

Introduction

1. On 21 June 2019 TECSA launched a low value disputes (LVD) adjudication service. Following a successful pilot, this became part of TECSA's adjudication service offering with effect from 1 January 2020.
2. The LVD Adjudication Service is aimed at giving parties who wish to refer disputes to adjudication certainty as to the costs of the Adjudicator for claims for fixed amounts of up to £100,000 (excluding VAT and interest).
3. TECSA have decided to launch the LVD Service as there is considerable evidence that the costs of adjudication are a disincentive to parties to use adjudication for resolving low value disputes.
4. The LVD Service only limits the fees which the Adjudicator can charge and therefore it is not necessary to get the opposing party to agree to the use of the LVD Service: the claimant can simply apply to TECSA for the nomination of an adjudicator using the specified form (see below) provided that no other adjudicator nominating body (ANB) is specified in the relevant contract.

LVD Service Criteria

5. The values of the amount being claimed and the Adjudicator's fee caps are set out below.

Claim Value	Fee Cap
Up to £10,000	£2,000
£10,001 to £25,000	£2,500
£25,001 to £50,000	£3,500
£50,001 to £75,000	£4,500
£75,001 to £100,000	£5,000

6. Note that the claim value excludes VAT and interest. Therefore, for example, a claim for £100,000 plus VAT and interest would qualify.
7. The Adjudicator's fee cap excludes VAT but is otherwise all inclusive and therefore includes any expenses.
8. The LVD Service only applies to claims for a specified amount i.e. a liquidated sum, as between two parties and does not apply to claims where the amount sought has not been quantified e.g. damages or loss and expense to be assessed.
9. There is no restriction on the type of financial claims which can be made (e.g. the claim could be for retention, sums certified under a contract, damages and loss and expense).

10. The LVD Service is also only for claims where the relief claimed is for payment of a specific sum of money and therefore for example does not apply to claims for declarations as to the meaning of contract terms, albeit it may be necessary under the LVD Service when determining a financial claim for the adjudicator to form a view and make a decision on what the contract means.

11. The LVD Service only applies to claims under construction contracts within the meaning of the Housing Grants, Construction and Regeneration Act 1996 (as amended) – the “Construction Act”- or to claims under other types of construction contracts which have adjudication provisions which incorporate the Scheme for Construction Contracts made under the Construction Act (the ‘Scheme’) or have adjudication provisions substantially the same as the Scheme.

12. The Chairman of TECSA reserves the right to decide that a particular matter referred is not suitable for the LVD Service, in the Chairman’s absolute discretion.

13. In the event that an adjudicator is appointed under the LVD Service and the adjudication proceeds but it becomes clear that the Claimant has undervalued the claim (whether deliberately or otherwise), then the adjudicator may either: (a) resign and claim his fees up to the date of resignation; or (b) if the under valuation means that the claim falls into a higher band in the table above, continue with the adjudication and charge up to the relevant fees cap; or (c) if the claim then exceeds £100,000 (excluding VAT and interest) continue with the adjudication with the agreement of both parties and charge his normal fees i.e. the fees will not be subject to an overall cap, but subject always to the general TECSA daily cap for adjudicators of £2,500 plus VAT.

14. Without prejudice to any other rights the Adjudicator may have to resign under the relevant adjudication rules applicable to the contract, the Adjudicator may also resign and claim his fees up to the date of resignation if:

14.1 the claim is not for a specific sum of money only; or

14.2 the claim is made as between more than 2 parties.

15. The standards set out in the current TECSA Adjudication Service (March 2018 version, and which is available on the TECSA web site) will apply to adjudications under the LVD Service.

Application for Nomination Form and Fee

16. Claimants wishing to commence an adjudication under the LVD Service are required to use the specific LVD Service application form which can be downloaded from the TECSA website (www.TECSA.org.uk) and to pay the nomination fee of £250.

17. Adjudicators will be nominated by the Chairman of TECSA or a duly authorised officer in accordance with the TECSA Adjudication Service from a panel of the existing TECSA Adjudicators who have indicated that they are willing to be appointed under the LVD Service.

18. TECSA reserves the right to withdraw the LVD Service or to modify it at any time without prior notice.