

## Dispute Resolution Register of Arbitrators requirements and application procedure

### Introduction

This is a guide to applying for the ICE Register of Arbitrators, your application will be considered by the Dispute Resolution Committee (DRC) who meet quarterly each year.

The Institution of Civil Engineers (the ICE) acts as an arbitrators nominating body and maintains a Register of Arbitrators and Dispute resolvers for this purpose (the Register). Admission to the Register does not guarantee that any nominations will follow.

The Requirements within this procedure include the examinations which must be passed, qualifications which must be obtained and knowledge that must be demonstrated for acceptance onto the Register. Applicants who have not yet obtained all of these may still apply to DRC for a decision on whether they meet the other requirements. Exceptionally, candidates may be interviewed before all the requirements are met and provisionally accepted to onto the Register subject to obtaining the missing requirement or may be granted an exemption for any of the requirements at the DRC's discretion.

Those who wish to qualify for the Register but do not yet meet the requirements are invited to contact the Dispute Resolution Services for advice on training and support. Please email: [disputes@ice.org.uk](mailto:disputes@ice.org.uk) or contact us by telephone on: +44 (0)20 7665 2424

### Admission requirements

Applicants must demonstrate sufficient knowledge of the relevant procedural and substantive law and of construction and engineering matters, and have sufficient skill and gravitas to conduct arbitrations to the high standards set by the ICE. **The DRS welcomes enquiries from potential candidates who consider they are suitable for admission to the Register but whose career path has been different to that described. The DRC seeks to actively promote equality, diversity, and inclusion in its Registers.**

The specific requirements are:

- be a Fellow of the Institution of Civil Engineers or the Chartered Institution of Civil Engineering Surveyors
- have passed the following examinations, unless granted exemption:
  - ICE's Law and Contract management examination, module 1 - Exemptions from this requirement will usually be granted to applicants who have obtained a degree in law or an MSc in Construction law, or passed the equivalent CI Arb examinations.

- ICE's Law and Contract management examination, module 3; and
- CIArb Module 4 Award writing examination
- Having sufficient experience and seniority to discharge the duties of an arbitrator. This is usually only achieved by:
  - having managed, or supervised engineering or construction works for a period of at least 10 years
  - being a solicitor or barrister of over 20 years post qualification experience, who has specialised in construction law for over 10 years;
  - demonstrating a continuing involvement in engineering or construction matters at a senior level.
- Have detailed working knowledge of at least one or more of the following contracts:

NEC	IChemE	FIDIC
ICC	ACE	RIBA
PFI	MF/1	JCT
- Demonstrate a detailed knowledge of Arbitration Act 1996, and or Arbitration (Scotland) Act 2010
- Demonstrate an appreciation of
  - hazard and risk assessment,
  - the factors that affect construction costs,
  - investigations,
  - design,
  - construction and fabrication methods,
  - programming and
  - assessment of delay and associated costs.
- Provide information detailing their experience in arbitration and other dispute resolution.
- Provide two references to support their application.

### Completing the online application

To apply for the ICE Register of Arbitrators, you must complete and submit all sections of the application form along with your CV and details of your Continuing Professional Development (CPD). Please send your completed application form to [disputes@ice.org.uk](mailto:disputes@ice.org.uk)

## CV

Your CV should be more than 2 pages of A4 and should focus on your experience within a dispute resolver role. It should include details of your roles and personal responsibilities, the scale of your operations and team sizes. You should also add the scale and value of works for major projects, or areas for which you have or have had responsibility.

## Continuing Professional Development (CPD)

Your CPD should highlight issues, including knowledge and understanding of adjudication procedures and evidence that you have passed the requisite courses and examination.

As part of the assessment the applicant will be assessed on their commitment to CPD both to date and on plans for the year ahead. CPD can best be demonstrated by regular use of planning and recording documents provided by the ICE or ICES as applicable.

Applicants admitted to the Register will be required on an annual basis to;

- demonstrate that they have satisfied the minimum Continuing Professional Development (CPD) requirements,
- have conducted sufficient referrals to justify remaining on the Register and
- continue to be a Fellow of the appropriate Institution.

## Referees

Applicants must supply details of two referees to support their application. References will be contacted if the applicant is called for interview.

The referees will be asked by ICE, in advance of the Applicant's interview, to state their opinion as to whether, in the context of adjudication of construction-related disputes, the Applicant.

- is capable of fair and independent judgement,
- has achieved the necessary level of knowledge and experience of construction and dispute resolution and
- possesses the necessary personal management and communication skills to conduct adjudications.

## After your application has been submitted

Each application will be considered initially by the Dispute Resolution Committee (DRC) who will decide who the applicant appears to meet the qualification, examination, and experience requirements or if any waiver should be granted. The DRC may decide either;

- that the Applicant appears to meet the qualification, examination, and experience requirements (or should be granted exemption from any requirement) and that the Applicant should be invited to attend an interview upon payment of the appropriate fee or
- that the Applicant has failed to satisfy the requirements. In this case the Applicant will be informed in what manner they appear to fail to meet the requirements, and how they might be able to make good those deficiencies.
- that an applicant should be invited to attend an interview prior to completing one or more requirements.

## The Interview Process

If you are required to attend an interview you will be given approximately four weeks' notice of your interview date and the names of the interview board. A non-refundable administrative fee of **£150** will be required if you are invited to attend an interview.

The interview board will confirm that the information provided within your application form meets the requirements for admission to the Register and is supported by your responses to their questioning. If you have not demonstrated sufficient evidence of a particular aspect, the interview board may frame specific questions to try and draw out knowledge and experience in that area.

On the day of the interview, you must bring with you proof of identity. This must be an official document, such as a current passport or driver's license that includes your name, signature, and a photograph.

If on being notified you know a member of the interview board personally, or feel there may be conflict of interest, you should advise the Dispute Resolution Services at [disputes@ice.org.uk](mailto:disputes@ice.org.uk)

The Interview is designed to explore in depth the applicant's engineering experience and knowledge of contract law and procedures. The Applicant must satisfy the Interview Board that they can understand and identify the technical, financial, and legal issues which may arise in a reference for a major construction dispute and demonstrate an ability to conduct such a reference as a sole adjudicator.

## After the Interview

Applicants will be notified of the outcome in a reasonable time.

If an applicant is unsuccessful, they will be advised of the reasons, further experience and /or qualifications required before they submission will be reconsidered. When resubmitting, they will have to satisfy the new interview board that they have demonstrated all the requirements and not just those that caused the original refusal. Applicants should prepare in the same way as they did for the original assessment, taking particular attention to show in the new submission how they have addressed the concerns of the original interview board

## Annual Continuing Professional Development (CPD)

Applicants admitted to the Register will be required on an annual basis to

- demonstrate that they have satisfied the minimum Continuing Professional Development (CPD) requirements,
- have conducted sufficient referrals to justify remaining on the Register and
- continue to be a Fellow of the appropriate Institution.
- In the event that CPD records are not submitted or are inadequate the DRC may consider removal from the Register.

As part of the assessment the applicant will be assessed on their commitment to CPD both to date and on plans for the year ahead. CPD can best be demonstrated by regular use of planning and recording documents provided by the ICE or ICES as applicable.

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## 5 yearly review

Members of the Institution of Civil Engineers Registers of Arbitrators and Adjudicators are required to undertake a review at 5 yearly intervals. In the event of adverse feedback, an upheld complaint or an unsatisfactory review, a Register Member may be required to undertake a review sooner than 5 years.

The scope of the review covers the activities of the Register Member in the discipline of dispute resolution covered by the relevant Register. A Register Member who is listed on more than one Register is required to provide only one Decision or Award for review, but all other information and the interview will be relevant to the Register, or Registers, for which there is no Decision or Award.

The purpose of the 5 yearly review isto

- provide assurance to users that the Register Member has kept up to date with developments in the law and the relevant discipline of dispute resolution and remains competent using a process which is robust but proportionate.
- consider feedback from parties and any judicial comment on the performance of the Register Member.
- provide support and guidance to the Register Member, identifying any areas for improvement, and
- learn lessons which could be applied for the benefit of all Register Members

### Age requirement

The Disputes Resolution Committee have in place an Age requirement for all ICE Registered adjudicators, arbitrators and mediators aged 75 years reviewed the age distribution of existing members of the ICE Dispute resolution Registers and prompted by various issues including

1. comments from parties to ICE nominated members
2. five year reviews and
3. Succession management.

After due consideration, the DRP agreed at its meeting on 13<sup>th</sup> September 2016 that all ICE Registered adjudicators, arbitrators and mediators aged 75 years and above would cease to be eligible for nominations by the ICE Dispute Resolution Service. The Dispute Resolution Committee will not accept application from those who are aged 75 and over.