

ADJUDICATION REPORTING CENTRE



RESEARCH ANALYSIS OF THE PROGRESS OF ADJUDICATION BASED ON
RETURNED QUESTIONNAIRES FROM ADJUDICATOR NOMINATING
BODIES (ANBs)

REPORT No 9

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INTRODUCTION

This Adjudication Reporting Centre (ARC) Report considers both the trends in the number of adjudicators and the number of adjudication nominations up to the end of October 2007.

Number of Adjudicators

ADJUDICATOR NOMINATING BODY	May 2002	October 2002	April 2003	February 2004	October 2004	October 2005	April 2006	October 2006	October 2007
Association of Independent Construction Adjudicators	194	194	176	150	155	116	50	50	49
Chartered Institute of Arbitrators	147	n	n	164	158	169	180	172	171
Confederation of Construction Specialist	25	24	14	21	43	43	43	43	43
Construction Industry Council	170	144	149	154	152	132	136	136	102
Institution of Chemical Engineers	Not reported	6	13	13	13	14	18	15	15
Institution of Civil Engineers	80	82	87	84	84	82	84	81	81
Royal Institute of British Architects	70	69	69	68	63	68	68	68	67
Royal Institution of Chartered Surveyors	107	116	117	122	122	122	116	116	104
3A's Polygon AIMS Ltd	33	Not reported	54	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported
Institution of Mechanical Engineers	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported
Chartered Institute of Building	53	52	50	53	58	56	56	54	46
Construction Confederation	43	43	43	43	43	43	28	28	28
Scottish Building	12	12	12	12	12	9	11	11	9
Royal Incorporation of Architects in Scotland	14	14	14	14	14	14	10	10	10
Royal Institution of Chartered Surveyors in Scotland	47	45	35	38	38	38	25	23	23
Centre for Effective Dispute Resolution	48	46	Not reported	40	Not reported	41	41	42	42
Institution of Electrical Engineers	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported
Technology and Construction Solicitors Association	128	128	128	149	142	142	142	142	133
Chartered Institute of Arbitrators (Scottish Branch)	22	17	17	17	20	21	21	17	16
The Law Society of Scotland	10	11	13	16	18	18	18	28	28
Technology and Construction Bar Association	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported
Adjudication.co.uk	Not reported	7	7	Not reported	Not reported	Not reported	Not reported	Not reported	Not reported
TOTALS	1203	1010	998	1158	1135	1128	1047	1036	967

Table 1 – Number of Adjudicators

As Table 1 shows there has once again been a decline in the overall number of adjudicators registered with ANBs. This is in the order of 6.7%. Care should be taken in interpreting this table as many adjudicators are registered with several ANBs.

Skill Base of Adjudicators

The ANBs were asked to state the principal area of expertise of their adjudicators. The results (shown in Table 2) over this time period are consistent with previous years with a slight decline in the proportion of quantity surveyors. The decline in the number of Adjudicators in the main disciplines could be related to the increase in Construction Consultants, who over the years have perhaps felt that this title better describes their role in the industry.

DISCIPLINE	May 2002	Oct 2002	April 2003	Feb 2004	Oct 2004	Oct 2005	April 2006	Oct 2006	Oct 2007
Quantity Surveyors	28.9%	39.1%	43.8%	41.6%	38.0%	38.8%	35.7%	35.1%	34.5%
Lawyers	22.1%	21.9%	22.1%	21.6%	26.1%	26.3%	25.6%	26.6%	26.6%
Civil engineers	14.6%	17.3%	13.2%	11.1%	11.6%	11.0%	15.8%	15.1%	15.0%
Architects	7.8%	8.9%	10.2%	9.3%	9.6%	9.6%	9.0%	8.8%	8.7%
Construction Consultants	2.5%	0.3%	0.9%	4.1%	5.3%	4.7%	4.6%	4.8%	5.6%
CIOB/Builders	3.4%	3.4%	2.6%	5.2%	5.0%	4.9%	4.7%	5.3%	4.9%
Building Surveyors	2.1%	1.7%	1.4%	1.0%	1.3%	1.4%	1.2%	1.2%	1.3%

Table 2 – Primary discipline of adjudicators (as stated by the ANBs)

Trends in Adjudication

The Centre seeks to provide reliable information on the underlying trends. Table 3 shows that after a slight upturn (5%) in year 9, the picture of the first half of year 10 indicates a return to the decline (4%) which characterised the trend from year 5 onwards. Again care has to taken in interpreting these figures as many adjudications are conducted out with the ANBs.

TIME PERIODS	ALL ANBs REPORTING	% GROWTH
YEAR 1 - May 1998 - April 1999	187	
YEAR 2 - May 1999 - April 2000	1309	600%
YEAR 3 - May 2000 - April 2001	1999	50%
YEAR 4 - May 2001 - April 2002	2027	1%
YEAR 5 - May 2002 - April 2003	2008	-1%
YEAR 6 - May 2003 - April 2004	1861	-7%
YEAR 7 - May 2004 - April 2005	1685	-9%
YEAR 8 - May 2005 - April 2006	1439	-15%
YEAR 9 - May 2006 - April 2007	1506	5%
YEAR 10 - May 2007 - October 2007 (six months)	722	-4%

* -4% represents the prorata rate assuming that the adjudications were evenly distribution over time.
The monthly returns from the ANBs are lower in each of the six months reported than in the corresponding months in the previous year.

Table 3 – Adjudications by all reporting ANBs

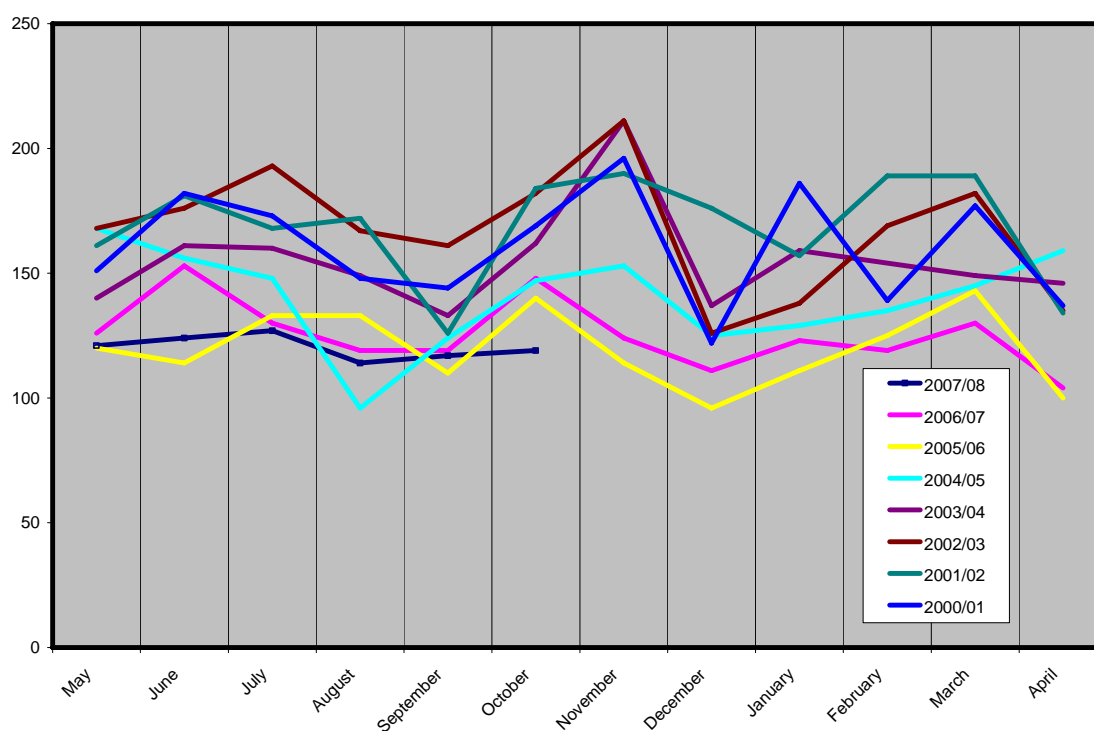


Figure 1 –Fluctuations in referrals over the year

This data was collected to seek evidence of the ‘ambush’ which was thought to be seasonally related. In the last two or three years the fluctuations from month to month have become less marked. Year 9 had peaks in June and in October. The first half of year 10 however was almost flat.

Experience of ANBs

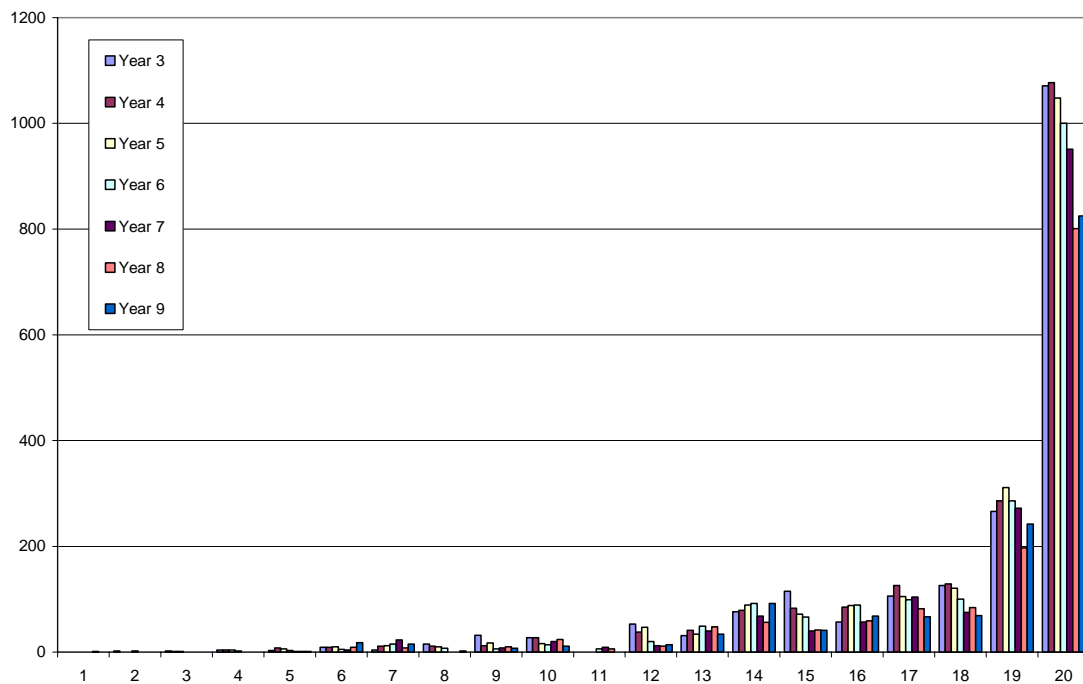


Figure 2 - Variations in adjudication referrals of the reporting ANBs

The last full year (year 9), for which complete information is available, reflected the slight upturn of 5%. However, the long term decline has impacted on some ANBs more severely than on others. In year 9 only two ANBs were handling more than 100 adjudications per year.

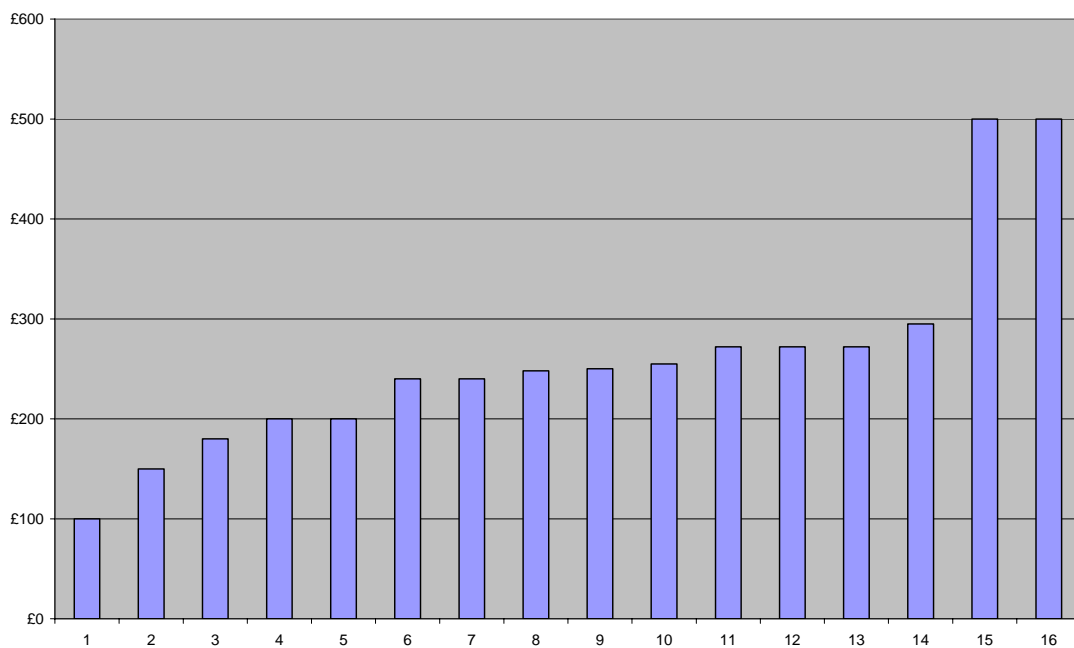


Figure 3 - Nomination Fees charged by reporting ANBs

The ANBs were asked to indicate the fee they charge to make an appointment. These are shown in Figure 3 as a means of benchmarking for the benefit of ANBs and others. There is no relationship between the numbering of figures 2 and 3. Some ANBs chose not to report on the fees they levied.

Monitoring of Adjudicator's Performance

The number of complaints received by the Adjudicator Nominating Bodies continues to fall. In year 9 there were only 18 complaints, of which only 1 was upheld. The information shown in Table 4 indicates the percentage of adjudications which give rise to a complaint. Readers are reminded that this is not the same thing as an appeal to the courts against the Decision of the adjudicator but is in relation to conduct, during the process.

Complaints Against Adjudicators	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10 (part)
Complaints Made	0.45%	1.97%	0.90%	1.07%	1.48%	1.46%	1.20%	1.11%
Complaints Upheld	0.05%	0.35%	0.00%	0.21%	0.00%	0.00%	0.07%	0.00%

Table 4 - Number of complaints against adjudicators

CONCLUSIONS

Despite the optimism in the last report about an end to the decline in ANB-facilitated adjudication, the trend has once again turned downwards, albeit only at 4% for the first half of year 10. This decline will have an impact on some ANBs and there may be a danger that some find it uneconomic to continue in the adjudication business below a certain level of activity.

There is still a very low level of complaints against adjudicators. This must reflect well on the professionalism of the adjudicators themselves and of the ANBs which manage the process on behalf of the industry.

The authors are indebted to the Adjudicator Nominating Bodies who have provided a wealth of data to allow an insight into how adjudication is being utilised at present and where it may be going in the future.