

The Chartered Institute of Arbitrators Code of Professional and Ethical Conduct for Members (October 2009)

Introduction

This Code of Professional and Ethical Conduct is published pursuant to the Bye-Laws of the Institute so that members may be reminded of the professional and moral principles which should at all times govern their conduct.

The Oxford English Dictionary defines ‘ethics’ as moral principles or rules of conduct. A Code of Ethics provides a set of moral principles according to which one should conduct one’s affairs. The Code sets out, in a number of Rules, the minimum standards of conduct that members should observe. A significant breach of the Code amounts to professional misconduct by virtue of Bye-Law 15.2.

The Code is in two parts but members should be cognisant of the entire code and should apply the principles herein, in whole or in part, as applicable to their dispute resolution practice.

Part 1 relates to the conduct of members, including honorary officers, in the carrying out of the functions, duties and responsibilities of the Institute. It governs the conduct of members when acting as members of the Board of Trustees, the Board of Management, or any committee of the Institute and applies also to the conduct of honorary officers of the Institute when appointing arbitrators, mediators and others to act as neutrals in alternative dispute resolution processes.

Part 2 relates to the conduct of members when acting or seeking to act as neutrals in alternative dispute resolution processes, wherever conducted, whether or not they have been appointed so to act by the Institute or any officer of the Institute and whether or not the process is conducted under the auspices of the Institute.

The purpose of adopting a Code of Ethics for neutrals involved in alternative dispute resolution is to serve not only as a guide but as a point of reference for users of the process and to promote public confidence in dispute resolution techniques. The Code itself is a reflection of internationally acceptable guidelines.

In some instances the ethics set down herein may be repeated in legislation governing the process, case law or rules which parties adopt. In many instances members will also be bound by other codes of practice or conduct imposed upon them by virtue of membership of primary professional organisations.

PART 1

Code Relating to the Conduct of Members When Serving on Committees of the Institute, Acting for the Institute or Making Appointments as Honorary Officers of the Institute

Rule 1 Members of the Institute (including its honorary officers) when conducting the business and affairs of the Institute and when serving on the Board of Trustees and on any board or committee established by the Institute have an overriding obligation to act at all times in a disinterested manner and to be faithful to the relationship of trust which exists between members and the Institute.

Rule 2 Members shall disclose any interest or relationship which is likely to affect, or may reasonably be thought likely to affect, their conduct. Members shall not without prior disclosure act, speak or vote in connection with a matter in which they have an interest or in which any person or body with which they are connected has an interest. Members shall not permit outside pressure, fear of criticism or any form of self-interest to affect their conduct.

Rule 3 Members shall not knowingly gain or seek to gain any undisclosed personal advantage or profit from serving on the Board of Trustees or on any board or committee established by the Institute or from acting in any way on behalf of the Institute.

Rule 4 Where the appointment of a third-party neutral falls to be made by the President or other honorary officer of the Institute ("the appointer"), then

(1) the overriding principle is that all appointments shall be made with a view to selecting, on objective criteria, a suitable person to fulfil the particular role in question and that the appointment shall not be affected by personal factors; and

(2) the appointer should always take such steps as may be reasonable and practicable to satisfy himself or herself that persons suggested by the executive staff of the Institute as being suitable for appointment are in fact suitable persons to be appointed.

PART 2

Code Relating to the Conduct of Members when Acting or seeking to Act as Neutrals

Introduction

This Code is subject to the overriding requirements that it shall not:

- (i) require a member to act in a way that is unethical or unlawful under any other Code or law applicable to the member;
- (ii) form part of the rules of any dispute resolution process;
- (iii) override or replace the rules or applicable laws of any dispute resolution process; nor

(iv) provide grounds for judicial review or other legal action.

Rule 1 Behaviour

A member shall not behave in a manner which might reasonably be perceived as conduct unbecoming a member of the Institute.

Rule 2 Integrity and Fairness

A member shall maintain the integrity and fairness of the dispute resolution process and shall withdraw if this is no longer possible.

Rule 3 Conflicts of Interest

Both before and throughout the dispute resolution process, a member shall disclose all interests, relationships and matters likely to affect the member's independence or impartiality or which might reasonably be perceived as likely to do so.

Where a member is or becomes aware that he or she is incapable of maintaining the required degree of independence or impartiality, the member shall promptly take such steps as may be required in the circumstances, which may include resignation or withdrawal from the process.

Rule 4 Competence

A member shall accept an appointment or act only if appropriately qualified or experienced.

A member shall not make or allow to be made on the member's behalf any representation about the member's experience or expertise which is misleading or deceptive or likely to mislead or deceive.

Rule 5 Information

Where appropriate and having regard to whether the parties are represented by professionals familiar with the dispute resolution process, the member shall ensure that the parties are informed of the procedural aspects of the process.

Rule 6 Communication

A member shall communicate with those involved in the dispute resolution process only in the manner appropriate to the process.

Rule 7 Conduct of the Process

7.1 A member shall prepare appropriately for the dispute resolution process concerned.

A member shall not be influenced by outside pressure or self interest.

A member shall not delegate any duty to decide to any other person unless permitted to do so by the parties or applicable law.



A member shall not unduly delay the completion of the dispute resolution process.

Rule 8 *Trust and Confidence*

A member shall abide by the relationship of trust which exists between those involved in the dispute and (unless otherwise agreed by all the parties, or permitted or required by applicable law), both during and after completion of the dispute resolution process, shall not disclose or use any confidential information acquired in the course of or for the purposes of the process.

Rule 9 *Fees*

A member shall charge only reasonable fees and expenses having regard to all the circumstances and shall disclose beforehand and explain to the parties to the dispute resolution process the basis upon which the fees and expenses shall be calculated and charged.