

Independent Arbitration Scheme for the Chartered Institute of Public Finance & Accountancy (CIPFA)

Rules 2007

1 Introduction

- 1.1 CIPFA's Independent Arbitration Scheme is an independent arbitration service provided by the Chartered Institute of Arbitrators (the administrator), for clients and others in dispute with CIPFA members (including firms having a CIPFA member as principal) practice.
- 1.2 The scheme does not apply to disputes where one or other of the parties has already initiated legal action, unless that action is suspended or discontinued by agreement or by order of the court.
- 1.3 The scheme generally applies to disputes between two parties but, if they and the arbitrator agree, the scheme may be extended to cover disputes involving three or more parties. Where there are more than two parties to the dispute the fees of the administrator and the arbitrator may be renegotiated prior to any party, the administrator or the arbitrator incurring any cost in respect of the arbitration.
- 1.4 A registration fee of £175 plus VAT is payable by each party to the administrator when an application for arbitration is submitted.
- 1.5 Registration Fees are non-refundable, except in circumstances as described by 11.1 below.
- 1.6 The administrator manages the scheme and is responsible for appointing independent, suitably qualified arbitrators.
- 1.7 Arbitrations under these rules may be conducted:
 - a using written submissions and documentary evidence only without a hearing; or
 - b with both written submissions and an oral hearing.

2 Scope of the scheme

- 2.1 The scheme uses arbitration as a method of resolving disputes between parties in dispute as referred at 1.1 above.

- 2.2 The scheme is designed to allow the parties to present their case without the need for legal representation, although parties may be represented by a third party of their choosing at their own expense if any, and after notification to the other party or parties to the dispute.
- 2.3 The arbitrator will have the right to call for additional evidence on any relevant matter, from any party, in writing or orally, if he deems it necessary to do so in order to reach a resolution of the dispute in accordance with the Act, any other relevant law and any contract or agreement between the parties.
- 2.4 The administrator manages the scheme independently and the appointment of the arbitrator under the scheme is within the administrator's exclusive and unfettered control.

3 Definitions and Interpretation

- 3.1 For the avoidance of doubt the following expressions used in these rules have the following meanings:

The Act	The Arbitration Act 1996 including any statutory modification or re-enactment thereof
Arbitrator	the sole and independent arbitrator appointed by the administrator in arbitration under these rules
Claim	includes counterclaim
Claimant	includes counterclaimant
Concurrent hearing	any two or more arbitrations being heard together
Consolidation	means two or more arbitrations being treated as one proceeding
Costs of the arbitration	the costs set out in Rule 8.2
Counterclaim	means a claim made by a respondent against the claimant
Counterclaimant	means the person making a counterclaim
Award	any final relief or remedy granted under the rules or the Act
Party	a party to the arbitration
Provisional order	any order for provisional relief under section 39 of the Act
Respondent	a party responding to an application for arbitration or to an appeal and includes respondent to a counterclaim
Section	a section of the Act

- 3.2 The provisions of the Interpretation Act 1978 shall apply to this agreement.

4 Making an application

- 4.1 Applications for arbitration under the scheme must be made on the designated application form available from CIPFA.
- 4.2 Any party may initiate the use of the scheme but all parties to the dispute must agree to arbitration of their dispute in writing, by completing the application form, before the arbitration can commence.
- 4.3 Upon receipt of the completed arbitration application forms signed by all parties to the dispute or by their representatives, together with receipt of the registration fees from the parties, the administrator will appoint a suitably qualified arbitrator from its panel of arbitrators to resolve the dispute and will inform the parties accordingly.
- 4.4 Normally, the scheme operates as a documents-only procedure designed to offer quick and cost-effective decisions where the matters are not too complex.
- 4.5 Alternatively, either party can request that the arbitration procedure shall include an oral hearing supported by documentary evidence. Any such request must be agreed by all of the parties and the administrator before the arbitration commences.

5 The arbitration procedure

- 5.1 The claimant will, within 21 days of the arbitrator's appointment, submit a full statement detailing his claim, with all supporting evidence.
- 5.2 Upon receipt of the full statement of claim the administrator will forward a copy to the other party (the respondent), who will be given 21 days by the administrator in which to submit its defence.
- 5.3 The claimant will be sent a copy of the defence and will be allowed a 14 day period in which to submit their comments on the defence.
- 5.4 Neither party shall be entitled to make further representations, but nothing in these Rules shall prevent the arbitrator allowing or seeking such further representations, if any, as he thinks fit.
- 5.5 No extensions of time are allowed under the documents-only arbitration process, except by consent of the parties and the arbitrator, or if the arbitrator consents to an application for an extension of time made by one of the parties.
- 5.6 If the arbitrator requires further information in order to reach an award, he may require the provision of any further documents, information or submissions that he considers would assist him in the decision and will use what he considers the most timely and appropriate form of written or verbal communication to seek and obtain such evidence. If the party or parties do not make

that additional evidence available within the time prescribed by the arbitrator, he may proceed on the basis only of the evidence already before him.

- 5.7 If the dispute is dealt with under documents-only arbitration, the arbitrator will make his award, with reasons, within 42 days of receipt of all relevant case papers. The administrator will send the award to the parties and CIPFA.
- 5.8 If an oral hearing has been agreed, it will take place at a venue to be arranged and agreed by the parties and at the cost of the parties, and is limited to and will not normally exceed 7 hours in duration unless otherwise agreed by the parties. In default of such agreement the arbitrator shall determine all necessary arrangements. The arbitrator shall determine all matters of procedure and evidence in relation to the hearing.
- 5.9 The arbitrator will make his award, with reasons, after he has considered all submissions and evidence, including oral evidence, within 42 days of completion of the hearing. The administrator will send the award to the parties and CIPFA.

6 The award

- 6.1 Any award made under the scheme is legally binding on all parties, and an appeal can only be made to the High Court on a point of law within the statutory time limits. If any party wishes to obtain further information about the appeal process it should seek legal advice.
- 6.2 Any award will be in writing, dated and signed by the arbitrator, and will contain reasons to show why the arbitrator has reached the decisions contained in it, unless the parties otherwise agree or the award is by consent.
- 6.3 The arbitrator, in his absolute discretion, may submit an award or a proposal to the parties in draft form and may in his absolute discretion consider any further written submissions or proposals put to him by any party but subject to any time limit that he may impose.
- 6.4 Any payment indicated in the award must be made directly between the parties within 21 days of its publication and not through the arbitrator, the administrator or the Institute.

7 Arbitrator's powers

- 7.1 The arbitrator shall be and remain at all times during the arbitration independent of the parties, and have regard only to the relevant law, relevant statutory and professional guidance, relevant professional obligations and any contract between the parties.
- 7.2 The arbitrator shall also act expeditiously and in a way that provides a fair award in resolution of the dispute.

7.3 The arbitrator may, in his absolute discretion, refuse to consider documents or other evidence not submitted within timescales specified in the scheme or given by him in direction to the parties.

7.4 The arbitrator shall have full power to decide his jurisdiction in the event of a dispute about jurisdiction arising.

7.5 In addition to the arbitrator's powers mentioned in 6.1 to 6.4 above, the arbitrator shall also have the power to:

- a allow submission of further evidence and the amendment of the claim or defence;
- b conduct such enquiries as may appear to the arbitrator to be desirable;
- c receive and take into account any oral or written evidence as the arbitrator shall decide to be relevant;
- d at the expense of the parties, appoint an expert to report on specific issues or take legal advice;
- e award interest whether or not claimed;
- f proceed with the arbitration if either party fails to comply with these rules or with the arbitrator's directions, or if either party fails to attend any meeting ordered by the arbitrator but only after giving that party written notice;
- g terminate the arbitration if the arbitrator considers the case to be inappropriate for resolution under the Procedure or if the parties settle their dispute prior to an award. If the case is settled the parties must immediately inform the arbitrator and the administrator in writing of the terms of the settlement and, if requested by the parties, the arbitrator shall record them in an agreed award enforceable under the Act; and
- h determine any question of law arising in the arbitration.

7.6 In addition to the powers conferred by these rules, the arbitrator shall have the widest discretion permitted by law to resolve the dispute in a fair, just, speedy, economical and final manner in accordance with the principles of natural justice.

8 Arbitration costs

8.1 The parties will pay the costs of the arbitration to the administrator as directed by the arbitrator in the award.

8.2 The costs of the arbitration shall comprise:

- a the registration fees (see 1.4 above) to the administrator;
- b the arbitrator's fees (£80 plus VAT per hour for the conduct of documents-only arbitration, capped at 8 hours and £200 plus VAT per hour for the conduct of arbitrations involving meetings or hearings, capped at 20 hours) and reasonable expenses;
- c the costs of hiring a venue for any hearing;
- d the costs of any secretarial support for any hearing; and
- e the fee for any expert adviser appointed by the arbitrator.

8.3 No legal proceedings may be brought by any party against any other for recovery of other costs incurred during the arbitration.

9 Confidentiality

9.1 Save as provided in 5.7 and 5.9. no party involved in any dispute referred to the scheme, or the administrator, or the arbitrator shall disclose details of the proceedings to any person or body not a party to the proceedings unless it is necessary to do so in order to enforce the award, obtain legal advice or expert opinion or as may be required by law or to enable CIPFA to discharge its functions under its disciplinary bye-laws.

9.2 Notwithstanding 9.1, the administrator may: collate and process data pertaining to the use of the scheme; compile, analyse and publish statistics therefrom; monitor and review the operation of the scheme; and provide such information to CIPFA, provided always that (save with the express consent of the parties) no personal data or privileged or confidential information shall be published.

10 Review of award

10.1 The arbitrator has the discretion if either party makes an application within 14 days of the date of the award to:

- a correct the award so as to remove a clerical mistake or error arising from an accidental slip or omission or clarify or remove any ambiguity in the award, or
- b make an additional award in respect of any claim or counterclaim (including one for interest or costs), which was presented to the arbitrator but was not dealt with in the award.

10.2 Before exercising the discretion given in 10.1, the arbitrator will give the other party or parties 14 days to make representations on the application.

10.3 The arbitrator will make any necessary correction of the award within 14 days of the receipt of the application, whilst any additional award will be made within 28 days of the receipt of such an application.

11 Administrator's right to decline

11.1 The administrator reserves the right to decline an individual request to appoint an arbitrator.

12 General

12.1 Periods of time will be reckoned as provided in section 78 of the Act.

12.2 The parties will inform the arbitrator promptly of any proposed application to the court and will provide him with copies of all documentation intended to be used in any such application.

12.3 Nothing within these Rules shall prevent the parties agreeing to settle the differences or dispute arising out of the agreement without recourse to arbitration.

12.4 Nothing within these Rules shall prevent the parties from appealing the award to the High Court in terms of the Act, should the need arise. There is no other course of appeal of the arbitrator's award.

12.5 If necessary the administrator shall appoint a substitute arbitrator and shall notify the parties accordingly.

12.6 If any party has a complaint about the scheme, or the arbitrator, or a member of the administrator's staff then the complaint should be made by following the administrator's complaints procedure. Copies of the procedure are available from www.drs-ciarb.com.

12.7 The scheme may be updated from time to time. Disputes will be settled according to the rules in force at the time the parties apply to use the scheme.