

RICS arbitration service for construction and engineering disputes

Disputes

The obligation placed on parties to consider alternative dispute resolution (ADR) mechanisms is well documented and the subject of our ever evolving laws.

Parties to a dispute (and their lawyers) must actively consider ADR. ADR ranges from non-binding processes, such as without prejudice round the table meetings to mediation, to binding processes, such as expert determinations and arbitration. Resorting to the courts is more often than not referred to as “the last tool in the toolbox”. It is normally prudent for the parties to explore non-binding forms of ADR first as often this is the most cost effective way to resolve a dispute. Where that is not appropriate or it has failed, parties should go on to consider binding ADR processes ranging from expert determinations through to arbitration.

In relation to construction and engineering disputes, the Royal Institution of Chartered Surveyors (RICS) has launched a new arbitration service specifically for construction and engineering disputes which offers:

1. Fast track arbitration services for disputes under £100,000. The fast track caps a party’s recoverable costs, limits the amount arbitrators can charge and requires arbitration awards to be published within six months.
2. A select arbitration service intended to provide a “viable alternative” to the Technology and Construction Court for high value complex disputes where awards should be published within 12 months.

The advantage of the RICS service is that this can achieve a more comprehensive deliberation of the issues rather than the current adjudication process (which can often be cursory in approach). At present only the fast track arbitration service rules are available on the [RICS website](#); this will be developed in time.

This service illustrates the ever evolving methods of ADR which are promoted by various professions.

Practitioners who do not advise their clients of all of the alternatives available in particular disciplines might find themselves facing questions, complaints and possible claims from their clients if advice is not given in respect of cheaper and quicker alternatives to Court process.

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