



Explanatory notes for Adjudication under the JCT Building Contract for Home Owner/Occupier (2005)

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 his decision on the results of his own personal investigations, and this is likely to include an inspection of the works. An adjudicator will consider matters brought to his attention by the parties, but he is not bound by them and will come to his 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 two appointing bodies named in the contract. The appointing bodies are the Royal Institution of Chartered Surveyors (RICS) and the Royal Institute of British Architects (RIBA). 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. He 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 he will reach his decision within 21 days (including weekends but excluding bank holidays). In many cases the adjudicator may be able to make his decision sooner, particularly if the issue in dispute is straightforward.

What happens after the adjudicator makes his decision?

The adjudicator will write to both parties informing them of his decision and asking for payment of his 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?

The RICS charge a fee of £120.00 (£120 plus VAT) 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 (exclusive of VAT) per hour, up to a maximum of 15 hours spent dealing with the dispute. The adjudicator can decide who pays his 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 to the RICS. If a losing party fails to pay their portion of the adjudicator's fees, the adjudicator cannot order the other party to pay them. He may, however, bring an action against the party who has not paid his fees.

Where can I get further advice?

The RICS offers a telephone helpline which allows parties who are not professionally represented to receive up to half an hour of free advice from a chartered surveyor. The number is 020 7334 3806. (When calling please mention the 'consumer contracts helpline').