

RESOLUTION

The Newsletter of ARBICON ADR

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The key members of the Arbicon Team are:

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Senior Consultant

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Senior Consultant

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Senior Consultant

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PA to the Directors

Professional Quantity Surveying Services & Alternative Dispute Resolution Services

Good News for Small Builder/Client Disputes?

The Royal Institution of Chartered Surveyors (RICS) has introduced a new minor dispute process using an independent dispute resolution procedure which allows a client (known as the 'customer of the builder') to apply for adjudication on a building related dispute between him and his builder. Whereas the builder can only apply for this process with the consent of the customer.

The adjudicator must be appointed by a person authorised to make appointments and this person shall issue this confirmation in writing, to both parties.

ADJUDICATIONS BACK IN TOWN!

TIME PERIODS	ALL ANBs	%
Year 1 – May 1998 to April 1999	187	
Year 2 – May 1999 to April 2000	1309	600
Year 3 – May 2000 to April 2001	1999	50
Year 4 – May 2001 to April 2002	2027	1
Year 5 – May 2002 to April 2003	2008	-1
Year 6 – May 2003 to April 2004	1861	-7
Year 7 – May 2004 to April 2005	1685	-9
Year 8 – May 2005 to April 2006	1439	-15
Year 9 – May 2006 to April 2007 (Part Year Only)	795	10
After four years of falling numbers it appears that adjudication is once again on the increase		

An appropriate application form needs completing and issuing to the appointing body, who confirm receipt within 48 hours of receiving this application and proceed to appoint within 7 days of that receipt. Once appointed the adjudicator confirms his fee, which must not exceed £110 per hour (exclusive of VAT) with a maximum of ten hours entitlement, regardless of the number of hours he actually works. (Contd on pg2)

Regulated by RICS

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Builder/Client Disputes

The only other cost, since the appointment incurs no fee, is for out-of-pocket expenses and even these are capped at 40p per mile for car mileage to meetings and/or site. Like its big brother, HGCRA adjudications, the parties to the dispute must pay their own preparation costs and the cost of the adjudicator in accordance with his decision in whatever proportions he states.

A site visit is included where requested by either party and with the agreement of the customer.

The parties are invited to submit written statements setting out their views on the dispute and the remedy sought, if any.

It is written that if either party should decide not to be present at the site visit, the adjudicator shall proceed in their absence.

The adjudicator's decision is required, in writing, to be given no later than 21 days after being appointed and a copy given to each party. Brief reasons should accompany his decision and should he order payment, interest can be awarded at no more than 5% above the Bank of England Base Rate at the applicable date. This equates to the same rate as stated in the JCT suite of contracts.

To give strength to the adjudicator's decision, the parties must follow his decision, unless and until either party obtains a court judgment about the dispute which differs from the adjudicator's decision.

They even have to pay him before he issues the decision, although this appears in the explanatory notes rather than the rules.

The adjudicator acts as an expert using his specialist knowledge and expertise in the subject matter, no more, no less. Ring any bells with the intention of the 1998 Act as was?

Our Services

As a leading provider of Professional Quantity Surveying and Cost Management Services and Alternative Dispute Resolution Services we can offer you the following:

Pre-Contract Services

- Cost Planning
- Estimating & tendering (including audits)
- Bills of quantities preparation and production
- Commercial audits and reports
- Budget and cash flow forecasts
- Quantity and procurement checks
- Material scheduling
- Contract procurement
- Drafting of Employer's Requirements

Post-Contract Services

- Preparation of final accounts
- Contractual procedures advice
- Re-measurement
- Cost reconciliation reports
- Sub-contract account management
- Valuations for interim payments
- Variation and day work account valuation and control
- Extension of time claims
- Loss and expense claims
- Dispute resolution, mediation, adjudication and arbitration
- Support in litigation
- Risk management and dispute prevention
- Expert witness

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SEE HOW WE CAN HELP YOU

FIRST 2008 RISK MANAGEMENT SEMINAR SUCCESS

Our first 2008 seminar was held on 25 February and was attended by representatives from a cross-section of locally based construction companies. 100% of attendees said they would attend further seminars and went on to add they would be happy to recommend them to colleagues. If you think this seminar, or one tailored to meet your specific requirements would be useful contact Lisa at lisa@arbicon.co.uk or call 01480 426560 for details.

NEW SENIOR CONSULTANT JOINS THE ARBICON TEAM

As our business continues to expand we welcome another new member to our team – Jack Kirk joins us as ADR Consultant, specializing in dispute resolution and claims cases. Jack has over 30 years experience as a Chartered Quantity Surveyor and brings with him a wealth of invaluable knowledge and expertise to assist and advise clients in dispute matters. He is an avid Cambridge City supporter, but that shouldn't put off future clients.....

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