

BATES WELLS & BRAITHWAITE'S GUIDE TO ARBITRATION



About this guide

This guide is one of a series of guides to the main types of dispute resolution processes. It seeks to answer some of the questions most commonly asked by clients involved in or likely to become party to arbitration proceedings, and to provide an overview of the issues a party may need to consider.

What is arbitration?

Arbitration is a procedure by which the parties to a dispute appoint an independent and neutral arbitrator to determine the dispute. The arbitrator will hear both sides' evidence and arguments and make a decision, which the parties will have agreed to be bound by. The object of arbitration is to provide a fair resolution of a dispute by an impartial tribunal.

Arbitration has many parallels with litigation, which in this context means the process of resolving a dispute through the Courts.

The general procedure and the steps that will be taken in litigation and arbitration can be very similar and judges are sometimes appointed as arbitrators.

Why choose arbitration?

The parties to a dispute must arbitrate a dispute if they have a prior contractual agreement to do so, or can agree to do so after the dispute has arisen. In the absence of agreement a party cannot force another party to resolve a dispute through arbitration.

Arbitration can be attractive because the entire process will usually be conducted in private. Court hearings usually take place in public, which makes arbitration attractive to parties wishing to prevent trade secrets or other sensitive information from entering the public domain. The parties can appoint an arbitrator of their choice who is experienced in the relevant field, which means the process can be less costly than litigation because there may be less of a need for expert evidence, although there will be other costs that would not be incurred in litigation. For further information on the litigation process please see our *Guide to Litigation*.

Arbitration can be more flexible than litigation because, for example, hearings can take place in unconventional locations, the timetable should not be influenced by other cases as it would in a Court, and in some cases there will be a greater ability to utilise technology to speed the process up.

Although in some circumstances arbitration can be cheaper than litigation, it can also be more expensive because the parties have to pay for the venue and the arbitrator's fee. They may also have to bear the cost of experts' advice sought by the arbitrator and for general support services necessary for the arbitrator to discharge his functions.

What if I disagree with the arbitrator's decision?

In certain instances an arbitrator's decision can be appealed to the High Court.

How do I enforce an arbitrator's decision?

Unless they have agreed otherwise, the decision is final and binding on both parties. In most cases a party in whose favour a decision has been made will be able to enforce the award immediately through the Courts.

About us

Our experienced dispute resolution lawyers regularly represent clients in arbitrations. If you have any questions about this guide or any other matters please do not hesitate to contact one of the following members of our Dispute Resolution Group at disputeresolution@bwbllp.com or:

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