

"The Glamorgan Code of Ethics for Arbitrators" by G.Beresford-Hartwell

1. Scope;

In this code, the term "Neutral Person" shall apply equally to persons appointed as Sole Arbitrator, as Party-Appointed Arbitrator or other co-arbitrator, as Chairman, Umpire or other third Arbitrator, (whether according to a recognized system of Arbitration Law or not) as Tribunal Expert or Assessor, as Adjudicative Expert or Adjudicator, or in any other capacity requiring him or her to give opinion, judgement or advice neutrally as between parties in difference or anticipated to be in difference. This code shall be interpreted, *mutatis mutandis*, in the light of such agreed rules or rules of law as may govern the appointment and the execution of the Arbitrator's mission.

The term "Arbitrator" shall mean persons appointed as Sole Arbitrator, as Party-Appointed Arbitrator or other co-arbitrator, as Chairman, Umpire or other third Arbitrator in accordance with a recognized system of arbitration law (whether or not the parties have agreed to abide by the outcome and whether or not there is, or is said to be, an arbitration agreement in writing), under a recognized system of Arbitration rules or otherwise where it is clear that it is intended that the person appointed is to act as an arbitrator.

The word "hear" and its derivatives shall be held to include investigation and enquiry by any means, including but not limited to procedures using written materials, direct inspection of real evidence and testing.

The requirements of this code shall be interpreted reasonably and fairly in all the circumstances.

2. Introduction

Appointment as a Neutral Person to assist parties in difference to arrive at a resolution or determination of the issues is a privilege and not a right.

3. The Mission

The Neutral Person should make every endeavour, using such powers as may be available in the context of his or her appointment, to ensure that the difference between the parties is heard and determined or resolved fairly, in accordance with any agreement between them and with his or her terms of agreement, without unnecessary delay or expense.

4. Requirement of Impartiality and Equal Treatment

The Neutral Person should be and should remain, completely impartial as between the parties, according equal attention and courtesy to all persons involved in his or her mission and taking such steps as are necessary positively to ensure that each party has an opportunity, sufficient in all the circumstances, to put his case and to deal with the case put by the other or others.

In the event that the Neutral Person is aware, or becomes aware of any circumstance or relationship, whether subsisting or otherwise, which might cast doubt upon his or her impartiality or, if undisclosed, might be thought to cast doubt upon his or her impartiality, such matter or relationship should be disclosed immediately, to the Tribunal if the Neutral Person is a member of Tribunal of several persons, or to the governing Institution if the Mission is subject to such an Institution Arbitrator, otherwise to the parties.

To protect his or her impartiality, a Neutral Person may seek indemnity from the appointing parties or other authority, but such indemnity should not extend to immunity from suit in respect of egregious bad faith or dishonesty.

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5. Conduct

A Neutral Person should conduct himself or herself in a manner appropriate to his or her mission, without personal aggrandisement.

Persons seeking appointment as Neutral Persons should not solicit or advertise for appointment but may make their availability and any relevant detail known to persons or organisations that have requested or sought such information. Nothing in this code should be interpreted as preventing appropriate entries in directories or application for listing by appropriate authorities. For the avoidance of doubt, it is declared that, for the purposes of this code, a page on the Internet which is sought by an enquirer is not a solicitation, but a direct or indirect e-mail, actively seeking appointment, may be a solicitation.

Information given by persons seeking appointment should be purely factual, should not include adverse or other comparisons and should include nothing that would lead the reader to concern as to the neutrality and objectivity of the provider of the information.

6. Payment

A Neutral Person should accept no payment, hospitality or other benefit, whether before, during or after the mission, without the knowledge and agreement of all parties. Where the Neutral Person is engaged as a Tribunal Expert, or as an Assessor or is otherwise in the service of a Tribunal or Institution, then no payment, hospitality or other benefit should be accepted without the knowledge and agreement of the Tribunal or Institution

7. Competence

Appointment as a Neutral Person should not be accepted unless the candidate is satisfied that he or she has the knowledge, skill and experience required for the task.

It is recognised that parties may wish to satisfy themselves as to the suitability of a Candidate for appointment as a Neutral Person, but Candidates for appointment as Neutral Persons should normally take part in interviews other than in the presence of all parties or a person or persons representing all parties. If such an arrangement is impracticable, any interview should be in the presence of a third person and should be minuted, with copies of the minute made available to all parties.

Where the Neutral Person is to be engaged as a Tribunal Expert, or as an Assessor or is otherwise in the service of a Tribunal (including a Court) or Institution, then any interview should be arranged by the Tribunal or Institution (the interview could be carried out by full Tribunal, the Presiding Arbitrator or the two co-arbitrators or by an accredited agent, with or without the parties). Nothing in this code should be interpreted as restricting a National Court from dealing with such matters as it sees fit.

8. Personal Knowledge

A Neutral Person should bring to his or her mission, and should use, the knowledge, experience and skill of his or her profession or calling and, where relevant, his or her personal knowledge, experience, skill and judgement but only if and to the extent that such knowledge, experience, skill and judgement has been made known to all the parties and the parties have had adequate opportunity to consider and to deal with it.

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9. Decision Making

Arbitrators should have regard to the requirements of the relevant law in making and recording their decisions. By "relevant law" is meant the law chosen by the parties or properly found by the Tribunal to apply. If applicable and required by the agreement between the parties or by rules, whether chosen by the parties or otherwise applicable to the Mission, then Arbitrators should also have regard to the requirements of such as the New York Convention on Recognition of Foreign Arbitral awards 1958 and the requirements of such legal systems as the parties may have notified to the Tribunal as relevant.

A Neutral Person generally should come to his or her decisions rationally and logically, without fear or favour and in accordance with the agreement between the parties, having regard to the evidence and any argument and using his or own understanding and judgement. Where, as may be the case in some mediation procedures, it is customary for a Neutral Person to hear one party privately, nothing so heard should be taken into account in any final decision or advice.

In the absence of any rule of law or agreement of the parties to the contrary, a Neutral Person should explain the reasons for any advice given decision made, whether procedural or otherwise.

10 Confidentiality

A Neutral Person should not disclose information obtained in the course of his or her mission to anyone not properly concerned with the mission, provided only that the requirements of this code shall not have priority in relation to any order or direction of a competent court or other competent authority.

Other than where the procedure for the Mission specifically so provides, by agreement of the parties or, where there is a Tribunal or governing Institution, an Order of such Tribunal or governing Institution, no evidence or information obtained by a Neutral Person from one party should be confidential from the other or, in an Arbitration, from the Tribunal.