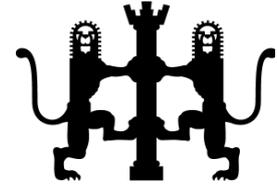


ADJUDICATION UNDER THE JCT BUILDING CONTRACT FOR A HOME OWNER/OCCUPIER AND JCT CONSULTANCY AGREEMENT FOR A HOME OWNER/OCCUPIER



EXPLANATORY NOTES

Royal Institute of British Architects

What is adjudication?

Adjudication is a procedure whereby a dispute between the parties is resolved by the binding decision of an impartial third party called an adjudicator.

The adjudicator is an expert who decides a dispute using specialist expertise. The adjudicator will also base their decision on the results of their own personal investigations, and this is likely to include an inspection of the works. An adjudicator will consider matters brought to their attention by the parties, but is not bound by them and will come to their own decision.

The decision of an adjudicator is final and binding subject to any later decision made by the court.

Who will be the adjudicator?

Either party can apply to one of the three appointing bodies named in the contract. The appointing bodies are the Royal Institute of British Architects (RIBA), the Royal Institution of Chartered Surveyors (RICS) and the National Specialist Contractors Council (NSCC). The adjudicator will be appointed from an approved panel of adjudicators. The adjudicator will be an expert in the subject matter of the dispute e.g. quality of work and/or materials.

What will the adjudicator do when he is appointed?

When an adjudicator has been appointed, both parties will be notified, in writing, by the appointing body. They will be told who the adjudicator is, and advised that the adjudicator will contact both parties directly. The adjudicator will invite both parties to give their personal views as to what the dispute is about and what decision they think the adjudicator should reach. This will usually take the form of brief written statements. The adjudicator will consider the written and verbal statements put forward by the parties. The adjudicator may require to inspect the works and to put questions directly to the parties.

How long will the adjudication take?

The objective of the adjudication procedure is to resolve the dispute within 28 days from the day an application for the adjudicator is received by the appointing body. Once an application is received by the appointing body, an adjudicator will normally be appointed within 7 days (including weekends but excluding bank holidays). Once the adjudicator is appointed they will reach their decision within 21 days (including weekends but excluding bank holidays). In many cases the adjudicator may be able to make their decision sooner, particularly if the issue in dispute is straightforward.

What happens after the adjudicator makes their decision?

The adjudicator will write to both parties informing them of their decision and asking for payment of their fees. The adjudicator's decision will be binding on the parties subject to the right of either party to refer the issue in dispute to the courts.

How much will it cost?

An application fee of £120 plus VAT is charged to appoint an adjudicator. The person who applies for an adjudicator pays this application fee. The application fee may be reimbursed by the other party if the adjudicator decides in favour of the applicant. The fees of the adjudicator will be based on the time spent dealing with the dispute and will not exceed £150 per hour (exclusive of VAT), up to a maximum of 15 hours spent dealing with the dispute. The adjudicator can decide who pays their fees. It is possible for a party who loses to be responsible for all of the adjudicator's fees as well as the application fee. If a losing party fails to pay their portion of the adjudicator's fees, the adjudicator cannot order the other party to pay them. The adjudicator may, however, bring an action against the party who has not paid their fees.

Where can I get further advice?

Further advice can be obtained from the appointing bodies.