

Guidance Notes for Chairman or Vice Chairman of CI Arb Scottish Branch

When Selecting Adjudicators

Introduction

Any reference in these notes to he, him or his should also refer to she, her or hers.

1. The Chairman and Vice Chairman shall follow the Chartered Institute of Arbitrators Code of Professional and Ethical Conduct for Officers and those with Appointing Authority (January 2007) and any future revision thereof.
2. The Chairman and Vice Chairman shall follow the Chartered Institute of Arbitrators Scottish Branch Adjudicator Nominating Body Procedure ("the Procedure"), attached as Appendix A.
3. If the referring party issues two applications simultaneously for selection of an adjudicator in disputes concerning the same parties under the same contract and the disputes are generally of the same type in both cases, then the Chairman or Vice Chairman should, subject to the other provisions of these guidance notes, try to appoint the same adjudicator for both disputes. The appointing body has a duty to avoid incurring unnecessary expense.
4. When a panel adjudicator is approached to see if he is able and willing to accept selection as adjudicator and he declines because of other prevailing business commitments or is otherwise incapacitated e.g. illness or conflict of interest then that adjudicator stays at the top of the adjudicator panel list and the rotation to the others on the panel continues, no matter how many times that adjudicator declines to accept possible appointment.
5. If a panel adjudicator declares in writing that he does not wish to accept appointments for a particular period of time when that period expires his name should be added to the adjudicator panel at the bottom of the list.
6. If the adjudicator's selection has been notified both to the parties and the adjudicator and if the referring party does not refer the dispute to him, then his

name nonetheless shall go to the bottom of the adjudicator panel list. If the referring party indicate that they are not going to refer the dispute to a possible adjudicator before his name has been notified to the parties and the adjudicator, then the adjudicator's name shall remain at the top of the adjudicator panel list.

7. If the Chairman or Vice Chairman as the case maybe considers he is being asked to select an adjudicator, for what he may perceive to be a particularly complicated or protracted adjudication, then subject to the other provisions herein, he is still required to appoint the next appropriate adjudicator on the list, since he is not making judgements but performing essentially an administrative function. All adjudicator panel members are deemed be competent for adjudications of any complexity.
8. In making selections under the Procedure, the Chairman or the Vice Chairman should not take any cognisance of any complaint from either or both parties in relation to the handling of an adjudication by any particular adjudicator panel member pending determination of the complaint in accordance with the CI Arb complaints procedure whereupon the determination will be applied in relation to selections made thereafter.
9. It is the duty of the Chairman or Vice Chairman, which may be delegated to the Hon. Secretary of the CI Arb Scottish Branch, to check the timescale between the date of the referring party's notice of adjudication and the likely date of the Chairman or Vice Chairman's selection, to make sure that it is possible that the selection is notified to the parties and the adjudicator within seven calendar days of the date of the adjudication notice, as this is essential for a valid appointment. Where it is not so possible, the referring party shall be so advised immediately by fax or email.
10. The selection process should be transparent and the discretion of the Chairman or Vice Chairman should be kept to a minimum.

APPENDIX A

Chartered Institute of Arbitrators, (Scottish Branch)

Adjudicator Nominating Body Procedure

1. The Chairman or the Vice Chairman of the Scottish Branch carry out their selection in accordance with the Chartered Institute of Arbitrators Code of Professional and Ethical Conduct for Officers and Those with Appointing Authority (January 2007) and any future revision thereof.
2. The Chairman or Vice Chairman shall not accede to any specific requests from the referring party for the appointment of a named individual whose name appears in the CI Arb list of Adjudicators. For the avoidance of doubt the named individual may nevertheless be appointed in accordance with the other provisions of this procedure.
3. The Chairman or Vice Chairman shall not consider any specific requests from the referring party for the non appointment of a named individual whose name appears in the CI Arb List of Adjudicators unless specific reasons are given for the non appointment which in the opinion of both the Chairman and Vice Chairman are sufficiently compelling to justify such consideration being given and implemented.
4. The Chairman or Vice Chairman may take into consideration a referring party's specific requests with regard to the profession, particular types of specialist experience and qualifications of the adjudicator.
5. The Chairman or Vice Chairman shall not consider a referring party's specific requests with regard to the place of residence of the adjudicator to be selected.
6. The Chairman or Vice Chairman operate a cab rank principle in selecting the next appropriate adjudicator from the CI Arb panel of Adjudicators.

7. The Chairman, Vice Chairman or Hon. Secretary of the Chartered Institute of Arbitrators (Scottish Branch) will check the timescale between the date of the referring party's notice of adjudication and the likely date of the Chairman or Vice Chairman's selection to make sure it is possible to issue that selection to the parties and the adjudicator within seven days of the date of the notice of adjudication. Where it is not so possible, the referring party shall be so advised immediately by fax or email.