
The Construction Industry Council Low Value Dispute Model Adjudication Procedure

A streamlined adjudication procedure that applies to disputes below £50,000 that do not involve multiple or complex issues

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A guidance document issued by the
Construction Industry Coronavirus (CICV) Forum

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BACKGROUND

The high cost and legalisation of construction adjudication in the UK has led to an access to justice crisis for SMEs, which make up 90% of the businesses in the construction sector.

Given that dispute resolution services now makes nearly 1,300 adjudication appointments a year – around 75% of the UK total – this is our problem too.

The response of the Royal Institution of Chartered Surveyors (RICS) has been to collaborate with the UK Construction Industry Council (CIC) to develop Low Cost Adjudication Rules which will bring the cost of adjudicating disputes below £50,000 down to around £6,000.

The service has received the firm support of both the Department for Business, Energy and Industrial Strategy and the Construction Leadership Council, who are both promoting it to the industry:



As part of our ambition to make the UK the best place to start and grow a business, we will always support initiatives that help companies of all sizes to achieve their potential. This new, more transparent process will offer access to justice for small and medium sized companies in the construction industry - helping ensure small disputes are resolved quickly, cheaply and effectively. We welcome the work of RICS and the CIC in developing this initiative.

Nadhim Zahawi, Industry Minister



We welcome this initiative by the CIC, working with the Royal Institution of Chartered Surveyors. This new process for resolving low value disputes will reduce the costs and time involved in settling these, and help to create a better and fairer industry, particularly for the SMEs that make up the majority of the sector. We hope that it will be widely used, and will work with the CIC and RICS to encourage its adoption by firms in the industry.

Andy Mitchell, Co-Chair of the Construction Leadership Council and CEO of the Thames Tideway Tunnel

PROCESS

Pre-nomination

Parties can incorporate the Low Value Dispute Model Adjudication Procedure (LVD MAP) into the Contract by reference.

Alternatively, parties may agree to use the procedure on an ad-hoc basis when a dispute arises.

RICS Dispute Resolution Services (DRS) has fully trained its adjudicators in LVD MAP to ensure that it can offer parties its customary level of quality under the new service.

Prior to nomination, the prospective Adjudicator will confirm that he or she will comply with the LVD MAP procedure on the basis of the limited fees and other costs prescribed under it.

RICS offers a bespoke application form for parties to use when applying for adjudicators to be nominated under LVD MAP

As one of the overriding aims of the LVD MAP is to reduce costs in adjudicating low value disputes, all participating Adjudicator Nominating Bodies have agreed a uniform fee for nominating an adjudicator in the amount £250 plus VAT = £300.

Under the Rules the LVD MAP service is not suited for matters where, inter alia:

- The total amount claimed is greater than £50,000
- A non-financial remedy such as a declaration of entitlement is sought
- The documents included in the Referral, the Response, or the Reply to the Response exceed more than one A4 Lever Arch File (or electronic equivalent) per submission
- The dispute is prima facie not suitable for the Adjudicator to make an Adjudication Decision on a documents-only basis
- There is any argument as to whether the parties have consented to use the LVD MAP
- The terms of the Contract are not easily discernible
- There are any challenges to the Adjudicator's jurisdiction, which the Adjudicator decides cannot be dealt with by the Adjudicator within two hours of the Adjudicator's time.

Post-nomination

If after he or she is nominated, on considering the papers, the Adjudicator decides that the dispute is not suitable for adjudication using the LVD MAP, the Adjudicator is required under the Rules to resign.

DRS will then nominate a new adjudicator under its normal procedures but will treat this as a re-nomination and only charge the standard re-nomination fee for the Construction Adjudication, £212.50. DRS will need to make this charge as we will be undertaking a new nomination.

LVD MAP adjudications will be conducted on a documents only basis unless the Adjudicator directs otherwise.

Under the Rules:

- The Adjudicator is expected to limit the length or time for submission of any statement, response or argument
- The parties are required to limit their documents to no more than one A4 Lever Arch File (or electronic equivalent) per submission.

Based upon the Referral Notice being received by the Adjudicator on Day 1:

- The Responding Party will respond to the Referral Notice no later than Day 14
- If the Referring Party wishes to make any Reply to the Response, it may do so in writing no later than Day 21
- The parties will receive the Adjudicator's Decision not later than Day 28.

The Adjudicator shall be required to give reasons unless both Parties agree at any time that the Adjudicator shall not be required to give reasons.

If the Adjudicator fails to reach or issue a decision in accordance with the schedule above, the Adjudicator shall not be entitled to any fees or expenses.

The Parties may choose to be assisted by professional representatives at any stage of the Adjudication.

FEES

The Parties shall bear their own costs and expenses incurred in the adjudication.

If the Adjudicator makes no direction on allocation of his or her fees, the Parties shall pay them in equal shares.

The Adjudicator's fees exclusive of VAT will be fixed as set out below:

| Claim value | Adjudicator's fee |
|--------------------|--------------------------|
| Up to £10,000 | £2,000 |
| £10,001 to £25,000 | £3,500 |
| £25,001 to £50,000 | £6,000 |
| Over £50,000 | Negotiable |

Where the Adjudicator meets with the Parties, in addition to the fee above, the Adjudicator will be paid £1,000 plus reasonable travel expenses.

Where the Adjudicator visits the site, in addition to the fee above, the Adjudicator will be paid £1,000 plus reasonable travel expenses.

Where the Parties have a dispute where the claim exceeds £50,000, they may nonetheless choose to follow the LVD MAP procedure. In such circumstance the prospective Adjudicator shall write to the Parties setting out the basis of their proposed fees and expenses.

FURTHER INFORMATION

To find out more, you can access the following links.

- The text of the latest version of the LVD MAP Rules themselves (which are still subject to a further consultation process and possible slight amendments):



<http://cic.org.uk/admin/resources/cic-lvd-map-consultation-second-draft7-october-2019.pdf>

- FAQs on the RICS LVD MAP service:



<https://www.rics.org/uk/products/dispute-resolution-service/drs-services/adjudication-services/>

- Application form and information on RICS Dispute Resolution Services adjudication services generally:



<https://www.rics.org/uk/products/dispute-resolution-service/drs-services/adjudication-services/>

Alternatively, to contact a member of the DRS appointments staff please email **drs@rics.org** or phone **020 7334 3806**.

Current members of the Construction Industry Coronavirus (CICV) Forum:

- British Constructional Steelwork Association
- Builders Merchants Federation
- Building Engineering Services Association Scotland
- Chartered Institute of Building
- Civil Engineering Contractors Association Scotland
- Electrical Distributors' Association
- Federation of Master Builders
- Lift and Escalator Industry Association
- National Federation of Roofing Contractors
- Royal Incorporation of Architects in Scotland
- Royal Institution of Chartered Surveyors
- The Scaffolding Association
- The Scottish Building Federation
- The Scottish Construction Group
- SNIPEF
- SELECT
- The Stone Federation (GB)

Further information



www.cicvforum.co.uk



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