

ciarb.

I F L A

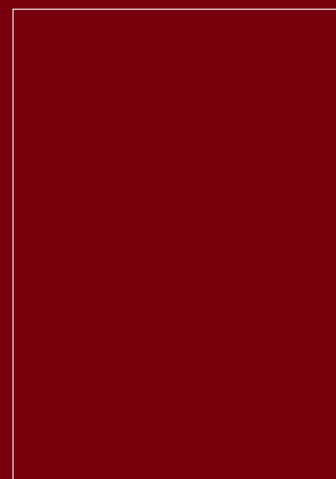
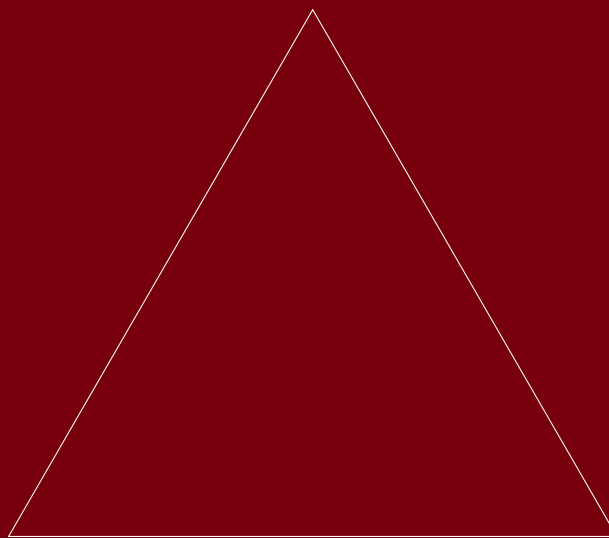
Institute of Family Law Arbitrators

Prospectus: Family Law Arbitration Schemes



Content

Introduction	3
Benefits of family law arbitration	4
Applications	5
Training and qualification	8
Remaining on the panel of family law arbitrators	9
Administration of the Schemes	10
Appointment of arbitrator	11



Introduction

IFLA provides two family law arbitration Schemes:

- The Family Law Financial Arbitration Scheme (‘the Financial Scheme’) – under which disputes of a financial or property nature with a family background in England and Wales may be resolved by arbitration.
- The Family Law Children Arbitration Scheme (‘the Children Scheme’) – under which disputes concerning the exercise of parental responsibility and other private law issues about the welfare of children in England and Wales may be resolved by arbitration.

To become an arbitrator under either Scheme, you must qualify for and maintain membership of the Chartered Institute of Arbitrators and, concurrently, be a member of the relevant panel of arbitrators which are managed by Resolution on behalf of the Institute of Family Law Arbitrators Limited (“IFLA”).

The Schemes are administered by Resolution on behalf of IFLA, a company limited by guarantee whose members are the Chartered Institute of Arbitrators (“Ciarb”), Resolution and the Family Law Bar Association (“FLBA”).

IFLA is responsible for:

- the rules governing the family law arbitration Schemes
- eligibility, training, and qualification criteria
- application procedures
- criteria for remaining on the panels
- denying, suspending, or revoking membership of the panels
- development of the Schemes
- public perceptions and requirements of the Schemes
- pursuing legislative reform as and when appropriate

Benefits of family law arbitration



Choice

parties can select the decision maker.



Efficiency

choosing arbitration can save court resources.



Flexibility

arbitration may be used for discrete issues within a case.



Continuity

with direct, continuous involvement of the decision maker.



Privacy

arbitration is a confidential process.



Speed

arbitration can be faster than court-based processes.

Applications

To train and qualify as a family law arbitrator in either Scheme, please complete the relevant application form and sent to education@ciarb.org.

Training and qualification as a family law arbitrator is available only to those who satisfy the conditions established by IFLA. Eligibility is considered without discrimination. The following criteria apply to both Schemes.

1. Applicants should be either:

1.1

- i. a practising barrister,
- ii. a practising solicitor,
- iii. a part-time fee paid judge or
- iv. a practising Fellow of the Chartered Institute of Legal Executives

who has at least 10 years' post-qualification experience in England and Wales in the discipline in which they wish to qualify. They must have spent a minimum of 600 hours per year carrying out family law casework during each of the 10 years immediately preceding their application, 400 hours of which must be in the discipline in which they wish to qualify. If an applicant has completed 800 hours per year or family work comprising 400 hours financial work and 400 hours children work, then they will be eligible to train as both a financial arbitrator and a children arbitrator.

1.2 A retired practitioner who would have met the eligibility requirements under paragraph .

1.1 above at the time of their retirement, provided they apply to train within 12 months from the date of retirement.

1.3 A retired Judge of the Court of Appeal or Supreme Court Justice who before or during their appointment as such sat as a High Court Judge in the Family Division, provided they apply to train within 12 months from the date of retirement.

1.4 A retired judge who was authorised to sit in the Family Court at the date of their retirement and who sat in the Family Court for at least 100 days in each of

the two years preceding retirement of which at least 40% were in the discipline in which they seek to qualify, provided they apply to train within 12 months from the date of retirement.

2. Applicants must support the Resolution Code of Practice

An applicant who is unable to satisfy the criteria set out at 1.1 or 1.3 above due to parental leave, illness or other extenuating circumstances may seek an exemption at the IFLA's discretion.

Applicants other than retired judges must provide the name of two referees who are one of the following:

- Judges
- Tribunal chairpersons
- Kings Counsel
- IFLA arbitrators qualified in the discipline the applicant wishes to qualify in – i.e. finance or children.

Only one referee may be from the same firm or chambers as the applicant. Referees will be asked to certify that the applicant meets the following competencies:

1. Intellectual capacity

- High level of expertise in their chosen area or profession.
- Ability to quickly absorb and analyse information.
- Appropriate knowledge of the law and its underlying principles, or the ability to acquire this knowledge where necessary.

2. Personal qualities

- Integrity and independence of mind.
- Sound judgement.
- Decisiveness.
- Objectivity.
- Ability and willingness to learn and develop professionally.

3. An ability to understand and deal fairly

- Ability to treat everyone with respect and sensitivity regardless of background.
- Willingness to listen with patience and courtesy.

4. Authority and communication skills

- Ability to explain the procedure and any decisions reached clearly and succinctly to all those involved.
- Ability to inspire respect and confidence.
- Ability to maintain authority when challenged.

5. Efficiency

- Ability to work at speed and under pressure.
- Ability to organise time effectively and produce clear reasoned judgments/ awards expeditiously.
- Ability to work constructively with others (including leadership and managerial skills where appropriate).



Training and qualification

Training is carried out by Ciarb. The training course is usually delivered through a combination of private study and virtual face-to-face tutorials.

Private study includes reading course materials. The courses may be entirely virtual or hybrid where part of the course may involve candidates attending classes at Ciarb, London.

Candidates will be fully trained in relevant aspects of the law of arbitration, practice, and procedure, drafting and deciding, award writing and in family arbitration.

They will be required to pass an award writing assignment which is undertaken the week after the course. Successful candidates are then eligible to become Members of Ciarb (MCI Arb).

As Members of Ciarb, family law arbitrators will be subject to the rules and regulations, code of ethics, complaints and disciplinary procedures of Ciarb (further details can be found at www.ciarb.org).

Complaints relating to misconduct by an arbitrator are investigated by the Professional Conduct Committee which has the power to refer the matter to a Disciplinary Tribunal. The procedure is set out in Ciarb's bye-laws.

After successful completion of the training and award writing exercise, Ciarb will admit candidates who meet the requirements of and apply for Ciarb Member grade, and recommend to IFLA that those who have been admitted as MCI Arb join the IFLA panel of family arbitrators.

It will be possible for trained family arbitrators who have become Members of Ciarb to, after completion of further training, to progress to Fellowship of Ciarb.

Remaining on the panel of family law arbitrators

To remain on the panel of family law arbitrators it is necessary to comply with all of the following:

- Barristers, solicitors and FCILEx must maintain their professional qualification.
- Membership of Ciarb must be retained.
- Panel members must continue to spend a minimum of 600 hours per year carrying out family law casework or to continue as a Member of Ciarb to comply with Ciarb membership and in particular will be required to keep up to date with family law.
- Panel members must pay the annual administration fee to Resolution as set by IFLA. This is to cover the costs of dealing with referrals and administering IFLA.
- Panel members must send a return (in such form as shall be required by Resolution) of arbitrations which have been commenced under the Scheme.

Retired practitioners and judges have a period of 5 years from the date of their admission as arbitrator in which to practice as arbitrator, but are entitled to apply to the Board of IFLA (advised by the IFLA Advisory Committee) for an extension beyond the 5 year period.

The five year period also applies to practitioners whose professional life alters, either due to a change in their areas of practice after qualification (i.e. such that they would no longer meet the requirements of Eligibility criterion 1.1) or by retirement from practice post-qualification. In such cases the five years shall run from the date on which the practitioner retires or from the date on which their practice changed.

Arbitrators are required to disclose to IFLA anything which could bring it or its constituent organisations into disrepute.

An arbitrator may take a career break from the panel, for whatever reason, for up to two years on the following basis:

- They may not hold themselves out to the public as an arbitrator for the duration of the career break;
- They maintain 8 hours CPD per year in family law related topics for each year of the career break;

- At the end of the two years, they confirm in writing that they are immediately returning to at least 600 hours per year family law practice.

An arbitrator who is unable to satisfy the criteria set out above due to parental leave, illness or other extenuating circumstances may seek an exemption at the IFLA Advisory Committee’s discretion.

Administration of the Schemes

Resolution administers the Schemes on behalf of IFLA. A Resolution appointed administrator will be responsible for:

- Administering the referrals to the Schemes.
- Maintaining the panels of accredited family law arbitrators.
- Collecting fees payable by applicants and panel members.
- Maintaining records of arbitrations undertaken.
- Acting as the contact point for enquiries.



Appointment of arbitrator

Parties may apply for family arbitration using the relevant form. If the parties know of and agree on the arbitrator they wish to appoint they may contact that person direct in order to make the necessary arrangements. If they do not know of a suitable arbitrator or are unable to agree on an arbitrator they will apply to the Administrator using the relevant form. Parties may provide a shortlist from which the Administrator will appoint the arbitrator.

The application is checked to confirm that it is signed and that all the required information is provided. Either the named arbitrator, or an arbitrator from the shortlist provided, or an arbitrator from the panel will be appointed taking into account the desired area/experience and/or on a rotational basis.

The Administrator will make contact with the arbitrator to check that they can take the case and will then send them the details. Once the arbitrator has accepted the case and the parties have been informed, the arbitrator will deal directly with the parties. The arbitrator's costs will be dealt with by the arbitrator.

IFLA does not guarantee that any arbitrator on the panel will be appointed.

ciarb.

