

ARBITRATION PROCESS

There must be a binding agreement between the parties to submit disputes to arbitration.

Once parties agree to refer a dispute to arbitration, an arbitrator is appointed, and the following process occurs:

- A preliminary meeting is typically held with parties and advisors at which the parties and the arbitrator:
 - decide the way they wish to have the question decided;
 - set a timetable for the arbitration process; and
 - agree how costs and fees are to be paid.
- The arbitrator typically requires parties to deposit funds in trust to cover his/her fees and the other costs of the arbitration.
- The claimant commences the process by filing a statement of claim, setting out the details of the dispute.
- The respondent then files a defence to the claim, and any counterclaim.
- The claimant may then be ordered to file a response to the defence, and will be ordered to file a defence to any counterclaim.
- Both parties are required to file an affidavit listing all relevant documents.
- The parties are able to inspect each other's documents.
- If parties have engaged expert witnesses, statements from them are required.
- The arbitrator may order the parties to attend mediation to attempt to settle the dispute.
- The arbitrator will convene hearings to ensure compliance with the timetable.
- Hearings are conducted in private, unless agreed otherwise. Where parties agree that a hearing is not required, the arbitration can be held "on the papers". In either scenario, the rules of natural justice apply.
- After the hearing, the arbitrator makes a decision (the award). The award is final, and binding on both parties.
- Parties may apply to the High Court to enforce the award as a judgment.
- A party dissatisfied with the award may apply to the High Court to have it set aside.