



# Just because it might be wrong, that doesn't mean it's unjust: the courts will enforce quick-fire adjudication decisions

## Summary and implications

Statutory adjudication of disputes over construction contracts was introduced to counter unacceptable delays and expense in traditional dispute resolution processes. The courts have in the last few days re-affirmed their determination to make sure that losing parties in these interim decisions cannot avoid paying up simply by complaining that an error in the decision amounts to a 'breach of natural justice'.

In *Amec -v- Thames Water*, (a case in which Nabarro represented the Claimant contractor), the Defendant argued that the adjudicator's apparent failure to deal with some aspects of their defence to Amec's claim rendered the whole decision unjust and unenforceable – even those parts of the decision about which there could be no dispute.

Rejecting this argument, Mr Justice Coulson drove home some often overlooked aspects of the adjudication process:

- If an adjudicator has clearly addressed the 'big ticket items' referred to them, it is most unlikely that their decision will be overturned because they might not have expressly dealt with the smaller issues;
- Even if an adjudicator has demonstrably made a mistake (and in the Amec case this was not self-evident) a court will still enforce the decision unless the adjudicator has clearly failed to answer the question he/she was asked to answer. The mere fact that their answer might be wrong is neither here nor there.
- The courts can, and will if necessary, enforce the undeniably 'good' parts of a decision even if there are other parts that should not be enforced because of a perceived breach of the rules of natural justice.

## Ask a question

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