



**CIC BUILT ENVIRONMENT  
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**CIC LOW VALUE DISPUTES MODEL  
ADJUDICATION PROCEDURE  
CONSULTATION DRAFT**

An adjudication procedure for low value disputes complying with the Housing Grants, Construction and Regeneration Act 1996 as amended by Part 8 of the Local Democracy, Economic Development and Construction Act 2009 (the "Construction Act").

## **CIC Low Value Disputes Model Adjudication Procedure**

**CIC 2019: An adjudication procedure for low value disputes complying with the Housing Grants, Construction and Regeneration Act 1996 as amended by Part 8 of the Local Democracy, Economic Development and Construction Act 2009 (the "Construction Act").**

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## **CIC LOW VALUE DISPUTES MODEL ADJUDICATION PROCEDURE**

### **CONSULTATION DRAFT**

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#### **CIC Members**

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Construction Industry Research and Information Association  
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Institution of Engineering and Technology – Built Environment Sector  
Institution of Fire Engineers  
International Institute of Risk and Safety Management  
Institute of Specialist Surveyors and Engineers  
Institution of Structural Engineers  
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Local Authorities Building Control  
Landscape Institute  
National House-Building Council  
Royal Institute of British Architects  
Royal Institution of Chartered Surveyors  
Royal Town Planning Institute  
The Safety Assessment Federation

Purpose of the CIC LVD MAP

## Scope

1. An adjudication procedure for low value disputes complying with the Housing Grants, Construction and Regeneration Act 1996 as amended by Part 8 of the Local Democracy, Economic Development and Construction Act 2009 (the "Construction Act").

Whereas the object of adjudication is to reach a fair, rapid and inexpensive decision upon a dispute arising under the Contract, there is evidence that Parties are deterred from using adjudication because of the costs involved.

The CIC LVD MAP sets out a streamlined adjudication procedure for low value disputes, and by linking the Adjudicator's fee to the amount claimed provides certainty as to how much the Adjudicator will be paid for making an Adjudicator's Decision. By including an outline timetable for the procedural stages it provides a flexible yet simple to understand, approach to the key elements of the adjudication process.

Meaning of terms used in the CIC LVD MAP

## Definitions

2. In this MAP:-

'Adjudication' is a process for resolving a dispute arising under the Contract, whereby an independent Adjudicator decides the matter within a defined timescale, usually 28 days.

'Adjudicator' means the person appointed in accordance with this procedure by the CIC or other participating Adjudicator Nominating Bodies (ANBs), who will apply the LVD model procedure, and who has the qualifications as set out in paragraph 41 below.

'Adjudicator's Decision' is the Adjudicator's judgment on the dispute, which is contractually binding until the dispute is otherwise determined by arbitration or legal proceedings.

'Contract' is the formal agreement between the disputing parties for the carrying out of construction operations as defined in the Construction Act.

'Adjudicator's fees' are the fees and disbursements charged by the Adjudicator as set out in Schedule 1.

'Application fee' is the fee charged by the Construction Industry Council, or another participating Adjudicator Nominating Body for appointing an adjudicator, at the request (application) of the Referring Party. In the Adjudicator's Decision, the Adjudicator shall decide which Party shall bear this expense and in what proportion. The list of participating Adjudicator Nominating Bodies is set out in Schedule 2.

'Low Value Dispute ("LVD")' is where the amount claimed is £50,000 or less.

'Party' means a party to the Contract. 'Referring Party' means the Party who commences adjudication by giving a 'Notice of Adjudication'. 'Responding Party' is the other Party.

'Notice of Adjudication' is the first procedural step in adjudication which gives the Adjudicator jurisdiction to decide matters in dispute.

'Jurisdiction' is an Adjudicator's authority to make a decision.

'Referral Notice' is a keystone document and as the Referring Party's principal submission in adjudication, it should contain everything you want the Adjudicator to consider.

'Response' is the Responding Party's answer to the allegations set out in the Referral Notice.

'Reply to Response' is the Referring Party's answer to the allegations set out in the Response. Its purpose is not to make good any deficiencies in the Referral Notice.

Impartiality

3 The Adjudicator shall act impartially.

The Adjudicator's role

4 The Adjudicator may take the initiative in ascertaining the facts and the law. The Adjudicator may use their own knowledge and experience. The adjudication shall be neither an arbitration nor an expert determination.

Decision binding in interim

5 The Adjudicator's decision shall be binding until the dispute is finally determined by legal proceedings, by arbitration (if the contract provides for arbitration or the parties otherwise agree to arbitration) or by agreement.

Implementation of the decision

6 The Parties shall implement the Adjudicator's decision within 7 days from the date of the decision or, if later, by the final date for payment of any sum which the Adjudicator has decided should be paid, whether or not the dispute is to be referred to legal proceedings or arbitration.

## Application

- Boilerplate LVD adjudication clause
- 7 “The Parties agree that any Low Value Dispute arising from a contract for the carrying out of construction operations may be referred to adjudication in accordance with the CIC LVD MAP current at the time the Notice of Adjudication is served.
- Application
- 8 This procedure will be adopted if the Parties have incorporated it into the Contract by reference, the reference shall be deemed to be to the edition current at the date of the Notice of Adjudication, unless expressly stated otherwise in the Contract. Alternatively, the Parties may agree to use this procedure on an ad-hoc basis when a dispute arises.
- Conflict
- 9 If a conflict arises between this procedure and the Contract, unless the Contract provides otherwise, this procedure shall prevail.

## Appointment of the Adjudicator

- Notice of Adjudication
- 10 Either Party may give notice at any time of its intention to refer a dispute arising under the Contract to adjudication by giving a written Notice of Adjudication to the other Party. The Notice of Adjudication shall include a brief statement of the issues or issues which it is desired to refer and the redress sought.
- Appointment
- 11 The Referring Party shall request the Construction Industry Council, or another participating Adjudicator Nominating Body to nominate an adjudicator within 5 days of receipt of the request. The request shall be in writing, accompanied by a copy of the Notice of Adjudication and the appropriate fee.
- Conflict of interest
- 12 Prior to nomination by the Construction Industry Council, or another participating Adjudicator Nominating Body the prospective Adjudicator will confirm that they:-
- Have no current relationship towards either Party nor any connection with the subject matter of the dispute.
  - Have no conflict of interest.
  - Will comply this procedure and charge to fees as set out in Schedule 1.
  - Would like to be nominated as Adjudicator.
- Referral to the Adjudicator
- 13 Within 7 days of the Notice of Adjudication, the Referring Party shall send the Adjudicator and the Responding Party the Referral.
- Adjudicator's terms and conditions
- 14 Unless the Parties and the Adjudicator otherwise agree, the Adjudicator shall be appointed on the terms and conditions set out in the attached Agreement and shall be entitled to be paid the fee as set out in Schedule 1 below.

- Objection to appointment 15 If a Party objects to the appointment of a particular person as adjudicator, that objection shall not invalidate the Adjudicator's appointment or any decision the Adjudicator may reach.
- Dispute not suitable 16 If the Adjudicator decides that the dispute is not suitable for adjudication using the CIC LVD MAP, the Adjudicator will resign. If the Adjudicator resigns the CIC LVD MAP will not be used by a different Adjudicator to decide the same dispute. A non-exhaustive list of factors which the Adjudicator may consider as demonstrating a dispute is not suitable for adjudication using this procedure is set out in the 'Guidance on suitability' in paragraph 49 below.

### **Conduct of the Adjudication**

- Party representation 17 The Parties may choose to be assisted by lawyers or other professional representatives at any stage of the Adjudication. The Adjudicator will communicate directly with the Parties and copy any Party representatives into such communication. Each Party shall bear its own legal and other costs incurred in connection with the adjudication.
- Referral Notice – statement of case 18 Within 7 days of the Notice of Adjudication, the Referring Party shall send the Adjudicator and the Responding Party the Referral Notice. The Referral Notice is a statement of the Referring Party's case including a copy of the Notice of Adjudication, the Contract, details of the circumstances giving rise to the dispute, the reasons why it is entitled to the redress sought, and the evidence upon which it relies. The Referral Notice should include an index which sets out what documents are in the Referral Notice and where the Adjudicator can find each document, or section of document.
- Date of referral 19 The date of referral shall be the date on which the Adjudicator receives the Referral Notice.
- Adjudication timetable 20 After receiving the Referral Notice, the Adjudicator shall, as soon as reasonably practicable, confirm the date and the adjudication timetable to the Parties in writing. Unless the Adjudicator directs otherwise, the adjudication timetable will be as follows:-
- Based upon the Referral being received by the adjudicator on Day 1.
  - The Responding Party will respond to the Referral 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.
- Reckoning periods of time 21 Day means a calendar day. Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England and Wales or, as the case may be, in Scotland, shall be excluded from the adjudication timetable.

Period for decision	22 The Adjudicator shall reach their decision within 28 days of the date of referral, or such longer period as is agreed by the Parties after the dispute has been referred. The Adjudicator may extend the period of 28 days by up to 14 days with the consent of the Referring Party.
Procedure	23 The Adjudicator shall have complete discretion as to how to conduct the adjudication, and shall establish the procedure and timetable. The Adjudicator shall not be required to observe any rule of evidence, procedure or otherwise, of any court or tribunal.
Documents only	24 Whereas adjudications under this procedure should generally be suitable for resolving on a documents only basis, and without prejudice to the generality of the powers set out above, the Adjudicator may:- <ul style="list-style-type: none"> <li>(i) request a written response, further argument or counter argument;</li> <li>(ii) request the production of documents;</li> <li>(iii) limit the length or time for submission of any statement, response or argument;</li> <li>(iv) proceed with the adjudication and reach a decision even if a Party fails to comply with a request or direction of the Adjudicator;</li> <li>(v) issue such further directions as the Adjudicator considers to be appropriate.</li> </ul>
Meeting the Parties	25 Where the Adjudicator directs, or the Parties mutually agree that they want to meet the Adjudicator, the Adjudicator will convene a meeting and request the attendance of people whom he considers could assist. The Adjudicator may meet and question the Parties and their representatives, in addition the Adjudicator may meet the parties separately. Where the Adjudicator meets the Parties he or she will be paid the fee in accordance with Schedule 1.
Visit the site	26 Where the Adjudicator directs, or the Parties mutually agree that the Adjudicator should visit the site, the Adjudicator will visit the site. Where the Adjudicator visits the site the Adjudicator will be paid the fee in accordance with Schedule 1.
Parties to comply	27 The Parties shall comply with any request or direction of the Adjudicator in relation to the adjudication.
Power to open up certificates	28 The Adjudicator may open up, review and revise any certificate, decision, direction, instruction, notice, opinion, requirement or valuation made in relation to the Contract.
Obtaining advice	29 The Adjudicator may obtain legal or technical advice, provided that the Adjudicator has first notified the Parties of their intention. The Adjudicator shall provide the Parties with copies of any written advice received.

- Matters to be determined 30 The Adjudicator shall decide the matters set out in the Notice of Adjudication, together with any other matters which the Parties and the Adjudicator agree shall be within the scope of the adjudication.
- Adjudicator to apply the law 31 The Adjudicator shall determine the rights and obligations of the Parties in accordance with the law of the Contract.
- Resignation 32 The Adjudicator may resign at any time on giving notice in writing to the Parties.

### **The decision**

- The decision 33 The Adjudicator shall reach their decision within the time limits in paragraph 22 above and issue the decision as soon as possible after that. 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.
- Late decisions 34 If the Adjudicator fails to reach or issue a decision in accordance with paragraph 33 above, the Adjudicator shall not be entitled to any fees or expenses (save for the cost of any legal or technical advice subject to the Parties having been given a copy of such advice).
- Interest 35 The Adjudicator may in any decision direct the payment of such simple or compound interest from such dates, at such rates and with such rests, as the Adjudicator considers appropriate.
- Correction of errors 36 The Adjudicator may on their own initiative or on the application of a Party correct his decision so as to remove a clerical or typographical error arising by accident or omission. Any correction of a decision must be made within 5 days of the delivery of the decision to the Parties. As soon as possible after correcting a decision in accordance with this paragraph, the Adjudicator must deliver a copy of the corrected decision to each of the Parties. Any correction of a decision forms part of the decision.
- Costs 37 The Parties shall bear their own costs and expenses incurred in the adjudication.
- Adjudicator's fees and expenses 38 The Parties shall be jointly and severally liable for the Adjudicator's fees and expenses as set out in Schedule 1 below, including those of any legal or technical advisor appointed under paragraph 29 above, but the Adjudicator may direct a Party to pay all or part of the fees and expenses. Under English Law a general rule is that costs follow the event, accordingly the Adjudicator shall apply that norm when deciding which Party will pay the Adjudicator's fees and expenses. If the Adjudicator makes no such direction, the Parties shall pay them in equal shares.

Enforcement 39 The Parties shall be entitled to the redress set out in the decision and to seek summary enforcement, whether or not the dispute is to be finally determined by legal proceedings or arbitration. No issue decided by the Adjudicator may subsequently be referred for decision by another adjudicator unless so agreed by the Parties.

Subsequent decision by arbitration or court 40 In the event that the dispute is referred to legal proceedings or arbitration, the Adjudicator's decision shall not inhibit the right of the court or arbitrator to determine the Parties' rights or obligations as if no adjudication had taken place.

### **Miscellaneous Provisions**

Adjudicator qualifications 41 The CIC or other participating Adjudicator Nominating Bodies (ANBs) will maintain a panel of qualified Adjudicators.

Adjudicator not to be appointed arbitrator 42 Unless the Parties agree, the Adjudicator shall not be appointed arbitrator in any subsequent arbitration between the Parties under the Contract. No Party may call the Adjudicator as a witness in any legal proceedings or arbitration concerning the subject matter of the adjudication.

Immunity of the Adjudicator 43 The Adjudicator is not liable for anything done or omitted in their discharge or purported discharge of their functions as adjudicator (whether in negligence or otherwise) unless the act or omission is in bad faith, and any employee or agent of the Adjudicator is similarly protected from liability.

Reliance 44 The Adjudicator is appointed to determine the dispute or disputes between the Parties and their decision may not be relied upon by third parties, to whom he shall owe no duty of care.

Proper law 45 This procedure shall be interpreted in accordance with the law of England and Wales.

## Schedule 1 – Adjudicator’s fees and expenses

Adjudicator’s Fees and Expenses

46 The Adjudicator’s fees and expenses will be fixed as set out below.

Acting as Adjudicator Fees

<b>Claim value</b>	<b>Adjudicator’s fee</b>
Up to £10,000	£2,000
£10,001 to £25,000	£3,500
£25,001 to £50,000	£6,000
Over £50,000	Negotiable

Meeting the Parties

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

Visit the site

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

Guidance on suitability

49 A non-exhaustive list of factors which the Adjudicator may consider as demonstrating a dispute is unsuitable for adjudication using the CIC LVD MAP is where:-

- The documents included in the Referral, the Response, or the Reply to the Response exceed more than one A4 Lever Arch File.
- The dispute is prima facie not suitable for the Adjudicator to make a decision on a documents only basis.
- There is any argument as to whether the parties have consented to use the CIC LVD MAP.
- The terms of the contract between the Parties are not easily discernible.
- There any challenges to the Adjudicator’s jurisdiction.

Disputes exceeding £50,000

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

## Schedule 2 Participating Adjudicator Nominating Bodies

List

51 • Construction Industry Council (CIC)

- ANB One
- ANB Two
- ANB Three.
- ANB Four ...

# FORM OF AGREEMENT

## **This agreement**

is made the ..... day of ..... 20 .....

## **Between**

1. ....

of.....

.....  
(the referring Party)

2. ....

of.....

.....  
(the other Party)

3. ....

of.....

.....  
(the Adjudicator)

A dispute has arisen between the Parties under a contract between them  
dated..... in connection with.....  
.....

which has been referred to adjudication in accordance with the  
CIC Low Value Disputes Model Adjudication Procedure (the  
Procedure) and the Adjudicator has been requested to act.

The Parties and the Adjudicator agree that their rights and obligations  
shall be as set out in and subject to the terms of this Agreement:

1. The adjudication shall be conducted in accordance with the Procedure.
2. The Parties shall be jointly and severally liable to pay the Adjudicator's fees and expenses as set out in the schedule opposite and in accordance with the Procedure.

3. The Adjudicator and the Parties shall keep the adjudication confidential, except so far as is necessary to enable a Party to implement or enforce the Adjudicator's decision.
4. The Adjudicator may destroy all documents received during the course of the adjudication 6 months after delivering their decision.
5. The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of their functions as adjudicator (whether in negligence or otherwise) unless the act or omission is in bad faith, and any employee or agent of the Adjudicator shall be similarly protected from liability.
6. This Agreement shall be interpreted in accordance with the law of England and Wales.

**Schedule**

- a. The Adjudicator shall be paid £..... in accordance with Schedule1 – Adjudicator's fees and expenses above.
- b. The Adjudicator shall be reimbursed their reasonable expenses and disbursements in respect of the cost of legal or technical advice obtained in accordance with the Procedure, travelling, hotel and similar expenses, room charges and other extraordinary expenses necessarily incurred.
- c. The Adjudicator is / is not\* currently registered for VAT (where the Adjudicator is registered for VAT, it shall be payable in accordance with the rates current at the date the work is done).

\* delete as applicable

Signed on behalf of the referring Party

.....

Signed on behalf of the other Party

.....

Signed by the Adjudicator

.....





