

Introduction to ACI Schemes

ACI is an administered arbitration and mediation group whose aim is to provide a modern approach to all methods of dispute resolution that is fast, efficient and cost effective within the broad field of commercial law. ACI recognises that the business and professional worlds require a fast, flexible response to disputes and it aims to provide that service.

ACI has a distinguished panel of lawyer arbitrators and mediators who are specialists in all areas of commercial law including banking and financial services, computer technology, copyright and intellectual property, employment, insurance and reinsurance, maritime law, partnership, pensions, professional negligence and sale of goods and services.

ACI seeks to meet the market need for specialist lawyer arbitrators and mediators who bring with them their knowledge and experience of the issues that frequently arise in that specialist area and their ability to assist the parties towards a quick and effective result, by whichever means they may choose to resolve their dispute.

Arbitration

Many parties choose to resolve their disputes by arbitration, either because of the confidential nature of the process or because they wish to avoid the costly and time-consuming formalities involved in litigation in the courts. ACI is able to provide an administered scheme which gives direct access to experienced lawyer arbitrators who are uniquely qualified to provide a quick and efficient dispute resolution service consistent with justice at a reasonable cost.

ACI has adopted an innovative approach to arbitration providing a flexible set of rules allowing all disputes to proceed without unnecessary formalities or cost to a rapid conclusion. Simple disputes may be conducted on a fixed fee basis with the intention that they will be resolved within three to four months from the time of appointment.

More complex disputes will require a more individual approach and may take a little longer to complete but ACI is dedicated to the speedy resolution of disputes consistent with justice. The intention is that these arbitrations will be user-friendly and will not follow the costly procedural steps required by litigation or traditional arbitration.

All arbitration schemes are based on an early preliminary meeting allowing the Arbitrator the opportunity to play an active role from an early stage. The Arbitrator will give the directions necessary to enable the dispute to be resolved in the most speedy, cost effective and appropriate manner.

Alternative Dispute Resolution (ADR)

ACI also offers a number of other forms of alternative dispute resolution, the best known of which are mediation and early neutral evaluation (“ENE”).

Commercial mediation achieves greater success when conducted by suitably trained and experienced lawyers of the type available on the ACI Panel. Lawyers familiar with the law in the field of dispute are able to understand the issues involved and assist the parties to analyse and focus on the real strengths and weaknesses of their cases. By doing so they are better able to help parties to find a commercial solution to their dispute. The ADR Panel comprises the most experienced lawyer mediators in the country from both sides of the profession.

Senior lawyers or silks are particularly well placed to give an indication of the likely result in a dispute involving a difficult point of law or construction (ENE) where mediation is unlikely to be successful due to the opposing opinions held by each party.

Arbitration Schemes

- ~ *Fixed Fee Arbitration*
- ~ *Standard Arbitration*
- ~ *Fast Track Arbitration*
- ~ *Individually Designed*

Arbitration Schemes

Alternative Dispute Resolution

- ~ *Mediation*
- ~ *Early Neutral Evaluation*
- ~ *Mini-Trials*

Disputes may be readily transferred between ACI schemes when appropriate.

Fixed Fee *Arbitration*

Parties may opt for Fixed Fee Arbitration, subject to the approval of the arbitrator at the preliminary meeting. Fixed Fee Arbitrations are intended for parties who are able to co-operate in seeking a speedy resolution of their dispute. Disputes that can be resolved within a half to two day hearing would fall within this scheme. Where appropriate the parties may agree to dispense with an oral hearing.

An initial fixed fee is payable to cover the first stage of the arbitration up to and including the early preliminary meeting. At this preliminary meeting the arbitrator will discuss and define the issues with the help of the parties and give directions for the future conduct of the arbitration. This enables the Arbitrator to focus the direction of the arbitration on the essential issues between the parties. The Fixed Fee Scheme may accordingly be perfectly appropriate for some complex or substantial disputes.

The Arbitrator may, in appropriate cases and with the consent of the parties, order that the presentation of evidence or argument be limited to a certain period of time, thereby enabling a case which would otherwise take longer than two days to remain as a fixed fee arbitration.

Following the preliminary meeting the parties pay the remainder of the fixed fee on a scale depending upon the anticipated length of the hearing and whether or not an expert is required. The Arbitrator will allocate

the costs of the arbitration as between the parties in his award. Parties are responsible for paying their own legal fees and these are not generally recoverable in Fixed Fee Arbitrations.

Parties can choose an arbitrator from a range of three fee bands and the amount of the fixed fee will depend upon the fee band chosen and the length of the hearing. The scale for Fixed Fee Arbitration is set out on the relevant fee sheet available from ACI.

ACI aims to have most arbitrations proceeding on a fixed fee basis completed within three to four months from the appointment of the arbitrator, a little longer if an expert is involved.

Standard *Arbitration*

Cases that are not suitable for Fixed Fee Arbitration will proceed under the rules for Standard Arbitrations. This will usually be because of the anticipated length of the hearing due to the number of issues or the number of witnesses. It may also be because a number of preliminary issues require attention prior to the hearing. Cases involving substantial technical issues may also be more suitable for Standard Arbitration.

Standard Arbitrations also proceed on the basis of an early preliminary meeting. This allows the Arbitrator to play a constructive role in the resolution of the dispute. The later stages of the arbitration are more flexible than in the Fixed Fee Scheme. At the preliminary meeting the arbitrator will give directions individual to the dispute. Those directions will be intended to enable the dispute to be resolved as efficiently as is consistent with a just decision on the issues.

The parties have the option, in Standard Arbitrations, to appoint an Assessor to sit with the Arbitrator or to appoint a tribunal of three arbitrators, the Chairman being appointed from the ACI Panel. This enables the parties to have expertise, in a particular trade or other area, on the tribunal in suitable cases whilst retaining the lead of the legally qualified Chairman and the direction of the ACI rules. Nevertheless ACI favours the appointment of a sole arbitrator save where there is a particular reason for a panel of three or a requirement for an assessor.

All arbitrators on the ACI Panel are available for appointment in Standard Arbitrations at an hourly rate in a range of four fee bands as set out on the relevant fee sheet available from ACI.

The Standard Arbitration scheme is intended to be as efficient and cost effective as is consistent with a just decision on the issues between the parties.

Arbitrators will aim to dispose of Standard Arbitrations with as little formality and as quickly as is possible in each case.

Other *ACI Arbitration Schemes*

Fast Track Arbitration

When there is a real need for urgency, ACI can provide arbitrators who will hear a dispute as soon as the parties are ready to be heard. Such arbitrations may be heard, where necessary, within a matter of days with the minimum of preliminary formalities.

The arbitrator or tribunal will be selected, in consultation with the parties, for immediate availability as well as suitable expertise. Any preliminary directions for Fast Track Arbitrations will normally be given by telephone. The parties will be expected to respond quickly to any step that is required by the arbitrator. It may be helpful, for this purpose, if the parties are represented by solicitors.

The fee for Fast Track Arbitrations will be individually negotiated and will depend upon the nature of the case and whether the arbitrator is required to work unusual hours.

Individually Designed Arbitration Schemes

ACI can devise streamlined schemes for institutions. This may be appropriate when an institution or association (for example the members of a trade association or a group of banks or insurance companies) encounters a number of similar disputes and desires arbitration by a neutral body. Such a scheme may be modelled on either the Fixed Fee Arbitration Scheme or the Standard Arbitration Scheme, as appropriate. Specialist panels can be formed for this purpose.

ACI will be pleased to receive enquiries from any interested party and to make proposals for a bespoke set of rules tailored to suit the specialist needs of the organisation.

ADR Schemes

These schemes embrace all forms of dispute resolution which do not produce a binding adjudication. The most common non-adjudicative forms are Mediation, Early Neutral Evaluation and Mini-Trials. All of these processes involve the assistance of a “Neutral” to assist in the resolution of the dispute. They involve quite different procedures to that of arbitration. Parties who are already arbitrating under ACI Rules may request the tribunal to adjourn or stay the proceedings pending an ADR procedure. ADR proceedings are conducted on an entirely confidential basis. All of the processes have a proven high degree of success in helping the parties to reach a satisfactory solution.

Mediation

This is a process of structured negotiation carried out in a speedy and informal manner through a Neutral. Mediation is often successful where negotiation, either directly between parties or between lawyers acting for the parties, is unsuccessful. This is because of the particular techniques that can be adopted with the intervention of an independent neutral third party. ACI can provide mediators who are experienced in commercial mediation.

ACI operates a Fixed Fee Mediation Scheme. Parties may choose Fixed Fee Mediation from a range of three fee

bands and the amount of the Fixed Fee will depend upon the fee band chosen and the length of the hearing. The fee scale for Mediations (including Fixed Fee Mediations) is set out on the relevant fee sheet available from ACI.

Early Neutral Evaluation

ACI panel members may also be appointed to carry out non-binding Early Neutral Evaluation of the issues in a dispute falling within the area of their expertise. Senior lawyers are particularly well placed to give an indication of the likely result in a dispute involving a complex point of law or the interpretation of a contract and settlement is often achieved between the parties following such an evaluation.

Mini-Trials

Mini-Trials take a number of forms and the process is described in detail elsewhere. The process is particularly suitable for larger, more complex disputes where there are points of law or construction combined with substantial issues of fact.

Preliminary Discussion

ACI can also offer a preliminary discussion at a fixed fee with a panel arbitrator, before any commitment to arbitration is made. Experience shows that this can help to clarify the issues and sometimes results in an early settlement or a move towards mediation in suitable cases.



The ACI Administrator is happy to discuss any of the schemes with prospective parties or their advisers.

Hours of business: 9.00am to 5.30pm
Monday to Friday

Urgent business outside these hours should be directed to 07977 037973