveyors have no formal role in enforcement but may assist by providing factual evidence of non-compliance, such as measured survey information, inspection reports, photographic records, or schedules of condition. They should avoid expressing opinions on liability or initiating enforcement steps. Precise and accurate documentation prepared to a sufficient level of detail at the outset is essential, as it provides the foundation for any legal action if disputes arise.

Clients should always be advised to obtain legal advice on enforcement, as the procedure and remedies are governed by court rules and statutory provisions.

5. Surveyors' Role in Advising upon the Works Order

Chartered Surveyors play a key technical role in party structure matters. This section outlines practical considerations for surveyors when advising in relation to a Works Order.

5.1 Pre-Works Inspection

A pre-works inspection provides a factual baseline of the adjoining property's condition and is essential for managing risk. It should include a measured survey (where necessary), visual and photographic records, together with a written schedule of condition that records existing defects. This documentation supports transparency and helps resolve disputes about damage or compensation.

Surveyors may also advise on practical arrangements for the works, such as sequencing, temporary works, and protective measures. Where access is required, this should be agreed amicably. If access is refused, the building owner may need to apply to the District Court for a Works Order under Section 45 to secure entry. All records should be impartial and factual. Surveyors should avoid expressing views on liability or entitlement.

5.2 Provisions for Disturbance, Making Good and Compensation

Section 44 of the Land and Conveyancing Law Reform Act 2009 places a clear obligation on the building owner to make good any damage caused by works to a party structure or, if the adjoining owner prefers, to pay compensation. This obligation applies whether or not a Works Order has been obtained. Where the building owner fails to comply within a reasonable time, the adjoining owner may apply to the District Court under Section 44(4) for an order requiring compliance.

Surveyors can assist by identifying likely sources of disturbance, such as noise, dust, or vibration, and by recommending practical mitigation measures. They should also prepare a detailed measured survey of the party structure (where necessary) and schedules of condition before work commence, to provide a reliable record of the adjoining property's initial condition. This documentation is essential for assessing damage and supporting any claim for remedial works or compensation.

Surveyors may be asked to provide cost estimates for making good damage or for protective measures, but they should not attempt to determine legal liability or entitlement to compensation. Where compensation for inconvenience is anticipated, surveyors should advise on steps to minimise disruption and ensure that all arrangements are documented clearly. If agreement cannot be reached, both parties should seek legal advice, and the matter may be referred to the District Court.

Note: The obligation under Section 44(2) to make good damage or pay compensation applies whether or not a Works Order has been obtained. If damage occurs during works carried out under the Act, the adjoining owner may apply to the District Court under Section 44(4)(a)(i) for an order requiring the damage to be made good. Surveyors may assist in documenting the damage and advising on remedial works, but any application to the Court or resolution of disputed liability should be handled by the client's solicitor.

5.3 Acting for an Adjoining Owner Seeking Relief under Section 44(4)

Chartered Surveyors may also be instructed by an adjoining owner who is aggrieved by works carried out by their neighbour and wishes to seek relief through the District Court as provided for under the Act. This situation typically arises where the building owner has failed to make good damage within a reasonable time or has not reimbursed costs or paid compensation as required by Section 44(2). In such cases, the adjoining owner may apply to the Court under Section 44(4)(a)(i) for an order requiring the damage to be remedied, or under Section 44(4)(b) to recover costs and compensation as a simple contract debt.

It is not unusual for instructions to be received long after the works have commenced or even after completion, particularly where neighbourly relations have broken down and informal resolution has proved impossible. Late involvement can make it more difficult to verify the original condition of the property, so reports should be carefully worded and supported by clear evidence. In these circumstances, the surveyor's role remains strictly technical. It involves preparing factual evidence to support the adjoining owner's case, such as the exact position and extent of the party structure prior to the works, schedules of condition, photographic records, and detailed reports identifying the nature and extent of damage. Where appropriate, the surveyor may also provide cost estimates for remedial works and practical advice on protective measures. These documents should be clear, impartial, and suitable for inclusion in a solicitor's application to the Court. The surveyor should avoid expressing opinions on liability or entitlement and must not attempt to draft or serve legal notices, as these are matters for the client's solicitor.

When acting for an adjoining owner, the surveyor should confirm instructions in writing, clearly defining the scope of services and any limitations. The surveyor should also advise the client that enforcement of rights and recovery of costs or compensation are legal processes governed by the District Court Rules (Order 93A) and should always be managed by a solicitor. By working closely together the surveyor and solicitor can assist their shared client in pursuing statutory remedies and entitlements.

5.4 Expenses of the Works

The costs associated with works to a party structure are generally borne by the building owner, as the works are carried out for their benefit, subject to any agreement between the parties or direction of the Court. This includes design, construction, protective measures, and professional fees incurred in preparing or carrying out the works. In some cases, the Court may direct that certain costs be shared or that compensation be paid to the adjoining owner.

Surveyors may assist by providing cost estimates and technical justification for specific elements of the works, such as protective measures or temporary supports. However, they should not attempt to determine cost liability or apportionment, as these matters fall within the remit of legal advisers or the Court.

5.5 Professional Fee Advice

Surveyors engaged in connection with party structure works should ensure that their fees are clearly agreed with their client in advance. This includes setting out the scope of services, the basis of the fee (e.g. fixed, hourly, or percentage), and any assumptions or exclusions.

Where surveyors are appointed by the building owner, their fees are typically the responsibility of that client. If the adjoining owner engages their own surveyor, they are generally responsible for those fees unless the parties agree otherwise or the Court directs a different arrangement.

In some cases, the building owner may offer to pay the reasonable fees of a surveyor for the adjoining owner to facilitate early engagement and reduce the risk of dispute. This can be a pragmatic approach, particularly in domestic projects, but should be clearly documented to avoid misunderstandings.

Surveyors should avoid becoming involved in negotiating or apportioning fees between parties unless specifically instructed to do so and where it is appropriate to their role. Where a Works Order is sought, the Court may consider professional fees as part of the overall costs, but surveyors should not assume that fees will be recoverable unless this is expressly provided for.

When considering the issue of reasonable and proportional fees, SCSl members should consider the [SCSl Rules and Procedures](#).

5.6 Service of the Works Order

Where agreement cannot be reached and a Works Order is granted by the District Court under Section 45 of the Land and Conveyancing Law Reform Act 2009, it must be served in accordance with Order 93A of the District Court (Land and Conveyancing Law Reform Act 2009) Rules 2010 (S.I. 162 of 2010). This is a legal process and is outside the surveyor's remit. The applicant, usually the building owner or their solicitor, is responsible for issuing and serving the notice of application in the prescribed form at least four days before the hearing, lodging the original notice with the District Court Clerk two days before the hearing, and serving the final Works Order on the adjoining owner and any other person the Court directs.

Surveyors should not attempt to serve notices or interpret the legal validity of a Works Order. Doing so may expose them to liability for acting outside their professional competence. Their role is limited to explaining the technical implications of the Works Order, such as structural impact or access requirements, and advising on practical measures to minimise inconvenience. Surveyors should always recommend that both parties seek independent legal advice for service, appeals, or enforcement.

An adjoining owner may apply under Section 47 of the Act to discharge or modify a Works Order. Surveyors may be asked to provide technical input on the implications of such modifications but should not advise on legal grounds for appeal. If an adjoining owner seeks to modify a Works Order in a way that introduces new works or obligations, they may be deemed a building owner under the Act. This may affect their liability for costs, including professional fees and indemnities. Surveyors should highlight this risk and recommend legal advice before any modification is pursued.

5.7 Entry onto Adjoining Land

Before considering formal measures, every effort should be made to achieve cooperative engagement between the building owner and the adjoining owner. Early discussion of access requirements, timing, and safeguards can often avoid disputes and the need for court intervention.

Where agreement cannot be reached and access to adjoining land is necessary to carry out works authorised under the Act, the building owner may apply to the District Court for a Works Order under Section 45. Once granted and served, the Works Order gives the building owner and their agents a statutory right to enter the

adjoining land for the purpose of executing the specified works. This right may include erecting scaffolding if reasonably necessary and keeping it in place for as long as required to complete the works.

Access must be exercised reasonably and only for the works authorised by the Order. The building owner must leave the land promptly once the works are complete and ensure that any damage caused is made good. Preventing lawful entry under a Works Order would constitute a breach of a court order and may amount to a criminal offence.

The Court may refuse or limit access if the proposed arrangements are not reasonable or would cause undue prejudice to the adjoining owner. Surveyors should encourage constructive dialogue, advise on practical measures to minimise inconvenience, and ensure that any restrictions or safeguards required by the Court are observed. They should also confirm that access arrangements are limited to party structure works and do not extend to unrelated works in a larger project. Where tenants or occupiers are involved, separate notices may be required, and surveyors should recommend that legal advice be sought on this point.

5.8 Costs, Expenses and Compensation

Under Section 44 of the Land and Conveyancing Law Reform Act 2009, the building owner is generally responsible for the expenses of the works, the works are carried out for the building owner's benefit. This includes the cost of construction, protective measures, and professional fees. Where the adjoining owner also benefits, a fair contribution may be agreed between the parties or determined by the Court.

The building owner must make good any damage caused by the works or, if the adjoining owner prefers, pay a sum in lieu of making good. Compensation may also be payable for inconvenience or disturbance caused by the works. Surveyors should advise on practical measures to minimise disruption and may assist in preparing cost estimates for remedial works or protective measures. However, surveyors have no statutory power to determine compensation or enforce payment. If agreement cannot be reached, the adjoining owner may apply to the District Court to recover costs, expenses, or compensation as a debt. Where security for expenses is required, this is usually arranged by the building owner's solicitor, often through a bond. Surveyors may be asked to assess potential risks and advise on an appropriate sum to cover remedial works if needed. Any advice should be impartial, documented clearly, and limited to technical matters.

6. Surveyors' Role Subsequent to Service of the Works Order

This section addresses the Chartered Surveyor's responsibilities after a Works Order has been served. The focus is on practical oversight and documentation rather than legal interpretation. Key tasks include monitoring compliance through interim and final inspections, advising on design changes, and managing additional works that arise during construction. Surveyors should ensure that technical records remain accurate and that any variations are documented clearly. This practice information also addresses the handling of compensation, making good damage, and changes of ownership, with an emphasis on maintaining clarity and minimising disruption.

6.1 Interim and Final Inspections

Interim and final inspections help ensure that works are carried out in accordance with the terms of the Works Order and that any agreed safeguards are maintained. Surveyors should encourage clear communication between the parties and contractors so that inspections are scheduled efficiently and cause minimal disruption.

Where appropriate, the Works Order may include a provision for reasonable inspections by the surveyor or their advisers. These inspections may be required to confirm compliance with specific conditions or to review details exposed during the works. Surveyors should agree the scope and timing of inspections with both owners and, where necessary, seek the Court's approval for inclusion in the Works Order.

Where inspections identify material changes to the position or extent of the party structure, including the legal boundary within it, it may be appropriate to undertake a Boundary Survey and, if needed, to prepare a Boundary Agreement and record it with *Tailte Éireann* (the Land Registry). Formal boundary determination may require specialist advice, and Chartered Geomatics Surveyors or Chartered Building Surveyors are well placed to provide this.

6.2 Design Changes

Where changes to the design of works included in the original Works Order become necessary, they should be addressed promptly and transparently. Minor adjustments may be agreed between the parties if both owners consent in writing, but significant changes should be referred to the Court for approval. Surveyors should advise on whether a proposed change is minor or substantial and ensure that any agreed variation is documented clearly.

If the change affects structural integrity, access arrangements, or any condition imposed by the Works Order, surveyors should recommend that the client seek independent legal advice from the client's solicitor and, where appropriate, consider whether a further Works Order is required. The emphasis should be on maintaining compliance with the Act and avoiding disputes through clear communication and accurate technical documentation.

6.3 Where Additional Work Becomes Necessary

If additional work becomes necessary after the Works Order has been served, it should be addressed promptly and documented clearly. Where the additional work is closely related to the original works and does not materially alter the scope or impact, it may be treated as a design change and agreed between the parties, provided both owners consent in writing. Surveyors should advise on whether the proposed work falls into this category and ensure that any variation is recorded accurately.

If the additional work is substantially different or unrelated to the original Works Order, a new application to the District Court may be required. Proceeding without proper authorisation could invalidate the Works Order and expose the building owner to liability. Surveyors should highlight this risk and recommend that their client seek independent legal advice from their solicitor before any further work begins.

The emphasis should be on clear communication and practical solutions to avoid disputes. Where possible, surveyors should assist in preparing technical information to support any application or agreement, ensuring that all parties understand the implications of the proposed changes.

6.4 Awarding Compensation

Compensation under Section 44(2)(b)(ii) of the LCLRA is payable for any reasonable inconvenience suffered by the adjoining owner or occupier as a result of works carried out under the Act. This is separate from making good physical damage and may include disruption to access, noise, or other disturbance.

Surveyors should advise on practical steps to minimise inconvenience and, where requested, provide technical input to help quantify reasonable costs. Surveyors should not attempt to determine entitlement or act as intermediaries between parties. Where agreement cannot be reached, the matter should be referred to the District Court, and surveyors should recommend that both parties seek legal advice.

Clear documentation of any agreed compensation or payment in lieu of making good is essential to avoid disputes later.

6.5 Making Good and Payment in Lieu

Under Section 44(2)(a) of the LCLRA, the building owner must make good any damage caused to the adjoining owner's property as a result of works carried out under the Act. However, the adjoining owner may instead elect to receive a payment in lieu of making good.

Surveyors should focus on preparing accurate schedules of condition and clear technical documentation to support this process. Where payment in lieu is anticipated, it should be addressed in the Works Order application so that the District Court can determine the amount and terms.

Decisions on liability or enforcement remain matters for the client's solicitor and the Court. Informal arrangements outside the Works Order should be avoided.

6.6 Changes of Ownership

The Land and Conveyancing Law Reform Act 2009 does not make detailed provision for changes in ownership during the course of works. The practical effect depends on whether the change relates to the building owner or the adjoining owner.

Change of Building Owner

Where the building owner changes, the statutory process must begin afresh. A Works Order applies only to the party who made the original application, and a new owner proposing to continue or undertake works must initiate a new Works Order application.

Surveyors should limit their role to advising on the technical implications of ownership changes. All legal steps, including any substitution of parties or re-application to the Court, should be handled by the solicitor acting for the relevant party.

Change of Adjoining Owner

Where the adjoining owner's property changes hands, the rights and obligations arising under an existing Works Order will normally pass to the successor in title. Any professional appointments made by the outgoing adjoining owner, including the appointment of a surveyor, are personal appointments and do not transfer automatically on a change of ownership. In practice, such appointments will normally come to an end unless the new owner expressly confirms or renews them in writing.



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