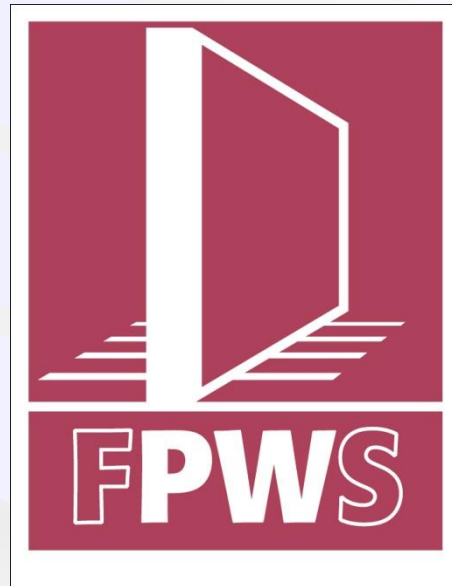


The Party Wall Etc. Act 1996



APPROACH

To set a framework in which disputes over Party Walls could be resolved without expensive legal action between neighbours.

THE PARTY WALL ETC ACT 1996

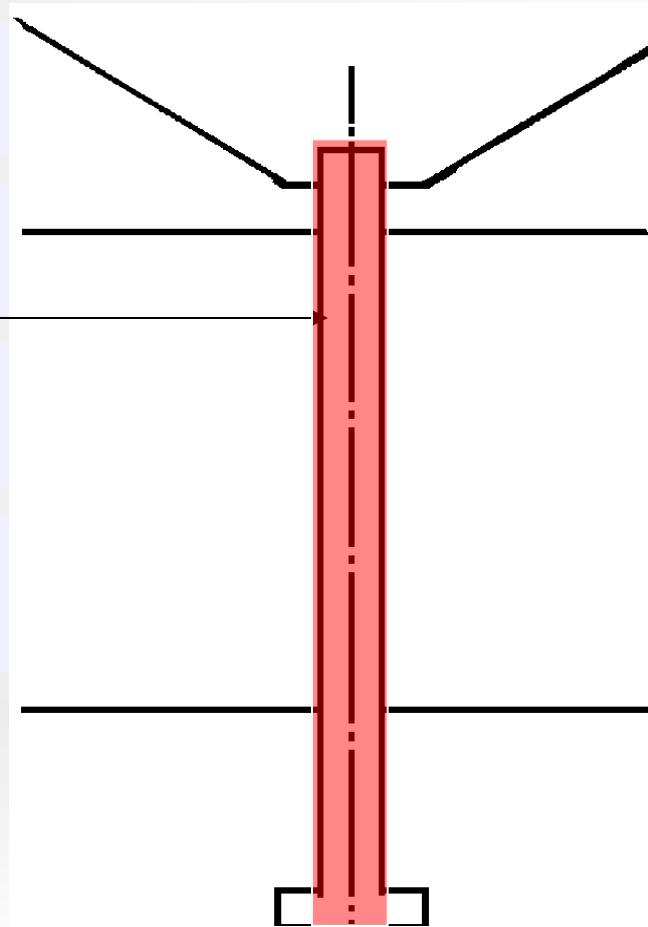
- **1st July 1997 the new Party Wall etc Act 1996 came into force.**
- **The act controls all work to party walls, party fence walls and excavations within 3 and 6 metres of an adjoining owners building.**
- **New act controls all Party Wall matters in England and Wales.**

A PARTY WALL

- **A party wall is a wall which divides two separate owner's properties, built on the line of junction.**
- **Walls dividing semi-detached and terraced houses are two examples.**
- **Also a wall built exclusively on the property of one owner.**
- **A wall held in common between the owners on either side, that is both owners have rights over the full thickness of the separating wall.**

A PARTY WALL

Line of Junction



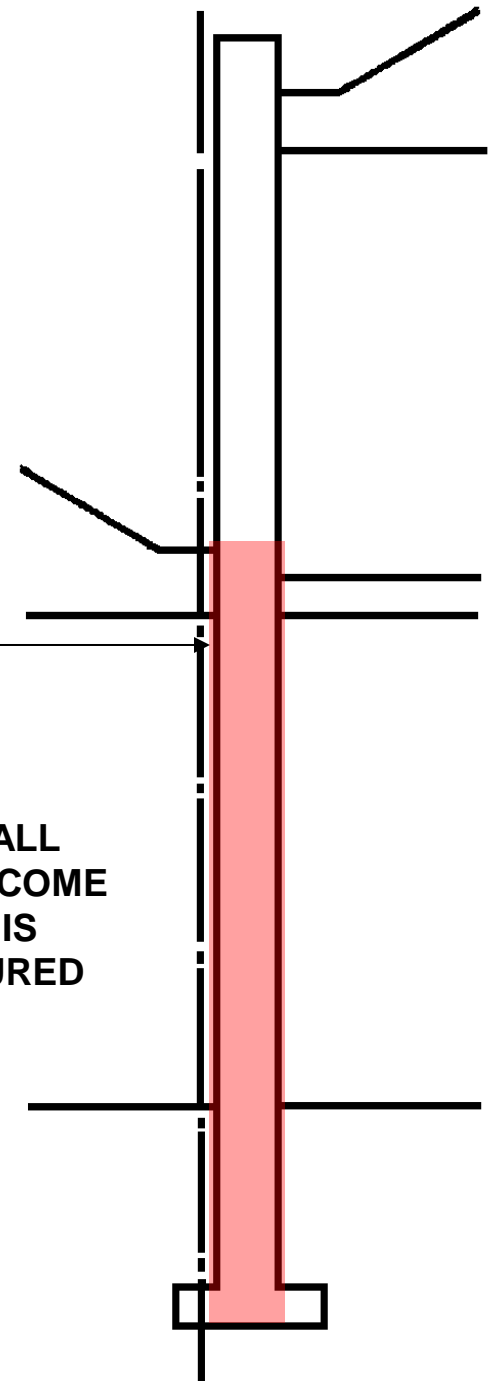
Party Wall - Section

A PARTY WALL

Line of Junction

**SECTION OF WALL
WHICH HAS BECOME
A PARTY WALL IS
SHOWN COLOURED**

Party Wall – Section

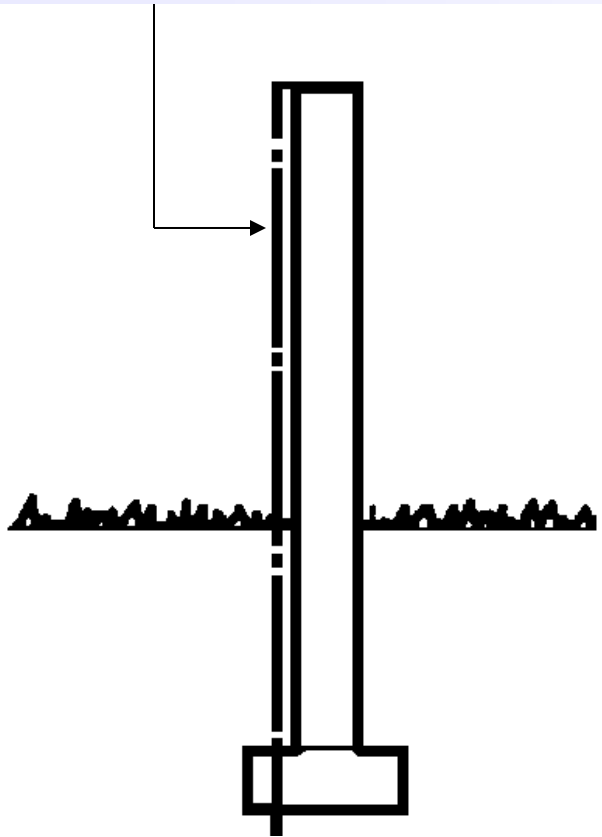


PARTY FENCE WALLS

- **These are boundary walls dividing the property of two separate owners built on the line of junction but not forming part of a building.**

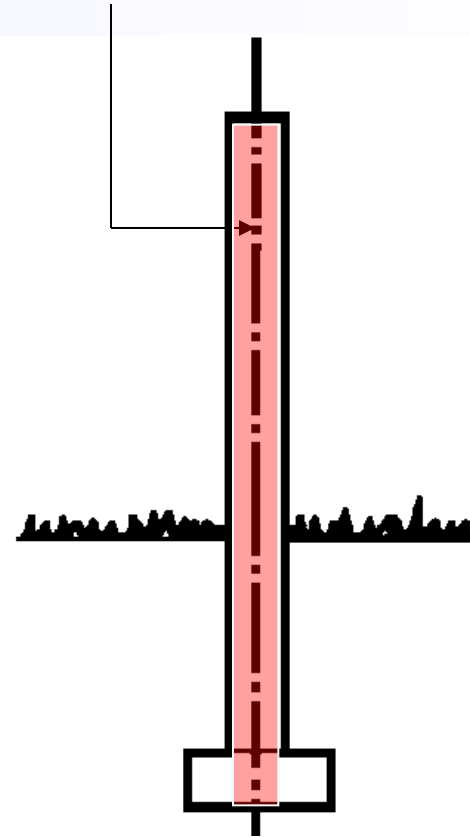
PARTY FENCE WALLS

Line of Junction



Boundary Wall

Line of Junction



Party Fence Wall

OTHER PARTY STRUCTURES

- **Party structure means a party wall and also a floor partition or other structure separating buildings or part of buildings approached solely by separate staircases or entrances.**
- **Covers work between flats, within a block of flats.**

OWNERS

- **An ‘Owner’ is defined as a freeholder of the land or property, or a leaseholder with an interest in the land or property of more than a year.**
- **An ‘Occupier’ is defined as a person who is a weekly tenant on licence of less than a year.**

CONSTRUCTION OF WALLS ON THE LINE OF JUNCTION section 1

- **Building Owner must serve Notice on Adjoining Owner under **Section 1** and at least one month before start of work.**
- **Line of junction but wholly on the Building Owners own land.**
- **Adjoining owner does not consent the Building Owner has to build the wall entirely on his own land and at his own expense.**
- **He will have to serve Notice under **Section 1 (5)**. Continued...**

CONSTRUCTION OF WALLS ON THE LINE OF JUNCTION

Section 1

- **There is provision for consent or non-consent by the Adjoining Owner.**
- **The period for giving Notice under Sections 1 (5) & (6) is one month.**
- **Disputes arising out of Section 1 are to be resolved in accordance with Section 10.**

REPAIR ETC OF A PARTY WALL

Section 2

Rights Building Owner can exercise under Section 2 (2) are as follows:

- To underpin, thicken or raise a Party Structure, a Party Fence Wall or an external wall which belong to the Building Owner and is built against a Party Structure or Party Fence Wall.**
- To make good, repair or demolish and rebuild a Party Structure due to defect or want of repair.**
- To demolish and rebuild a non-conforming partition.**
- To demolish a Party Structure of insufficient strength or height and rebuild including to a lesser height or thickness. In respect of the reduction in the height of a Party Structure, this can only be reduced to a height of not less than 2 metres or the height currently enclosed by the building of an Adjoining Owner. Continued...**

REPAIR ETC OF A PARTY WALL

Section 2

Rights Building Owner can exercise under Section 2 (2) are as follows:

- **To cut into a Party Wall for a damp proof course, flashings or padstones.**
- **To cut away any parts of a wall which overhang the Building Owners land.**
- **To expose a Party Structure hitherto enclosed subject to providing adequate weathering.**
- **Any disputes arising out of Section 2 are to be resolved in accordance with Section 10.**
- **Before exercising any right conferred on him/her by Section 2, a Building Owner shall serve Notice on the Adjoining Owner of his/her intentions.**

EXCAVATION & CONSTRUCTION ON ADJACENT SITES

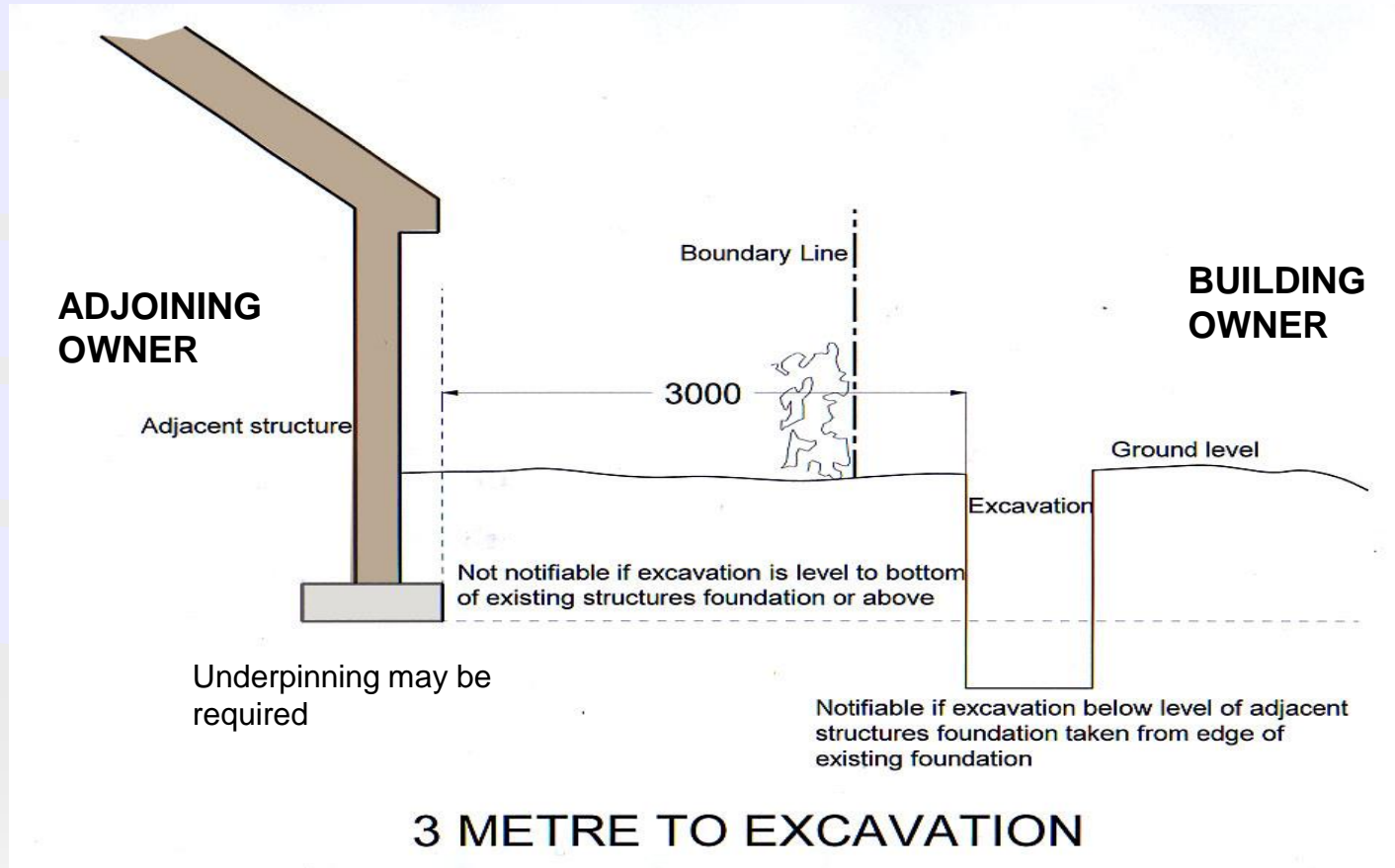
Section 6 (1)

- **Excavation and construction within 3 metres of an adjoining building or structure.**

Section 6 (2)

- **Excavation and construction within 6 metres of an adjoining building or structure.**
- **The Building Owner shall serve Notice on the Adjoining Owner at least one month before beginning excavation.**
- **The Adjoining Owner may require the Building Owner to underpin or otherwise strengthen or safeguard his premises.**

EXCAVATIONS NEAR ADJACENT STRUCTURES - Section 6

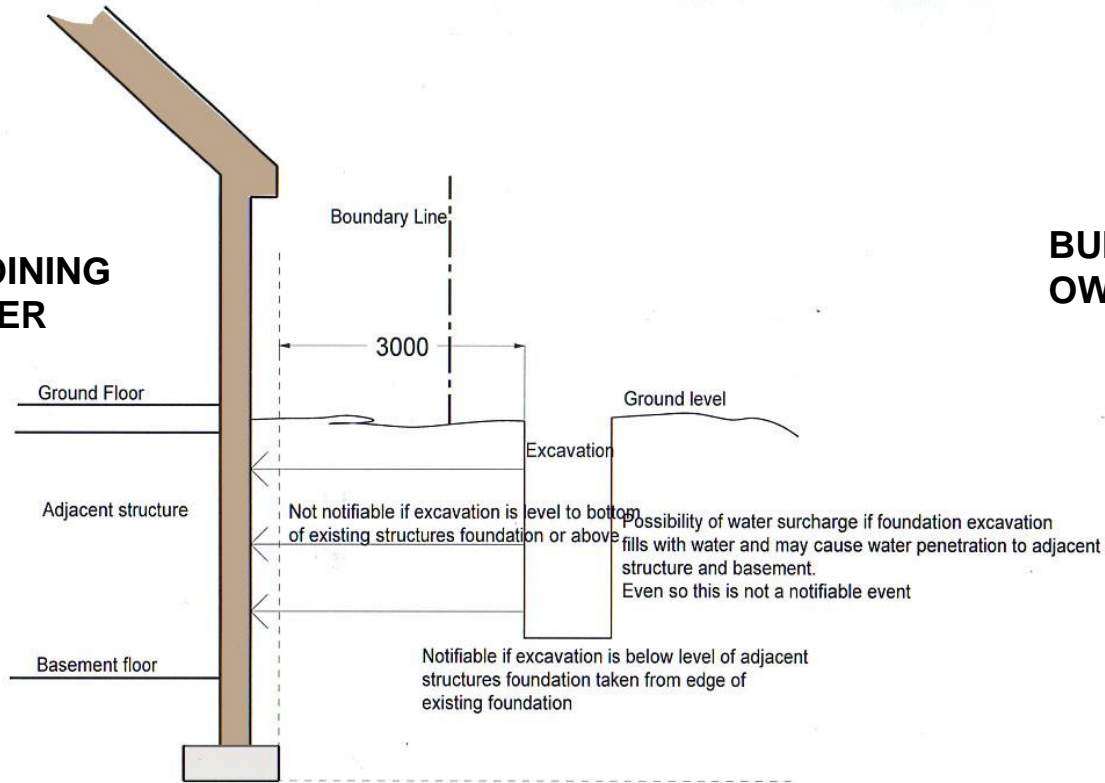


SECTION 6 (1) 3 METRE NOTICE

EXCAVATIONS NEAR ADJACENT STRUCTURES - Section 6

ADJOINING OWNER

BUILDING OWNER



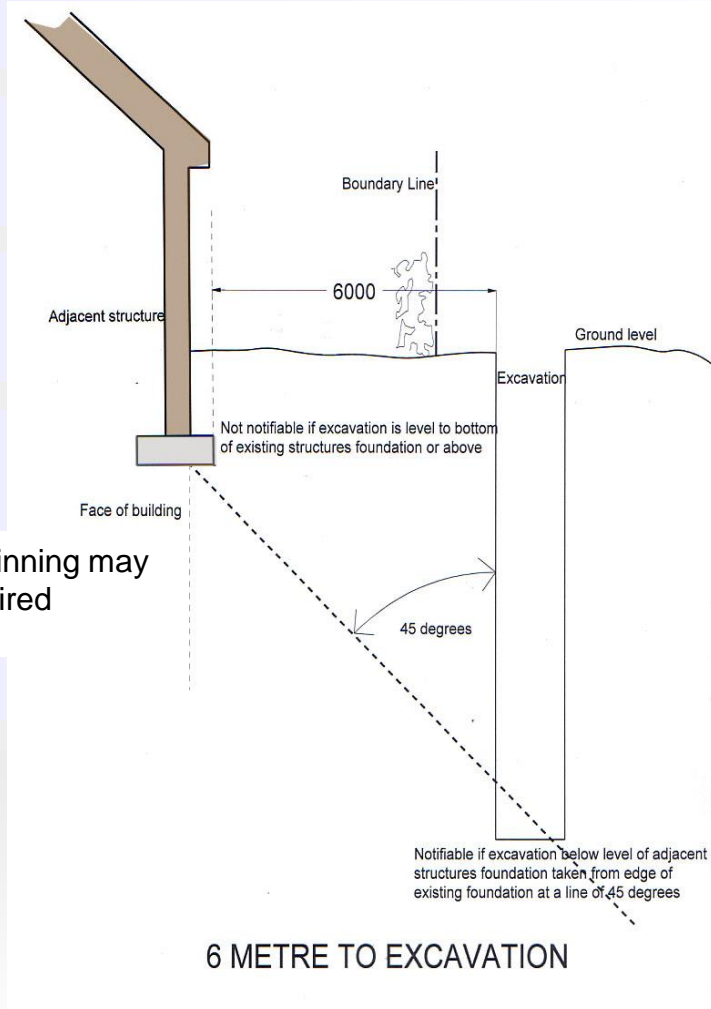
BASEMENT SITUATION

SECTION 6 -NON NOTIFIABLE

EXCAVATIONS NEAR ADJACENT STRUCTURES - Section 6

ADJOINING
OWNER

BUILDING
OWNER



Underpinning may
be required

SECTION 6 (2) 6 METRE NOTICE

WHOSE DUTY?

Section 3

- **The duty to serve notices is laid on the Building Owner.**
- **Normally the building owner will appoint a surveyor.**
- **The surveyor, if the Adjoining Owner dissents from the Notice, will negotiate and agree a Party Wall Award.**
- **The duties of the surveyor are similar to those of arbitrators.**
continued.....

WHOSE DUTY?

Section 3

- **Surveyors have statutory duties within the terms set out in the Act. Section 10(2) applies ‘all appointments made under this section shall be in writing and shall not be rescinded’.**
- **Surveyors will not behave in a partisan manner.**
- **Award in accordance with their statutory duties.**
- **Surveyors not to act as advocates.**
- **Once appointed, it is the duty of Surveyors to select a Third Surveyor in case of dispute**
Section 10 (10).

SURVEYORS DUTIES

- **The surveyors have jurisdiction not only over the subjects of dispute detailed in **Section 10** of the Act but also any incidental question which can arise.**
- **Surveyors to determine what work is to be carried out, within what time and with what precautions.**
- **Must decide on compensation, if any, what contributions made to expenses and who is to pay the costs.**
- **The Surveyors authority is that given to them by the Act. **Section 10 sub Sections (12), (13), (14), (15) & (17).** Continued...**

SURVEYORS DUTIES

- **Surveyors have no power to confer or abrogate rights. The Award cannot, for example, grant a right to do works at some future date.**
- **Surveyors have no power to agree that a wall may be built as a Party Wall. Only the respective Owners can agree this. Any such agreement between Owners should be by separate letter and not written into the Award. Continued...**

SURVEYORS DUTIES

Surveyors are concerned with the workmanship:

- **Of the work to be carried out.**
- **Protection of Adjoining Owner's premises during the carrying out of the works.**
- **Making good to the Adjoining Owner's premises of damage caused by those works.**
- **Complying with Adjoining Owner's Counter-Notice, where applicable.**
- **Settling various costings arising from those works.**

NOTICES

There are Notices that have to be issued, which depend on the type of work the Building Owner wishes to carry out. It is important to ensure the correct Notice is served, as they effectively commence procedures under the Act.

- | | | |
|-----------|----------------------------|---------------------|
| S1 | Line of Junction | (one month) |
| S2 | Party Structure | (two months) |
| S6 | Adjacent Excavation | (one month) |

(Possibly all three at the same time).

NOTICES

- **Once again, dispute process can only be started by a Notice. Work done prior to the Notice and Award is outside the Act.**
- **Could be important if early work was negligent in some way and / or caused damage.**
- **Any dispute would have to be settled by the respective owners as a matter of Common Law.**

NOTICES

Who can serve?

- **The owner undertaking the work (if more than one owner).**
- **Can only be served by owner, not an employee, unless a delegated signatory (in which case evidence may be needed).**
- **Agents, by proxy?**

NOTICES

- **Once served, adjoining owner/s have 14 days to respond.**
- **If no response, this is a deemed dissent and an award is required.**
- **Refer to flowchart.**

DISPUTES

- **A dispute arises either expressly or through a non-response.**
- **When a dispute has arisen, the parties can agree the appointment of one surveyor, the 'Agreed Surveyor' or appoint their own surveyor.**
- **Anticipated by DOE that parties would appoint 'Agreed Surveyor'.**
- **Unrealistic and quite common for parties to appoint their own surveyors.**

DISPUTES

- **No work affecting the Party Wall or at the boundary should be commenced before the Party Wall Award has been agreed and served on the Appointing Owners.**
- **14 day appeal period.**

FACULTY OF PARTY WALL SURVEYORS

MEMBERSHIP

Fellow

Member

Associate

Affiliate