

**EUROPEAN FEDERATION OF FOUNDATION CONTRACTORS**

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**Dispute resolution / UK**

**Methods of resolution**

**Negotiation:**

Simple and acceptable negotiated agreement between the parties.

**Conciliation Procedures:**

A dispute arising between the parties is considered by a conciliator whose recommendations are taken as settling the matter in question

* Set procedure to be followed is contractually agreed, [e.g. Institution of Civil Engineers Conciliation Procedure (1998)]
* Not legally binding

**Adjudication**

This is where a dispute arising between parties to a Contract is referred for the decision of a third party

The Adjudicator's decision must be made within 28 days of the referral date of the dispute (unless an extension is agreed by both parties)

The decision of the Adjudicator is binding, however the dispute itself may be referred to Arbitration (if provided for in the contract) or the courts

The Adjudicator is empowered to take the initiative in ascertaining facts or law

Adjudication is a statutory right under the Housing Grants, Construction and Regeneration Act 1996 Part 2. (Does not require the consent of both parties; and cannot be disregarded even with the consent of both parties)

The name of the Adjudicator can be decided at the beginning of the contract, or may be appointed when a dispute arises by one of the Adjudicator Appointing Bodies (usually one of the professional bodies such as the Institution of Civil Engineers or the Royal Institution of Chartered Surveyors)

**Arbitration**

This is the determination of a dispute by one or more independent third parties (the Arbitrators). It is covered by the Arbitration Acts 1950 to 1979 and 1996 and is a formal procedure possibly involving 'legal' representation.

Arbitration is binding on the parties except in rare instances where the Arbitrator's integrity, procedure, or interpretation of the law are in question

The Arbitrator's decision may only be based on the evidence presented. Key points to consider with arbitration include:

* Expensive and time consuming in certain circumstances
* Chosen Arbitrator is likely to have experience of the industry
* Arbitration is concerned with private interests of the parties (results are not open to public scrutiny)
* Scope of arbitration may be more defined than litigation (document only arbitrations)

**Litigation**

The dispute is brought to court for settlement.

* Formal procedure involving 'legal' representation
* Detailed Statements of Case and Discovery process
* Expensive and time consuming
* Judge may not be experienced in the field under dispute, but is an expert in law
* The court concerns itself with the public interest (the case may be reported)