



Fixed Fee Adjudication and Enforcement Service

Overview

Since its implementation through the Housing Grants, Construction and Regeneration Act 1996, adjudication has become the standard process for dispute resolution in the UK construction industry and is effectively a mandatory obligation. Whilst the adjudication process has the benefit of providing rapid decisions that process can impose significant practical difficulties on the parties, in particular the responding party.

Construction disputes are notified to an adjudicator, either pursuant to the terms of the Scheme for Construction Contracts or under the specific terms of a contract, and the referral is then (usually) determined within a 28-day period. This rapid procedure means that it is important for parties to fully consider their position prior to commencing an adjudication or acting swiftly, if served with an adjudication notice.

Lamb Chambers acknowledges that the management of a dispute through the adjudication process can be a significant drain on contractors and employers alike, both in time and cost. As a means of simplifying the adjudication process and providing certainty on litigation costs - which are not generally recoverable by the parties - Lamb Chambers offers a fixed fee service for adjudications up to a value of £250,000. We also offer a fixed fee service for adjudication enforcement proceedings, should that prove necessary.

Lamb Chambers' construction group has significant experience in adjudication, acting for both referring and responding parties. Our members also have appeared in the Court of Appeal regarding enforcement and stays of adjudicator's awards in *CBS v Brown* (2016) and *Gosvenor v Aygun* (2018). Two of our members are also TECBAR-accredited Adjudicators.

Fixed Fee Adjudication Service

Most adjudications are determined "on paper" through the exchange of formal written submissions and correspondence between the parties and the Adjudicator. As part of our fixed fee service, we will draft the formal submissions and assist with any correspondence and issues raised during the adjudication process. We will also review any draft witness evidence, expert reports and other documents which are to be exchanged with the submissions and correspondence. In the event that a hearing is directed by the adjudicator, we will attend the hearing to make any submissions or question witnesses as required.

In summary, our fixed fee service includes the following tasks:

Referring Party:

- Drafting the Notice of Adjudication, Referral Notice and Reply (if required)
- Reviewing draft witness statements and expert reports
- Assisting with questions raised by the Adjudicator and providing written responses
- Attendance and representation at a telephone or oral hearing (for hearings up to one day) if directed

Responding Party:

- Drafting the Notice of Response and Rejoinder (if required).
- Reviewing draft witness statements and expert reports
- Assisting with questions raised by the Adjudicator and providing written responses
- Attendance and representation at a telephone or oral hearing (for hearings up to one day) if directed

Our fixed fee service is offered based upon the assumption that the adjudication is to be completed within the 28-day period required by the Scheme for Construction Contracts. In the event that the adjudication is extended to a longer period, additional fees may become payable.

If you wish to use the fixed fee service, we will carry out an initial assessment to consider whether the case is suitable. Your case may not be deemed suitable for the fixed fee service if, for example:

- The dispute is exceptionally complex; or
- If your matter involves an exceptionally large volume of documents

In the event that the dispute is not considered suitable for the fixed fee scheme, one of our practice management team will contact you as soon as possible to discuss further arrangements.

Adjudication Enforcement Service

Most adjudications result in a decision from the Adjudicator and, if payment is directed, the relevant party makes payment without any further disputes or delays. A disgruntled party must pay first and then challenge the decision in the TCC.

However, on some occasions the successful party may seek the assistance of the Court to enforce the decision, or the unsuccessful party in the adjudication may seek to dispute the decision made or resist any such enforcement.

Lamb Chambers is ready to assist with this enforcement process, regardless of whether one of our members was instructed in the original adjudication.

The enforcement service includes the following work:

- Drafting the Claim Form and Particulars of Claim
- Assisting with and reviewing any witness statements
- Preparation of a skeleton argument for the hearing
- Attending the adjudication enforcement hearing

We reserve the right to charge additional fees if additional work is required in excess of that set out above. We will ensure that you are notified as soon as we become aware that additional costs may be incurred for such additional work.

Fixed fee adjudications and enforcement proceedings will be considered in appropriate cases – please speak to the Practice Managers for details.

Contact us

Our Practice Managers are here to assist, if you would like to know more about the fixed fee adjudication service please contact one of the following from the Practice Management Team.



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For more information about Lamb Chambers Construction Team, please visit our website <https://www.lambchambers.co.uk/expertise/construction/>