

Competency of Adjudicators





Last month the Centre of Construction Law & Dispute Resolution at King's College London in co-operation with The Adjudication Society, released its report titled 2022 Construction Adjudication in the United Kingdom: Tracing trends and guiding reform. [Click here to view the report.](#)

The stated aim of the report is to “continue the work done by The Adjudication Society in collecting valuable data on UK statutory adjudication and to expand on this work by significantly widening the scope of the empirical research and providing context to the data”.

In the report's foreword Coulson LJ states: “this Report is, as far as I am aware, the first comprehensive survey of construction adjudication from the perspective of the users, designed to find out what users like about the process, and what they do not. It is both comprehensive and clear”.

In its 80+ pages including annexes, the report sets out and analyses the results of 2 surveys: (1) a questionnaire addressed to Adjudicator Nominating Bodies to which 10 replied and (2) a questionnaire addressed to individuals involved with statutory adjudication, to which 257 replied (of whom 44 act solely or predominantly as adjudicators).

The report authors say that they “intended for this Report to be as objective and impartial as possible, clearly separating the data from any analysis and discussion of the data”.

The primary message that emerges from the report is a positive one: “Although the general success of construction adjudication is regarded as an accepted fact, the basis for that view is largely anecdotal. This Reportreveals many attitudes and statistics that support the generally positive view to which I have referred” [Coulson LJ].

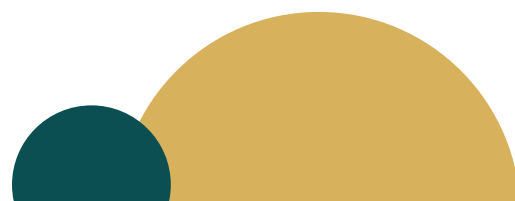
“This Report shows that adjudication is an effective dispute resolution method in its own right and that, overall, the UK has a robust and resilient infrastructure that serves the adjudication process well from the nomination of the adjudicator by ANBs to the enforcement of the decision by the Courts” [Prof. Renato Nazzini, Director of the Centre of Construction Law & Dispute Resolution].

The chapters in the report address various topics and themes emerging from the survey results. One of those is around adjudicator competency and the main place where that is addressed is in chapter 3: Effectiveness and fairness of proceedings. Whilst competency is not tackled head on per se, it is approached indirectly in a number of different sections in that chapter.

The most explicit conclusion on adjudicator competency is this one: “Many ANBs have a formal procedure for making complaints against adjudicators. Out of a total of 86 complaints received over the past two years, only 15 were upheld, but have never resulted in the adjudicator being removed from ANB membership” [Annex B: Summary of key findings]. The findings on the appearance of adjudicator bias are far less positive.

The above competency finding is leading some commentators to see this report as an endorsement of adjudicator skill and expertise. Whether it is indeed such an endorsement is very arguable in our opinion.

But what is your experience of adjudicator competency? How often do you finish an adjudication thinking that the adjudicator has done at least a good job? That they have displayed the necessary ingredients of a decision-maker exercising significant power in construction dispute resolution?





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