

Five steps to a binding decision

What happens in an arbitration, from the point you both agree through to a decision that can be enforced. Timings are indicative; yours are fixed at the preliminary conference.

Around twenty weeks from start to finish, and less where the matter has already been prepared for a court hearing. The same steps apply whether the arbitrator decides on the documents alone or after a full hearing.

Week 0

1 Agree to arbitrate

You both agree to have the financial issues decided by an arbitrator, and you agree together on who that will be. One party cannot start an arbitration alone. Where court proceedings are already on foot, the court can refer the financial part of the matter instead, with both your consents.

OUTCOME **An arbitrator appointed, and a preliminary conference listed.**

Weeks 0-3

2 Preliminary conference

Before it, you each give the other a Financial Statement and the documents the court rules require. The conference itself is short, often an hour, and can be held online. Nothing about your dispute is decided: the arbitrator settles the terms of your arbitration agreement and makes directions to the hearing.

The agreement records the date, time and place of the hearing, the issues, how long it will take, how the evidence will be exchanged and what it will cost. Because it has to record those things, it is signed afterwards, not on the day. Each of you gets legal advice on the completed draft, and the lawyer who gives that advice signs a statement in the agreement.

OUTCOME **A signed arbitration agreement, and a timetable with dates for each step.**

Weeks 4-12

3 Preparation and evidence

The longest stage, and the one most within your control. Affidavits are exchanged. Any valuations or expert reports are obtained on the agreed dates. Balance sheets, chronologies and outlines of case follow. Disclosure continues throughout: the duty does not stop once the timetable is set.

OUTCOME **All the material the arbitrator will decide on, exchanged and provided.**

Weeks 12-16

4 The hearing

On the documents alone, on documents with your lawyers making argument, or as a full hearing where you each give evidence and are cross-examined. Whichever was agreed, the date is fixed and does not compete with a court list. It is not a courtroom, and only the people involved are there.

OUTCOME **The arbitrator has everything needed to decide. No decision is announced on the day.**

Weeks 16-20

5 Award and registration

A written award follows, in a single document, setting out what has been decided, the findings of fact and the reasons for them. Each of you gets a copy. The award binds you both, but it does not have the force of a court order until it is registered, and someone has to apply for that.

OUTCOME **A decision that ends the dispute, and can be enforced once registered.**

REGISTERING THE AWARD

Either of you may apply. The application, with a copy of the award and reasons, is served on the other party and on the arbitrator **within 14 days of filing**, and an affidavit of service is filed within 7 days. The other party then has **28 days from service** to file a response opposing registration.

If nothing is filed in that period, the court must register the award and will notify you both. Once registered it can be enforced in the same way as an order of the court. These periods are set by the Regulations and by the Court, not by the arbitrator.