

Appointment of Arbitrators by The President

Guidance Notes

Introduction

The Law Society is always pleased to arrange for the appointment in the name of the President of an Arbitrator to deal with a dispute when duly empowered to do so. A number of appointments are made each year, in a wide range of cases, which include partnership disputes, commercial agreements, insurance disputes and rent reviews. These notes are equally applicable to various types of nomination, such as of experts or administrators of estates.

The Advantages of Arbitration

Arbitration as a method of resolving disputes has a number of advantages over conventional litigation in the courts. It is quick, private and usually cheaper. Although it is best if the parties to a dispute can agree their own arbitrator, this is not always possible, and in such cases it is sensible if an independent authority, such as the President of the Law Society, can be named in the agreement as the person to make the appointment if the parties cannot agree.

Even where the dispute does not involve a document with an arbitration clause, the parties can jointly agree to submit it to arbitration with the President named as the appointing authority, and the Law Society can supply a simple draft agreement for this purpose.

The Procedure for Applying

Attached to these notes is an application form, which should be completed and returned, marked **Private and Confidential**, to: -

Arbitration Team
Commercial Affairs Admin
The Law Society
113 Chancery Lane
London WC2A 1PL
DX: 56 London/Chancery Lane

The form should be accompanied by a copy of the agreement which contains the arbitration clause giving the President the power to appoint, together with a cheque (made payable to “**The Law Society**”) for the appointment fee. The fee is calculated by reference to the scale below which relates to the sum in dispute: -

Amount in Dispute	Total Fee Payable (Including VAT)
Below £25,000	£ 414.00
£25,001 - £50,000	£ 481.49
£50,001 - £100,000	£ 687.84
£100,001 - £250,000	£ 825.40
Above £250,000	£ 1719.58

How the Law Society Handles the Arbitration

Although appointments are made in the name of the President, it is not possible for the President to deal with appointments personally, and all appointments are arranged and confirmed by the Society's Arbitration Consultant, although the President's signature is applied electronically to the appointment document. All correspondence and enquiries should be addressed to the Arbitration Consultant, through the Arbitration Team, and NOT to the President. Requests for appointments will only be accepted on this basis and any request for the President to deal with the matter personally will be declined.

Once the application and accompanying documentation (including the fee) have been received, they will be acknowledged and steps will be quickly taken to identify a suitable candidate for appointment. Once the President's signature has been applied to the appointment, it will be sent to the arbitrator, copies will be sent to the parties and their advisers. Thereafter, the parties or their advisers should contact the arbitrator to make the necessary arrangements for the arbitration to proceed.

We aim to turn all appointments round within one calendar month from receipt of the appointment fee and the completed application from. We can expedite the procedure if necessary.

Who Will be Appointed?

The normal arbitration clause nominating the President as the appointing authority will give a complete discretion over whom is appointed, although on occasion a member of a particular profession of a particular seniority may be specified. Subject to this, all other things being equal an appropriately qualified and experienced solicitor will be appointed to conduct the arbitration.

The Society has a database of information about solicitors who have indicated that they are willing to accept Presidential appointments and (where a solicitor is appointed) the appointee will normally but not invariably be drawn from this database. The views (if any) of the parties on the qualifications of the arbitrator will be taken into account.

The Society also maintains a database of arbitrators from other professions who may be appointed if a solicitor is not the right choice, and liaises with other professional bodies if the right person is not in the database. Candidates for appointment will always be asked if there is any conflict of interest which would disqualify them from taking the appointment.

It is not possible to supply extracts from the Society's database of potential arbitrators, as this is compiled exclusively to assist in making appointments and not as a general panel of arbitrators.

General Conditions Governing the Appointment Procedure

Once the arbitrator has taken over responsibility for the case, the Law Society will take no further action in the matter, any challenge to the arbitrator's authority or to the way he or she conducts the arbitration should be raised in the first instance with him or if necessary application made to the court under the Arbitration Acts.

Similarly, if one of the parties contests the need for arbitration at all, or disputes that the President is entitled to make the appointment, then this again should be raised with either the arbitrator or the court, and the Law Society cannot deal with such claims.

No responsibility is accepted by either the President or The Law Society for the payment of the arbitrator's fees, which will form part of the overall cost of the arbitration (as will the fee to the

Law Society for the appointment of the arbitrator) and will be paid as ordered by the arbitrator at the conclusion of the arbitration.

Further Information

Further information about the appointments procedure or Draft Standard Clauses on how to incorporate a provision for the President to make an appointment can be obtained by telephoning 020 7320 5804 or e-mail arbitration@lawsociety.org.uk.