BIG QUESTION
Mandatory mediation for sustainability-related disputes

ENERGY TRANSITION
WHY MEDIATORS HAVE A CRUCIAL ROLE TO PLAY

NIGERIA
THE JOURNEY OF ITS FIRST ARBITRATION BILL

THE Resolver

ciarb

Autumn 2022 ciarb.org

A constructive relationship

Combining mediation with adjudication to resolve disputes in the construction industry

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thinkpublishing.co.uk

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President's welcome

Mediation isn't just for the workplace. Our skills are needed in the wider community too. Wolf von Kumberg, who writes about mediating energy transition on page 10, knows this well. Last month, one of his students was aboard a train when an elderly gentleman started shouting loudly at the packed carriage. Everyone looked on in horror. Everyone except Wolf's student, that is, who quietly got up and went to talk to the man. It didn't take her long to discover the reason for his outburst. He suffered from claustrophobia. The mediation student helped him find a less crowded carriage and the train journey continued without further interruptions.

I always prefer to solve problems, to consult and agree on solutions, rather than declare one side right and the other wrong. On page 12, Dr Georgina Tsagas posits that we should at least consider mandating mediation in sustainability-related disputes and I am sympathetic to her view. When it comes to global problems, we absolutely need to think deeply and differently. In isolation, legal and arbitration processes can be too linear.

In our cover feature on page 8, Peter Vinden says we should combine mediation and adjudication techniques to resolve disputes in the construction industry, and I applaud this approach. Quick, linear decisions might seem a good idea in the here and now, and they certainly appeal to governments and leaders everywhere, but what are their long-term consequences? If you consider the effect a series of lockdowns has had on children's education, treatment for conditions such as cancer, diabetes and heart disease, the mental health of the elderly and the economy overall, your answer might be: not great.

Had mediation been in the government's framework, there would at least have been a proper lockdown cost-benefit analysis.

On which note, I hope to see you at this year's Mediation Symposium in October, which will focus on the role of mediation in sustainable development. From train carriage altercations to international agreements on net-zero targets, mediation is the civil way forward.

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F2F: 8–17 September 2023
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Register your interest by emailing **education@ciarb.org**

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- **Virtual Module 1 Training & Assessment** 18 October **£3,600**
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- **Virtual Module 1 Law, Practice and Procedure of Construction Adjudication** *Assessment 1 December* **£174**; *separate assessment available 17 March* **£174**
- **Virtual Module 2 Law of Obligations** (see above)
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- **Diploma in International Commercial Arbitration** *F2F: 8–17 September 2023; Virtual: 5–28 May 2023*

The opener

Arbitration training in Oman

Muscat, Oman, home of the Oman Commercial Arbitration Centre

The Institute is to deliver international arbitration training in Oman, the first ADR programmes of their kind to be run in the Gulf state.

Dr Moosa Al Azri of the Oman Commercial Arbitration Centre (OAC) and ciarb's Director General Catherine Dixon signed a memorandum of understanding to work together at the New Energy in Oman conference, held at London's Mansion House in July. The event was hosted by three of Oman's government ministries and the Oman Investment Authority.

Dr Moosa Al Azri, CEO, OAC

Using the Institute's tutors, syllabi and centralised assessment system, the courses will be delivered in Arabic and English, online and in person. An accelerated route to ciarb membership and Fellowship is also offered.

"This historic partnership is part of the greater vision of the OAC to build our arbitration capacity in the Sultanate of Oman," said Dr Al Azri.

"All individuals who acquire ciarb Fellowship through these courses will be deemed as having taken an important first step to admission to the OAC's panel of arbitrators."

Dixon said: "We are delighted to be working with the OAC to deliver this training in Oman. Effective dispute resolution outside of the courts has a positive impact on the economy and wider society.

"The collaboration will enable existing and aspiring arbitrators to access internationally acclaimed training and to join our global membership of 18,000 practitioners in more than 150 jurisdictions."

Call the ambassador

The Young Members Group (YMG) is looking for ambassadors to promote the Institute's work across the globe.

If you're under the age of 40 and a member of ciarb in any jurisdiction where there isn't already someone from the YMG Steering Committee, or a YMG ambassador, we want to hear from you.

This is a two-year commitment and is not remunerated.

Please email a covering letter and CV to nkidunduhu-YMG@ciarb.org

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60-SECOND INTERVIEW

Jessica Crow

Jessica Crow is an independent arbitrator with particular expertise in energy transition and climate change

Tell us a bit about yourself
I am an independent arbitrator with Arbitra International in London and a doctoral researcher at the University of Cambridge focused on international climate law and the governance of the energy transition. I am originally from Canada and started my arbitration career in Paris. Since then, I have also worked in London and Milan, largely focused on disputes in the energy sector.

Why is arbitration apposite for energy transition disputes?
Achieving the goals of the Paris Agreement and decarbonising the economy will require sweeping regulatory change in a relatively short time frame. These changes pose a significant risk for investors and commercial actors across many sectors, particularly those in carbon-intensive industries. Those actors may, in turn, seek to shift the risk and financial burden of the energy transition onto their commercial partners or, in the case of investors, host states. International disputes are therefore inevitable in the context of this rapidly changing regulatory environment. International arbitration is particularly adept for the resolution of cross-border energy transition disputes, not least because it is a neutral forum that allows the parties to select arbitrators with specialist knowledge. It also features tools to tailor the procedure to the particular dispute at hand, including allowing for *amicus curiae* intervention by third-party stakeholders impacted by climate change and the expedition of proceedings.

You've practised in Paris. What is the main difference between French and British arbitration?
In my experience, the main difference is in the style of advocacy in international arbitration. In the UK, the advocacy style tends to borrow quite a bit from the British bar, whereas in Paris the advocacy style is much more 'international'. Aside from that, both are very mature arbitration markets, excellent arbitral seats and great places to practise.

"Achieving the goals of the Paris Agreement and decarbonising the economy will require sweeping regulatory change"

HYS

Mandatory mediation: have your say

Members are being encouraged to respond in an individual capacity to the government's recent proposals on mandatory mediation in England and Wales.

The Ministry of Justice (MoJ) welcomes "responses from court users, the mediation profession, the legal profession, the judiciary, the advice sector and all those with an interest in the resolution of civil disputes", and ciarb has, with your input, put together a response. But we would urge you to write to the MoJ individually, as well.

In particular, we want the MoJ to understand ciarb's role for mediators. Almost 5,000 of our 18,000 members are mediators, 1,100 of them in England and Wales. Our claim to represent commercial mediators in England and Wales is therefore strong.

In your letter, we advise you to explain the advantages for end users of a flexible system of regulation that utilises the existing professional regimes of organisations in the sector, including ciarb, and the drawbacks of setting up a new sector. You might also point out that any system of mandatory mediation should be properly funded, and the need to invest in educating end users in the mediation process.

We also have a time-saving, customisable template that you can use.

Please send your submission to the MoJ at disputeresolution.enquiries.evidence@justice.gov.uk by the deadline of 4 October 2022.

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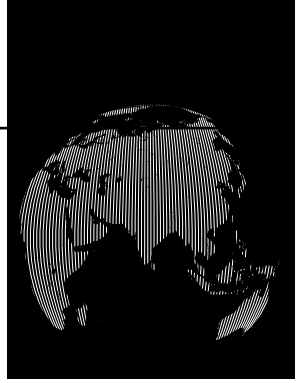

"Nigerian arbitrators remained resolute"

In May, Nigeria passed its first arbitration bill, concluding a 17-year fight to reform the country's ADR legislation. Enehuwa Adagu ACIArb traces its journey and assesses its likely impact.

In 2005, Nigeria's Orojo Committee was set up to develop a modern legal and procedural framework for ADR in the country. It drafted two bills, but neither was enacted and both remained in the National Assembly.

But Nigeria's arbitration committee remained resolute and in 2016 set up the Arbitration and Conciliation Act (ACA) Reform Committee. Its objectives were to ensure the self-regulation of ADR methods in Nigeria; and, through the passage of progressive legislation, to enhance the state's attractiveness as an ADR destination. A year later, the ACA Reform Committee drafted a new bill to enact the Arbitration and Mediation Act (the Bill), but it couldn't be passed before the end of the National Assembly's session two years later.

When the UNCITRAL Model Law on International Commercial Mediation and the UN Convention on International Settlement Agreements Resulting from Mediation, dubbed the Singapore Convention, were adopted in 2018, it was seen as an opportune time to repeal the ACA and enact the Bill. The Bill was passed by the House of Representatives in July 2020 and by the Senate in May 2022.

The National Assembly Complex, Abuja

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WHAT'S IN THE BILL?

- Part I on arbitration makes provision for the arbitration agreement, tribunal compensation and jurisdiction, arbitrator immunity, interim measures and emergency relief.
- Part II on mediation notably incorporates the Singapore Convention into Nigeria's domestic legislation.

HOW MIGHT THE BILL INFLUENCE THE PRACTICE OF ADR?

Consistent with recent international developments in the field, the Bill creates a unified legal framework for the practice and use of commercial arbitration and mediation in Nigeria which should increase its attractiveness as an ADR hub in Africa.

Crucially, the Bill contains an express provision on third-party funding in arbitration, making Nigeria the third jurisdiction to provide this, after Singapore and Hong Kong. Once assented to, the Bill has the potential to radically change how arbitration and mediation are practised in Nigeria. But we need it to be given presidential assent, of course.

ROLE OF THE NIGERIA BRANCH

Thirteen members of ciarb's Nigeria Branch were on the Orojo Committee, including former Chair Adedoyin Rhodes-Vivour and current Vice-Chair Professor Paul Idornigie. Twenty-three members of the Branch were on the ACA Reform Committee. Big contributions were also made by Miannaya Essien, Seyilayo Ojo, Olusola Adegbonmire and Chair James Akinola.

The Bill will increase Nigeria's attractiveness as an ADR hub in Africa

ABOUT THE AUTHOR
Enehuwa Adagu ACIArb is Policy and External Affairs Officer at ciarb

On the road to a greener future

Ciarb is battling climate change, writes Catherine Dixon

With record-breaking temperatures recorded across the globe in recent months, climate change and sustainability remain at the forefront of our collective consciousness – in all sectors and industries, and in everyday culture and business. And our organisation continues to be very much part of the conversation.

Last autumn's issue of *The Resolver* included a focus on how ADR is facilitating the transition to net zero. At the time, I wrote about the paramount role ADR plays in sustainability. I said we needed to "grow the community of dispute resolvers with high-level expertise in sustainability and climate change, and for practitioners themselves to reduce their carbon footprint in the course of their work." A year on, this need is more important than ever. It's why the role of mediation in achieving sustainable development is the main focus of this year's Mediation Symposium.

During the forum, we will explore why, how and, crucially, when practitioners can precipitate re-evaluations that will bring about changes in behaviour that will combat climate change. To facilitate a truly global discussion on the subject, it will be a hybrid event. The virtual symposium will take place from 4–6 October 2022 with staggered start and end times to ensure you can join us for live sessions wherever you are based. Three in-person hubs will also take place in London, Miami and Singapore. Please visit our website for the full programme and be sure to take advantage of preferential registration rates for ciarb members.

As a global organisation, we continuously seek ways to ensure our work is as green as possible. We know the road ahead is long, but we are confident we can make the requisite changes in time. As part of our commitment to a sustainable future, we are a formal supporter of The Net Zero Lawyers Alliance, The World Mediators Alliance on Climate Change and The Campaign for Greener Arbitrations, where our Director of Policy, Lewis Johnston, sits on the steering committee.

Soon after the pandemic hit, we created the *Guidance Note on Remote Dispute Resolution Proceedings* to help support our members to continue their work. Lockdowns have now been mostly lifted, but we encourage members to still consider remote hearings as one route to sustainable practice. We also support members through our sustainability special interest group, established earlier this year. (Special interest groups on mediation, technology, adjudication and arbitration are also in the pipeline. I look forward to sharing information about them in the coming months.)

Mediation has long been part of our repertoire as ADR practitioners, but it seems the world is catching up. I congratulate our Nigeria Branch for its role in supporting the progress of the country's Arbitration and Mediation Bill, the assent of which is eagerly anticipated (page 6). Meanwhile, in the UK, the government is consulting on the adoption of mandatory mediation for claims under £10,000. I urge those of you with an interest in these proposals to submit your response to the consultation by the deadline of 4 October 2022.

And I urge all of you to join in the challenge of understanding and disseminating how mediation can bring about sustainable change.

As a global organisation, we continuously seek ways to ensure our work is as green as possible

ABOUT THE AUTHOR
Catherine Dixon is Director General of ciarb. She is a solicitor and accredited mediator.

A constructive relationship

Combining mediation with adjudication is a highly effective way to resolve disputes in the construction industry, writes Peter Vinden

Anyone in the construction world will tell you that disputes in this industry are as common as raindrops in a dark December sky in Manchester. I can get away with saying this because I was born and live in the north of England, have worked in construction for four decades and have adjudicated and mediated more than 800 disputes.

You could say the die was cast in my childhood. The middle son of five children, it was always I who negotiated peace between my warring brothers and sisters.

ABOUT THE AUTHOR

Peter Vinden is an experienced adjudicator, arbitrator and mediator with a specialist knowledge of construction

I qualified as a chartered quantity surveyor in 1986, an arbitrator in 1990, an adjudicator in 1998 and a mediator in 1999. I am often asked which ADR method is my favourite and I always answer: mediation. It is the only form of dispute resolution in which parties retain control of both the process and the outcome.

So I regret that it is only used as a means of dispute resolution in construction when clients' funds have run dry, or when a judge orders it. And I say this even as I recognise that mediation is not appropriate for every case and that the introduction of statutory adjudication in the British construction industry has been a game

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Parties appreciate any hybrid approach that reduces cost and achieves resolution

changer, particularly for smaller clients who would previously have been unable to fund an arbitration or court case without risking financial disaster.

But here's the thing. Dispute resolvers can combine mediation with adjudication and create a bespoke process for parties. They are complementary, not mutually exclusive, procedures and when they are used in tandem, parties often resolve their disputes more quickly, which also saves them money.

A good dispute resolver understands that the actual needs of the parties should trump all other considerations. In other words, if we can modify the ADR processes selected by parties to bring about a better overall solution, we should.

It's always easier to stick to a recognised standard formula and approach, but the last 40 years have shown me that parties appreciate any hybrid approach that reduces cost and achieves resolution. It is also, I can report, an approach that has rewarded me with many repeat appointments over the years, often by agreement from party representatives, or the parties themselves.

And just as important, a hybrid approach sits well with my moral compass.

IF I'M APPOINTED MEDIATOR IN A CASE, I MAY:

- Use reality-testing techniques in a private session to encourage reflection on an extreme or unreasonable position.
- Express doubt about the likely success of an unfounded or unrealistic claim.
- Ask a party to speculate as to what they would do if they had been appointed adjudicator on the case.
- Suggest that a party seek legal advice where I think it has got the law wrong.
- Recommend that parties seek an expert binding determination on a particularly difficult point of law, or some other issue, in order that agreement can be reached on remaining issues.
- When I'm coaching a party about to make an offer, propose a more realistic value on a head of claim.

AND IF I'M APPOINTED ADJUDICATOR, I:

- Insist that parties prepare a Scott Schedule listing: all items that are agreed and those that remain in dispute; a cumulative value; and details of previous payments, showing the sum that remains in dispute.
- Direct the parties to meet and make strenuous efforts to agree all they can on a full and final basis. And when it comes to remaining items, agree 'figures as figures', leaving me to decide on liability.
- Call meetings often.
- At meetings, run through items on the Scott Schedule and encourage debate, negotiation and agreement, making it clear that I will decide on unresolved items.
- After hearing arguments from both parties, rehearse a range of potential outcomes at the meeting, explaining the weight I will attach to particular factors.
- Listen to the arguments about contentious items and suggest I leave the parties for a short period to negotiate the value of one or two of them.
- In some cases, usually when the stakes are high, tell the parties that I can predict further adjudications or legal proceedings, and suggest that I am suspended as adjudicator – to see if a negotiated settlement can be achieved via mediation.

A hybrid approach sits well with my moral compass

Mediating energy transition

Mediators have a crucial role to play in the move towards global sustainable energy, writes Wolf von Kumberg

Over the past decade, the number of disputes with environmental components has rapidly increased, and as we march towards the net-zero targets set out under the Paris Agreement, we can expect it to increase further.

Adopted by 196 countries in 2015, the Paris Agreement's goal is to hold increases in average global temperatures to well below 2°C and to try to limit the increase to 1.5°C. It's an ambitious plan and aligning countries' domestic policies with the international commitment has, unsurprisingly, propelled sweeping regulatory change – and many challenges.

In the run-up to the 2050 deadline, we can expect: NGOs and shareholders to hold companies to task for failing to meet published environmental, social and governance (ESG) goals; disputes between investors and states where long-term carbon-based concessions are terminated or curtailed; and whole carbon-dependent industrial sectors to be erased. Moving towards sustainable solar, wind and new technologies, such as carbon

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ABOUT THE AUTHOR
Wolf von Kumberg is an independent mediator and arbitrator with Arbitra International and the past Chair of the ciarb Board of Management. He specialises in energy transition and investor–state disputes.

Traditional adversarial mechanisms of dispute resolution are not apposite for environmental issues

capture, will create great opportunities, but also risks that will, in turn, lead to dispute.

But the move to sustainable energy can also revolutionise how we approach dispute resolution in this arena. Traditional adversarial mechanisms of dispute resolution are time-consuming, costly, can destroy relationships and, most importantly, are not apposite for environmental issues. They might clarify legal rights between parties, but they are not a solution for climate change. To make progress, we need collaboration and compromise. And crucially, several European oil majors with whom I have been discussing the issue concur. They have said they want to employ collaborative methods to reduce energy transition dispute risks.

This means many existing contractual arrangements for a carbon-based system will need to be restructured, not litigated. For an orderly energy transition, we need a collaborative approach to re-negotiating relationships between existing players. Courts and even arbitration do not have the capacity to handle the volume of anticipated disputes across the globe. And most importantly, a rights-based approach will not resolve the climate issues at hand. To reach an effective, long-term solution, we require a needs-based approach.

All of which points to mediation. It will help preserve relationships and could allow investment to continue, or be restructured, as greenhouse-gas emissions are phased out. This simply will not happen through litigation.

Mediation can also be tried early on in any conflict, of course, allowing, in this arena, an organised and cost-effective transition. Mediation is also relatively speedy, which is crucial given the 2030/2050 emissions elimination time frame. And it's a route that will permit solutions that include scheduled phase-out, financial aid for existing fossil fuel industries, carbon credits and investment in new sustainable projects. Meanwhile, litigation and arbitration remedies are largely financial.

To ensure mediation plays a critical role in the impending energy transition, governments, companies, funders and other stakeholders should be part of the process. Institutions should choose the mediator, or co-mediators, best qualified to assist with the particular dispute at hand, and ensure that rules and structures are in place.

For their part, mediators should embrace their role in the energy transition revolution. Moving from a global fossil fuel energy system to a sustainable one is an enormous, collective challenge. But it is also an exciting one.

Mediators should embrace their role in the energy transition revolution

On mandating mediation

Family mediation should be our model for solving sustainability disputes, writes Dr Georgina Tsagas

Sustainability is a 'common concern of humankind', an expression in emerging international law that means it "inevitably transcends the boundaries of a single state and requires collective action in response", according to scholar Dinah Shelton.

Put another way, legal issues on sustainability traverse private, public and specialised areas of law and involve claimants and defendants from multiple jurisdictions and a range of backgrounds. It means, in turn, that sustainability-related disputes are hard to regulate from both a substantive and procedural law perspective. The world has seen great improvement in the speed of the introduction of policies to 'green up' our planet, but the attendant regulatory infrastructure is lacking.

The cold, hard truth is that there are pitfalls in relying excessively on NGOs to observe and report sustainability failures

This procedural gap is particularly evident in the arena of corporate governance compliance and sustainability reporting. The UK-based NGO ClientEarth, for example, has on several occasions alerted the Financial Reporting Council (FRC) to reporting breaches on the part of SOCO International plc and Cairn Energy plc: they both failed to adequately disclose climate change risks to their businesses in their 2015 strategy reports. As a result, the companies updated their disclosure practices to the regulatory body, but the FRC did not make the results of its ensuing investigation public. As the UK's regulator of monitoring compliance in the UK, any inaction on its part impedes the proper enforcement of statutory reporting, a crucial aspect of investors' and stakeholders' stewardship responsibilities.

The cold, hard truth is there are pitfalls in relying excessively on NGOs to observe and report sustainability failures. We need processes that can bring the state, self-regulatory governing bodies,

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Legal issues around sustainability traverse private, public and specialised areas of law

auditors, stakeholders, NGOs and any relevant communities to interact jointly on documentation, reporting and future plans in this area.

To which end, I think we should at least consider mandating mediation in sustainability-related disputes. It is a form of ADR that can prevent conflict and create a non-confrontational dynamic, and which guarantees a widely transparent and corrective process. All of which can, in turn, lead to a recognition of common interests – which are backed by hard science endorsed by the UN. We are talking here about social responsibility that connects all of the intergovernmental organisation's Sustainable Development Goals.

In some family law mediations in England and Wales, mediation information and assessment meetings are mandatory. The mediator evaluates and informs the parties about mediation and other forms of ADR. There are also the processes of early neutral evaluation and expert evaluation, whereby an impartial third party chosen by the parties evaluates the case on legal norms, but also considers outcomes which are not legally binding, but which could help them reach a settlement. These processes should be mandated in pre-sessional meetings in sustainability-related disputes.

At the same time, lawyers' codes of conduct, the teaching of ADR training providers and mediators' lists on mediation councils should be revised to acknowledge the existence of sustainability-related disputes and the processes, skills and knowledge needed to solve them. And as a minimum, this means an understanding of the scientific concept of planetary boundaries, knowledge of sustainability-related legislation on climate change and mediation training on how to handle multiple-party disputes where parties have unequal bargaining power.

ABOUT THE AUTHOR
Dr Georgina Tsagas is a UK-accredited mediator in civil and commercial mediation, registered with the Civil Mediation Council, and a practising solicitor

Case note

Furia v Helm

Kateryna Honcharenko MCIArb discovers that a lawyer acting as a mediator has a duty of care to both parties

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THE BACK STORY

Laurie and Larry Levin hired David Furia, of Furia Construction Company, to remodel their house in California. They weren't happy with the quality of the work and engaged the lawyer Hugh N. Helm III, who agreed to try to resolve the matter through mediation. Furia later claimed that Helm wasn't impartial in the mediation process.

CASE FILE

Before taking up his role as mediator, Helm set out his role to both parties. In a letter dated 5 November 1998, he wrote: "I must state for the record... that if an agreement is not reached, and an adversarial posture is taken by either party, that my loyalty lay with Laurie and Larry, and I may assume their representation in subsequent proceedings."

He continued: "On the other hand, with that disclosure in mind, please be assured that as long as we all continue to agree to work cooperatively, I will do my very best to listen to all sides equally, and offer ideas and a perspective that respects the needs and interests of all concerned."

Helm also wrote to the Levins separately saying that he was "not going to be truly neutral during our efforts to negotiate an agreement".

Furia filed several amended complaints, alleging Helm's neutrality and ability to act in good faith were questionable

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ABOUT THE AUTHOR
Kateryna Honcharenko MCIArb is Arbitration Professional Practice Manager at ciarb

Furia filed several amended complaints, alleging that even though Helm had agreed to mediate the case, his neutrality and ability to act in good faith were questionable. He also claimed that Helm's advice to Furia to abandon the construction project had not only deepened the dispute by bringing about allegations of wrongful abandonment, but was strategically advantageous for the Levins.

The court of first instance made a judgment in favour of Helm. The case then went to the Court of Appeals of California (1st District, 3rd Division).

THE APPELLATE COURT'S FINDINGS

The appellate court rejected Furia's claim that, even though Helm was acting as mediator, he still owed Furia a fiduciary duty. There was no agreement for legal advice between Furia and Helm, it said.

However, the court did find that while Helm did not have any legal responsibility toward Furia, he was expected to act in good faith and in accordance with the professional standards expected of a mediator: "Mediators may not provide legal advice... they are in a position to influence the positions taken by the conflicting parties whose dispute they are mediating."

When agreeing to act as mediator, Helm assumed certain responsibilities, said the court – responsibilities that he had put in writing: "The fact is that he did so agree and, having done so, he assumed certain obligations to those he agreed to serve."

The court also found that, regardless of Helm's letter to both parties, his mediator's impartiality had been tainted by his separate communication with the Levins in which, among other things, he implied that the process might not be completely transparent, as certain things might not be disclosed to Furia. This qualified as legal malpractice, said the court, which ruled that lawyers acting as mediators owe a duty of care to both parties.

The possible conflict of interests between Helm's legal and mediating responsibilities were not discussed by the court.

The court found that, regardless of Helm's letter to both parties, his mediator's impartiality had been tainted by his separate communication with the Levins

How to... build connections and network

The London Branch of ciarb is the biggest in the world. Its chair Karina Albers FCIArb explains how to grow your own contact book.

One way to build a successful career in arbitration is to have a strong network. If people don't know you, they are less likely to appoint you. This is why, when I was a student in the 1990s, my lecturer's mantra was: network, network, network. Back then, that meant meeting people in person. This was the pre-social media era; most of us did not own a mobile phone.

Since then, Generations Y and Z have mastered the art of connecting with people without ever meeting them in person, and the pandemic has forced older mediators and arbitrators like me to go online if we want to build more connections. Now, we all know you can establish new contacts you may never actually meet in person, and that you can have a global network without buying a plane ticket ever again.

At the ciarb London Branch, where we are approaching 2,500 members, we make it easy to

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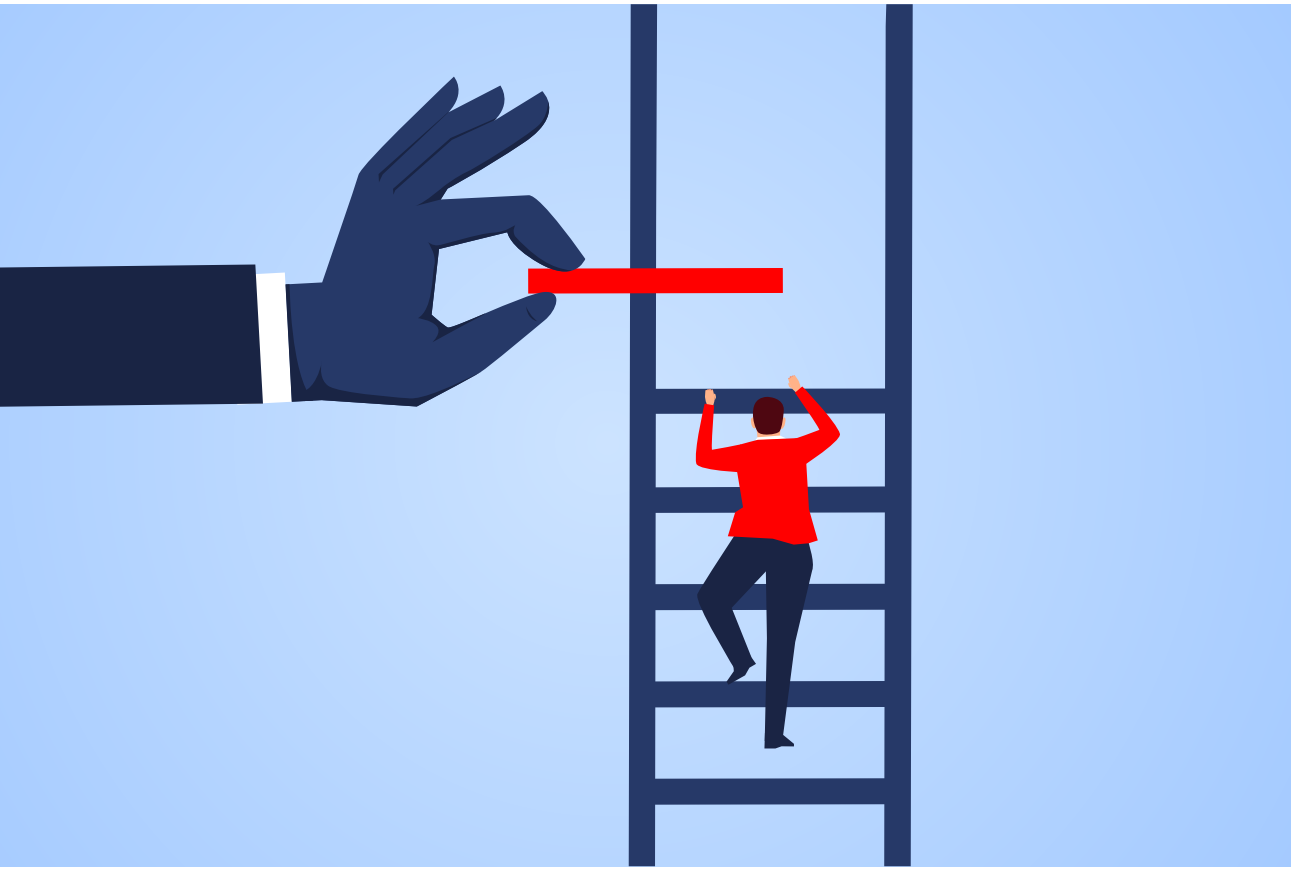
Whatever your route, one thing you will require in spades is patience. A network isn't built overnight.



SHUTTERSTOCK

network online. All our online events are open to everyone, which means people have the opportunity to connect with those they might never have otherwise met. We also think carefully about the topics we cover. Recent subjects include arbitration in the worlds of cybersecurity, sport and the war crime tribunal, as well as the latest legal decisions, of course.

Once you've made a connection it is crucial to maintain it, of course. One meeting, be it online or in person, does not guarantee you'll be remembered. In fact, a mentor once told me that you have to meet someone three times to be remembered.

But you can consolidate in a range of ways: in person at a branch event, on LinkedIn or another professional platform, or via a video or phone call. At the London Branch, we always ensure there are networking opportunities straight after one of our events, and we introduce members to each other at them.

The underlying principle for every event is that it must serve our members. Our mindset is not: what can we get out of this?

Then there's the question of whether you need a strategy to create a strong network, or whether it's something that builds organically. I think the answer probably comes down to personality. If you're shy or an introvert, having a strategy of sorts might embolden you to ask one of our committee members for assistance, for example. Particularly if you'd like to meet someone face-to-face. Connecting via LinkedIn, meanwhile, requires less courage because it simply involves pressing a button.

Whatever your route, one thing you will require in spades is patience. A network isn't built overnight. That said, it definitely happens more quickly online than in person because there are only so many people to chat to in the space of an hour.

Whatever your route, always be respectful. And remember that older people often prefer a more formal initial approach before they (we) are happy to relax in your company, online or otherwise.

I look forward to meeting you at a London Branch event soon!

ABOUT THE AUTHOR
Karina Albers FCIArb is a full-time international commercial arbitrator and mediator based in the UK, covering disputes with claims up to US$15bn under LMAA, SIAC and GMA rules. She built her profession in derivative trading, the maritime industry and commodity trade. She is a frequent panellist on arbitration panels, volunteers for Vis-Moot and IMLAM and regularly mentors legal professionals.

Get more from your ciarb membership

Your global ciarb network comprises over 17,000 professional members across 42 Branches and approximately 150 jurisdictions. There are plenty of opportunities to meet, network, learn and give back to your ADR community. Here are just some of the ways in which you can get involved.

Career development

Ongoing Learning

ciarb's Ongoing Learning webinars are designed to help you deepen your knowledge and skills, and keep you informed and up-to-date. Special rates available for ciarb members!

Look out for upcoming opportunities at www.ciarb.org/events

Diploma in International Commercial Arbitration

Oxford, UK | 8-17 September 2023

It's back! After much anticipation, ciarb's leading membership training programme returns to Oxford in September 2023. Course Director Professor Dr Mohamed Abdel Wahab and a host of highly experienced and distinguished tutors are preparing to welcome you to the first face-to-face Diploma in three years.

Suitable for practising lawyers and other professionals familiar with legal reasoning and involved in arbitration (domestic or international), this Diploma leads to eligibility for varying levels of ciarb membership, including peer interview and Fellowship (FCIArb).

More details to follow asap. In the meantime, register your interest by emailing education@ciarb.org quoting 'Oxford Diploma 2023' in the subject line.

Virtual Module 1 Mediation Training and Assessment

18 October 2022

"The tutors were incredibly helpful, incredibly knowledgeable, and certainly accessible as well. They were able to give lots of positive feedback, so it helps with your self-reflection."
Helen Hale, United Kingdom
2021 course student

Gain the knowledge you need to manage a mediation from start to finish through this practical and comprehensive course. Delivered by experienced practising mediators, this course will help you to understand:

- What conflict is and how it arises.
- What a mediator does and how mediation differs from other forms of ADR.
- The core skills required to be an effective mediator.
- The main mediation strategies.

This course leads to eligibility for ciarb Member status and ciarb Accredited Mediator status.

For more information, visit www.ciarb.org/training

Events and networking

Mediation Symposium 2022

The role of mediation in achieving sustainable development: Our duty to challenge?

4 to 6 October 2022 | Online and in-person

Sustainability is at the heart of mediation. Mediation practice needs to be sustainable and practitioners need to have the tools and skills to enable parties to achieve long-term, workable outcomes that make sense environmentally, socially, politically and commercially. Outcomes that are critical to resolving and progressing local and global issues including climate change and conflict.

Join us at the Mediation Symposium 2022 as we explore what sustainability means for mediation practice and practitioners. You will hear from a range of international speakers on topics including:

- The future of mediation
- Hybrid ADR processes for more sustainable dispute resolution processes
- Mandatory mediation and what it means for mediators
- The mediator tools and skills required to manage complex disputes
- Mediation's role in resource conflict and dispute resolution
- Peer-to-peer exchange on lessons learned in mediation practice

The virtual symposium will take place between 4 and 6 October 2022. In-person hubs will be held in:

- Singapore at WongPartnership on 4 Oct. 2022.
- London at 12 Bloomsbury Square on 5 Oct. 2022.
- Miami at Bilzin Sumberg on 6 Oct. 2022.

Book by 16 September 2022 to take advantage of early bird rates!

Congress 2022 - 9 November 2022

Alexander Lecture 2022 - 9 November 2022

For more information and to book, visit www.ciarb.org/events

Policy

UK Government consultation on mandatory mediation

On 26 July 2022, the UK Government announced plans to introduce mandatory mediation for lower value disputes in England and Wales.

The Chartered Institute of Arbitrators (ciarb) has been an active supporter of the Government's ambition for mediation to play a greater role in the civil justice system and welcomes progress towards this ambition.

We are encouraged that the government explicitly recognises that this will rely on high-quality mediation provision outside of the court system. However, the approach must be rigorous and properly funded. We look forward to continuing our work with the Ministry of Justice on how this can be achieved.

We encourage all interested members to submit their own individual responses to the consultation which closes at **11.59pm on Tuesday 4 October 2022**.

There's so much more we'd like to include here but there just isn't the space! Ensure you don't miss out on the opportunities available to you as a member of ciarb:

- Visit our website at www.ciarb.org to get the latest information
- Ensure you're receiving your monthly eSolver email newsletter* which is sent on or around the 15th of each month.

*Haven't received eSolver? Please check your spam or junk folder for the emails. If they are not there, please email us at marketing@ciarb.org and we'll be happy to investigate further.