

Expert determination – an overview

Role and scope of determination

Unless the parties subsequently agree otherwise, the role of the expert is to produce a binding determination. The expert determination agreement will state the scope of the determination required and whether it shall include reasons.

Procedure

The Procedural directions may deal with any or all of the following:

- a timetable for the submission of case summaries and supporting documents to the expert with copies to the other parties
- whether submissions are to be simultaneous or sequential
- whether there should be one or two rounds of submissions
- whether the expert has the power to call for documents or
- whether the expert has the power to award costs
- whether there should be a meeting(s) between the parties.

Unless the parties agree otherwise, the expert may conduct investigations independently of the parties, and make the determination based on those investigations without reference to them. Parties should obtain legal advice when embarking on expert determination, but do not strictly need to be legally represented during the procedure.

The expert will conduct the expert determination in accordance with procedural directions which he/she will seek to agree with the parties. If they cannot be agreed, the expert's directions will prevail.

At any time before the issue of the determination the parties may agree to refer the dispute to mediation, in accordance with CEDR's Model Mediation Procedure. In that case each party notifies the expert and CEDR, and the expert determination is suspended. If the dispute is settled by mediation, the expert determination comes to an end and the parties



settle the fees and expenses of the expert and of CEDR. If the dispute is not settled by mediation, the expert determination resumes.

Once appointed by CEDR, the expert is responsible for the procedure from then on. Should the expert be unable to complete the task, CEDR will appoint a substitute expert.

Legal Framework

The expert determination process is private and confidential. The expert, the parties and CEDR will keep the matter entirely confidential except as is required by law.

The expert is independent of the parties, is neutral and impartial, and does not act as adviser to the parties.

None of the parties will call the expert as a witness or arbitrator in any litigation or arbitration in relation to the dispute and the expert will not act voluntarily in any such capacity without the written agreement of all the parties.

CEDR Expert Determination fees

Evaluator's fees and expenses

Unless the parties agree otherwise, the fees and expenses of the Expert Determination will be borne by the parties in equal shares.

The expert will be paid fees and expenses. All work done by the expert will be charged at an hourly rate. Rates will vary between experts and will typically fall into the range of £250 to £600 per hour. Please contact your Client Advisor to discuss fees for specific evaluators or cases.

CEDR's Administration fee for providing this service is £3,000.00+VAT shared equally between the parties.



A final account of the fees and expenses will be sent to CEDR when the determination is ready for issue and the determination will be released only upon payment by the parties of any further amounts due.

CEDR professional support and administration

A CEDR Client Advisor will handle all aspects of the Expert Determination arrangements. These include arranging document exchange, administering funds, resolving procedural difficulties and providing support and guidance to the parties and the Expert Determinator as required.

Pre Expert Determination meeting

A face-to-face meeting with the expert prior to the commencement of the Expert Determination process can be arranged. This will be charged at the expert's hourly rate.

Expert Determination Panel

For particularly complex, high value or multi party cases, the use of a panel of experts with different areas of expertise can enhance the Expert Determination process. Please discuss the suitability of such a panel for your case with one of our Client Advisors. The members of the panel will be charged out at their respective hourly rates.

Terms and Conditions

Payment

The fees and expenses will be estimated by CEDR and must be paid to CEDR on account for the Expert Determination process to commence.

Interim invoices may be raised by CEDR to cover the expert's fees if the expert requests.

A final account of fees and expenses will be sent to the parties by CEDR when the determination is ready for issue to the parties and the evaluation will be released on payment of amounts due.



If the parties agree not to proceed with the Expert Determination, CEDR will refund a proportionate amount of the fees and expenses advanced, depending on the amount of work carried out by the expert and CEDR.

Late submission of documents

During the set-up phase of the Expert Determination, the parties will agree with the expert a timetable for submission of documents. Should a party submit documents late and this either substantially inconveniences the expert or requires the expert to prepare over a weekend or public holiday, that party may be charged an extra 25 per cent on the expert's hourly rate.

Courier charges

If documents are provided late, CEDR will often have to send these to the expert and/or other parties by courier. The cost of the courier will be charged to the party (or parties) who provided the late submissions.

Expenses

Related expenses such as room hire, the expert's travel expenses etc. are not included in the above rates and are charged at cost.

VAT

All fees are quoted exclusive of VAT.