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Adjudication Awareness Bulletin (April, 2019) Adjudication in UK – Key Findings of Research

This is further to the *Adjudication Awareness Bulletin* titled “Conduit of Adjudication - Dispute to Adjudication to Resolution.”

Based on research carried out continuously and consistently since 1998* when statutory adjudication was introduced to the United Kingdom construction industry, the following are notable observations:

1. **Increased Referrals:** 10% increase in adjudication referrals via Adjudicator Nominating Bodies (ANB’s) over the reporting periods ending in 2017 (year 19) and 2018 (year 20). A continuing trend of increase over 4 years.
2. **Reported Referrals:** To the reporting period ending year 20, there have been 1,685 referrals in the preceding year. Although there is a lack of consistency in year on year referrals, the number of referrals is steady at around 1,500 per year.
3. **Brexit Impact:** There is an indication that the “Brexit” related uncertainty in the construction industry may have led in part to the recent increase in referrals to the ANB’s.
4. **Adjudicator Nominations:** In addition to appointments of adjudicators resulting from referral to ANB’s, in the UK adjudicators can also be appointed by the parties directly or by naming them in the contract. It is considered that around 90% to 96% of nominations are made by ANB appointment.
5. **Referral Timing:** In the most recent research analysis, the greatest referrals were made in November followed by March. The lowest number of referrals was in December - a period previously used to launch adjudications, a change from the prior popularity of the “Christmas ambush”.
6. **Least Referrals:** There is also a trend in the most recent research analysis that the summer months of June and July experienced the lowest number of referrals.
7. **Registered Adjudicators:** In year 20, there were 748 adjudicators registered across some 16 ANB’s, a minor movement from the previous year.
8. **Registered Adjudicators:** Considering that adjudicators can be registered with more than one ANB, and that an adjudicator can commonly be registered with an average of 3 ANB’s, the actual number of practising adjudicators may actually be around 250. However, the actual number of adjudicators in the UK is subject to further research.
9. **Adjudicator Disciplines:** In year 20, consistent with previous years, Lawyers (41.7%), Quantity Surveyors (34.2%), and Civil Engineers (10.2%) account for 86.1% of all adjudicators registered with ANB’s. Architects being approximately 7.6% of the total. The balance being made up of other construction professionals including Consultants.
10. **Lawyer Adjudicators:** There is said to be a steady increase of lawyers as adjudicator’s which is characteristic of an increasingly legalistic approach to adjudication. This indicates a shift away from the technical focus which was the intent envisaged at the onset of statutory adjudication.
11. **Nominating Fees:** Whilst there is a wide variance in the nominating fees charged by ANB’s, the median nominating fee is £300 (over CAD \$500).
12. **Required CPD:** In year 20, over 70% of ANB’s required adjudicators to keep a formal record of Continuing Professional Development (CPD) hours. The range of such CPD requirement varied widely from no criteria and up to 40 hours with “relevant” CPD being identified by a number of ANB’s.
13. **ANB Complaints:** In year 20, there were 14 complaints made to ANB’s and none of these were upheld. Whilst the number of complaints has increased, the number being upheld has decreased, an alleged indication of possible “spurious complaints” without justification.
14. **Preferred Method:** Adjudication remains a popular choice for resolving construction disputes in the UK, and increasingly parties are opting to refer legally complex disputes to adjudication – evidenced by the continuing prevalence of lawyer adjudicators.

It should be stressed that this report provides analysis based on returns from ANB’s only. Their results are purely quantitative in nature, and thus the findings set out in the research are entirely objective, allowing the research team to apply statistical tests to draw conclusions about the use of adjudication in the UK construction industry, highlighting key facts and trends.

*Report No. 17 (January 2019), J.L. Milligan and A.L. Jackson (Construction Dispute Resolution) as published by the Adjudication Society.

Watch this space: Further Adjudication Awareness Bulletins will follow!

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