
From: Matthews, Gavin [GRO]
Sent: Thur 18/07/2013 2:19:05 PM (UTC)
To: Susan Crichton [GRO]
Cc: Richardson, Simon [GRO]; Simon Baker [GRO]; Hugh Flemington [GRO]; Rodric Williams [GRO]; Parsons, Andrew [GRO]; Richardson, Simon [GRO]
Subject: RE: Adjudicator [BD-4A.FID20472253]
Attachment: POSTRS_Rules_2011updated_12.7.13[1].pdf

Susan,

Adjudication is most commonly used in disputes in the construction industry between employers and contractors/subcontractors, to quickly resolve payment disputes where cash flow is an issue. However this is something of a red herring because it is governed by specific legislation (and as such is 'statutory adjudication').

However, there are equivalents to what you have in mind. Examples I have been able to find are adjudications carried out by the Furniture Ombudsman (for disputes between consumers and furniture retailers – <http://www.thefurnitureombudsman.org/>), the Postal redress services (for disputes between consumers and postal operators – <http://www.postrs.org.uk/> - and please see the attached adjudication scheme rules for this organisation) and more well known, the press complaints commission (<http://www.pcc.org.uk/>). These adjudication schemes are signed up to by trade members and generally the outcomes they provide are not binding on the parties unless accepted by them i.e. the complainant can ignore the outcome and issue proceedings should they wish.

I envisage that an adjudication process run by POL would first require a standard agreement between POL, the complainant and the proposed adjudicator to govern the adjudication process and determine their powers (e.g. limits on awards that they can grant etc.). This could make provision for a decision within say 28 days following written submissions and accompanying evidence from both parties and could either (i) allow the complainant to decide whether to accept or reject the subsequent decision or (ii) state from the outset that the decision is binding upon the parties with no means of setting this aside (if this possible).

In the example adjudication processes above, the process is free to the complainant and if this was maintained, then POL would have to bear the costs of adjudicators fees although this could have the advantage of encouraging take up of the adjudication process rather than resorting to proceedings by the complainant.

The positives of adjudication is that it is a quick and relatively cheap means of providing a resolution to the matter. The main downside is that the legally correct decision is not guaranteed, particularly if the matter is complicated with the adjudicator having limited information and time in which to make a decision. Given that Horizon claims can be quite complex this could be a concern.

My own recommendation would be to choose mediation rather than adjudication as a means of attempting to resolve the current problem cases but in the longer term adjudication may be an appropriate solution for resolving future SPMR complaints about Horizon/disputed debts.

However, I am happy to discuss further should you wish.

Kind regards,

Gavin

Gavin Matthews

Partner

for and on behalf of Bond Dickinson LLP



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From: Susan Crichton [mailto:**GRO**]
Sent: 17 July 2013 14:32
To: Matthews, Gavin
Cc: Richardson, Simon; Simon Baker; Hugh Flemington
Subject: Adjudicator

Gavin – as you will no doubt remember from the press release we have suggested that we could introduce a form of “independent adjudication” I wondered if you/ or one of your team could have a look round and see what other types of institution use that idea, or something similar and whether you have a view on how it should work and any pitfalls.

Thanks

Susan Crichton | HR & Corporate Services Director

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