

Wellbeing in Adjudication - Protecting yourself throughout the process

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A couple of weeks ago, I took part in a panel discussion called “*Rehumanising Adjudication – conduct and impact on mental health*” at the TeCSA Annual Adjudication Conference. Joined by fellow panellists Zoe de Courcy (Partner – Pinsent Masons), Claire Joseph (Inclusion and Wellbeing Manager – Pinsent Masons) and Ben Mellors (Partner – HFW), we all shared our experiences, challenges and insights into the often-stressful world of adjudication and the impact such stress can have on mental health.

I think it’s fair to say that historically the issue of mental health in the legal profession and indeed the construction industry is not a topic that we’ve seen feature all too frequently on conference agendas. However, the topic is undeniably gaining traction at more and more industry events, as well as across social media and LinkedIn, and in the news headlines. And rightly so.

So, in this week’s blog, I wanted to share some of my experiences of dealing with stress, managing aggressive parties and situations, and ideas for protecting yourself throughout the process.

Adjudication - successful, yet stressful

Let’s face it, adjudication is, by its very nature, contentious, adversarial and inherently stressful - for the adjudicator and for the parties involved. Whether it’s the emotional strain of handling disputes, or the legal, contractual, or technical complexity of the issues, there are many factors which contribute to the stress of adjudication, and none more so, than one of its defining features: the strict time limits. Indeed, the process is fast-paced and we, as adjudicators, are required to issue a decision quickly - sometimes within just 28 days. This time pressure can quite often lead to stress as the adjudicator must balance thorough analysis with the need to deliver a prompt decision. The quick turnaround time, while essential to the process, means there’s little room for delay or mistakes, so this balancing act can, and does, take a toll on one’s mental wellbeing.

Aggressive parties

Additional strain for adjudicators comes from aggressive parties and difficult personalities. We all too frequently witness conduct in adjudication which would not happen in Court proceedings or arbitration. By the same token, where parties are typically highly respectful in their behaviours towards Judges and Arbitrators, the same can’t always be said towards adjudicators.

As adjudicators, we regularly see inappropriate, and aggressive behaviour from party representatives, directed towards ourselves and also each other, which can manifest in a variety of ways. Whether it's through hostile correspondence, attempts to undermine the adjudicator's authority or impartiality, or confrontational behaviour during a hearing, dealing with aggression can be mentally taxing. Such behaviour can also feel personal, especially when the adjudicator is being subjected to direct personal attacks or undermined publicly.

Unfortunately, I see aggressive tactics (whether intended to undermine the adjudicator or to manipulate the process), surface both at the outset and during an adjudication, especially when I'm unknown to the parties, but also against less experienced adjudicators who I mentor. I also see complaints emerge after I've issued my decision when one party is dissatisfied with the outcome – perhaps understandably so when the consequences of an adverse decision can be significant and could result in insolvency, job losses or other personal difficulties. However, sometimes it can be purely a case of “sour grapes”, or a tactic to create a dispute/conflict and avoid reappointment.

While they are inevitably part of the process, being on the receiving end of complaints can be stressful and, in many cases, part of a party's attempt to push back or challenge the process itself. It's therefore important to remind ourselves, especially when mentoring new adjudicators, that these complaints are often an emotional response and not necessarily a reflection of the merits of the case.

Whilst the aggression I sometimes witness in adjudication may seem like a tactic to achieve an advantage, it can backfire. Far from advancing their client's interests, aggressive behaviour may cause long-term damage to the relationship between the parties involved, making settlement more difficult or preventing future collaboration.

Tips for dealing with aggressive behaviour

1. **Don't Take It Personally:** While aggressive behaviour may feel personal, it's important to remember that it is often a strategy being employed by one party to gain an advantage and the adjudicator might simply have been caught in the crossfire. Recognise it as part of the process, and try to detach from it emotionally.
2. **Get a Support Network:** Reach out to colleagues, mentors, or even professional groups who understand the pressures of adjudication. Having someone to talk to who can offer guidance, reassurance, and perspective during stressful moments can help you stay grounded and focus on your role as an adjudicator.
3. **Don't Retake the Bait:** Aggressive or inflammatory correspondence is designed to provoke. It's best to stay neutral and measured in your responses, and avoid getting drawn into a back-and-forth. Instead, try to focus on the task at hand and use your skills to manage the process effectively. Jonathan and I discuss the topic of aggressive parties in chapter 7 of *Adjudicating Construction and Engineering Disputes* and, when faced with such personalities, how important it is to remain neutral and for want of a better phrase not “enter the arena”. So, my advice would be to take your time to reply to any aggressive correspondence in a bid to try and remove any unnecessary sting.
4. **Call Out Extreme Behaviour:** In particularly egregious cases, where aggression crosses a

line, don't hesitate to call it out. If necessary, mention such behaviour in your decision. Citing aggressive or inappropriate correspondence, when warranted, sends a message that such conduct will not be tolerated.

Reducing stress

So, can we do anything about the underlying cause of stress that comes with adjudication, or do we accept it and manage the situation? While it's impossible to eliminate all sources of stress from the adjudication process, we can sometimes reduce or better still prevent it by addressing the root causes. For instance, I'd recommend engaging with the parties early and often which can certainly help alleviate some of the tension that often leads to aggressive behaviour. Ensure that all parties understand the adjudication timetable, keep them informed of any delays or changes and set clear expectations about the process. I find that involving them in the process can help to mitigate the feeling of powerlessness or frustration that often fuels aggression. Employing soft people management skills—such as clear communication, empathy, and patience—can also go a long way in easing stress. These skills may not seem directly related to adjudication, but they can be critical in defusing potential conflict and promoting a more cooperative atmosphere.

Recognising resilience: A necessary quality for adjudicators

I think it's essential to recognise that resilience is a vital quality for any adjudicator. Adjudicators need to be able to withstand certain pressures of the job, including the emotional toll of managing aggressive parties and situations. That said, a party can challenge jurisdiction, voice objections, or even declare a decision unenforceable, but they should always do so respectfully and without resorting to personal attacks. In my experience, a more forceful, yet polite approach can often carry a stronger message than one driven by aggression.

Jurisdictional challenges: A necessary part of the process

I always think it's important to keep in mind that jurisdictional challenges are a natural part of the adjudication process. Parties need to be able to raise these challenges, or else they risk being found to be negligent. Adjudicators must be prepared for such challenges, while as far as possible, maintaining an environment that fosters open discussion.

Client Pressures: acknowledging the stress on representatives

Finally, it's important to acknowledge that clients will be putting pressure on their representatives to take a particular approach and to achieve certain outcomes. This pressure can manifest as stress which trickles throughout the entire process, and I think understanding this dynamic is essential in managing it effectively.

Concluding thoughts

What makes adjudication so successful in the UK is unfortunately what also makes it so characteristically stressful. It can be fast paced, emotionally charged and highly contentious, and as practitioners, we need a certain resilience to manage the "rough and tumble" that comes with that. However, by not taking aggressive behaviour personally, seeking support from colleagues or mentors, and employing neutral and measured responses, adjudicators can not only protect their own wellbeing but also ensure that the process remains fair and impartial which can ultimately lead to better outcomes for all involved.

One final point I wanted to make is how great it is to see a growing movement of businesses and firms collaborating and supporting each other to effect positive change to create healthier working practices. This has led to the [Mindful Business Charter Guidance for litigation and dispute resolution](#)

professionals to help address some of the unnecessary stress that comes with dispute resolution.



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