



A few things to consider before starting adjudication

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Adjudication in the UK provides a speedy resolution of construction disputes and quite often serves one of its main purposes, which is the quick provision of cash-flow to contractors and sub-contractors. But not without certain risks.

Costs to expect when starting adjudication

(Not applicable to Low Value Dispute Model Adjudication Procedure)

The adjudicator nomination fees are in the range of £350 plus VAT, paid by the referring party and normally not recoverable even if successful.

The adjudicator's fees; the adjudicator's rates are in the range of £250 - £350/hour – the total cost depends on the time that he/she will spend on the dispute. The adjudicator allocates the fees to the parties within the decision.

Your representation; this is probably the first thing you need to consider when you decide to take that step. Costs can vary massively depending on the consultancy or legal firm that will represent you. Don't forget that whomever you choose, they would need to already be familiar with the case – so a significant portion of your costs will incur before even starting.

Expert witnesses; your representative could suggest that a quantum report or delay analysis by an expert would be beneficial to your case – keep in mind that it is better if such reports are made known to the other party before the adjudication, in order to avoid complications. Costs can vary.

Enforcement costs; although those costs would be recoverable to a certain extent if successful (by contrast to the adjudication costs which are not), they are not insignificant, as they would entail legal costs of obtaining summary judgement.



During the process, the opposition will use any defence available and that could include a counterclaim or a set-off and the dispute could be broadened; what you expected to be a simple/straight forward dispute, could become a much more complicated one.

Great care must be taken when submitting the notice of adjudication – this is the document that confers jurisdiction on the adjudicator to decide the dispute and will also determine the extent of his/her jurisdiction.

Even if successful, if the other side does not pay, you will have to seek enforcement – although the grounds for not enforcing a decision are limited, if the other party has raised a valid jurisdictional challenge during the adjudication, there is a risk that enforcement will not be allowed.

Adjudication is temporarily binding; the other party, after paying, could always challenge the decision through arbitration or litigation, depending on your contract – unless the parties settle.

Usually contractors consider adjudication when all efforts to negotiate their claim have failed. Adjudication is less expensive than litigation or arbitration and much speedier – following the referral, the decision should be reached within 28 days unless further extensions are agreed. There are however, costs and risks involved.

Keep in mind that the other side will employ a consultancy or legal firm to represent them; following the giving of the notice of adjudication, their first action will be to challenge the adjudicator's jurisdiction – and there could be many grounds for doing that. If their challenge is successful, the adjudicator will resign and you will have to start the process all over.

Your objective should be to reach settlement as soon as possible

Especially when there are multiple disputes or disputes involving large sums of money, parties should be open to settlement even after the adjudication has commenced. Otherwise, there is a risk of disproportionate costs incurred and time spent from both sides. That would include the enforcement costs (if the losing party does not comply with the decision) and the risk of enforcement being unsuccessful if a valid jurisdictional challenge has been raised.

For assistance in related matters, you can contact us at info@pronea.co.uk

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