

Agreed by the Board in October 2017

## Appendix C3: Arbitrators Code of Conduct

## **Arbitrators Code of Conduct**

**(Updated with ICA Board of Directors approved amendments following Board Meeting in October 2017)**

### **ICA Arbitrators**

This Code of Conduct embodies principles of best practice and natural justice deemed necessary by the Board of Directors to maintain existing standards and public confidence in the ICA as an arbitral authority. Not all of the points listed below will cover every aspect of an Arbitrator's ethical and professional conduct. Arbitrators are therefore expected to observe the spirit of the principles as outlined below. References to the masculine are also intended to apply to the feminine.

#### **Impartiality**

	<ul style="list-style-type: none"><li>• The Arbitrator's duty to remain impartial is a continuing one throughout the arbitration process. Should he find himself in a position whereby he is aware that he cannot remain impartial, he must immediately withdraw himself from the arbitration process.</li></ul>
	<ul style="list-style-type: none"><li>• An Arbitrator is under a duty to disclose to the ICA Secretariat and to the parties any interest and / or relationship which may result in a conflict of interest as soon as possible.</li></ul>
	<ul style="list-style-type: none"><li>• An Arbitrator must not accept an appointment to act as Arbitrator if he is aware that by doing so he places himself in a conflict of interest.</li></ul>
	<ul style="list-style-type: none"><li>• Arbitrators must not act as advisers to the parties to an arbitration whilst the proceedings are on-going or afterwards, concerning the analysis of a particular case. They must not act as advocates for the parties who have appointed them; they may not provide procedural advice.</li></ul>
	<ul style="list-style-type: none"><li>• Arbitrators must avoid private dialogue with a party to an arbitration, and must not discuss issues arising in an arbitration with a party prior to, during or at any time after the conclusion of the arbitration. Arbitrators must ensure that any communications with the parties are conducted (where possible) via the ICA Secretariat, and always copied in writing to the other party to the dispute for transparency's sake.</li></ul>
	<ul style="list-style-type: none"><li>• An Arbitrator must not allow external pressure, personal interests or relationships (past or present) with any third parties or fear of criticism to influence their conduct or judgement in dealing with the dispute.</li></ul>
	<ul style="list-style-type: none"><li>• A conflict of interest e-mail sent by the Secretariat must be answered by the arbitrator concerned, within 14 days of them being e-mailed. Arbitrators must consider if they have a conflict of interest by taking into account English law, the Arbitrators Code of Conduct and the content of the conflict of interest e-mail sent by the secretariat to arbitrators.</li></ul>
	<ul style="list-style-type: none"><li>• Arbitrators shall treat fellow arbitrators and others with respect.</li></ul>

#### **Confidentiality**

	<ul style="list-style-type: none"><li>• Arbitration is a private and confidential process, selected by the parties to dispute to resolve the issues between them.</li></ul>
	<ul style="list-style-type: none"><li>• An Arbitrator is under a duty to keep all facts, information, correspondence, and documents disclosed to him during the course of an arbitration confidential at all times.</li></ul>
	<ul style="list-style-type: none"><li>• An Arbitrator shall not use such confidential information outside of the arbitration process for his personal advantage or for purposes other than the performance of his duties as an Arbitrator.</li></ul>
	<ul style="list-style-type: none"><li>• The Arbitrator's duty of confidentiality continues after the arbitration has concluded, until and unless both parties to the arbitration agree to waive the confidentiality; or the details of the case are lawfully placed in the public domain.</li></ul>
	<ul style="list-style-type: none"><li>• An unlawful or unauthorised leak of information regarding the case by another Arbitrator or third party will not be justification or licence for an Arbitrator also disclosing details of the case. Such conduct may result in personal liability for the Arbitrator concerned.</li></ul>
	<ul style="list-style-type: none"><li>• An arbitrator is under an obligation to relate to the Secretariat any concerns he has that the duty of confidentiality has been breached, at any time.</li></ul>

#### **Conduct of the Arbitration**

	<ul style="list-style-type: none"> <li>Arbitrators must ensure that they follow the procedures set out in the ICA Bylaws and Rules, and the relevant provisions of the Arbitration Act 1996 when conducting any arbitration and only use ICA approved time sheets, invoices and other forms, when designated for the use of arbitrators by the ICA.</li> </ul>
	<ul style="list-style-type: none"> <li>Arbitrators shall maintain an up to date copy of the ICA Bylaws and Rules at all times</li> </ul>
	<ul style="list-style-type: none"> <li>Arbitrators must read and consider all of the evidence before them.</li> </ul>
	<ul style="list-style-type: none"> <li>An arbitrator must only accept an appointment to act as Arbitrator if he has sufficient time to allow the arbitration to be conducted in a competent and timely manner. In order to avoid the perception of bias or justifiable doubts as to impartiality an arbitrator may only accept up to and including three appointments for a party or related party to act as arbitrator from a claimants /appellant or respondent, per calendar year. An arbitrator should not be able to have more than eight active first tier cases open at any one time. These limits (this criteria) will be reviewed regularly (at least annually) by the Arbitration Strategy Committee (ASC) taking into account the recent numbers of applications for arbitration. Any changes will be recommended to the Directors.</li> </ul>
	<ul style="list-style-type: none"> <li>An Arbitrator must ensure that any fees charged in the course of an arbitration are reasonable, having regard to all of the circumstances of the case and the hours charged are or work done in the intellectual pursuit of the matter.</li> </ul>
	<ul style="list-style-type: none"> <li>Once the fees have been agreed by the Tribunal/TAC time-sheets and invoices shall be submitted to the Chairman prior to the signature sheets being signed. The Chairman shall immediately review them and submit them to the ICA Secretariat prior to an award being published.</li> </ul>
	<ul style="list-style-type: none"> <li>An arbitrator will (should external legal advice be required during an arbitration an arbitrator will) seek advice on English law from the ICA's English legal panel, when working on ICA arbitrations.</li> </ul>
	<ul style="list-style-type: none"> <li>The Board of Directors will approve changes to this Code of Conduct.</li> </ul>