

Expert Determination

June 2016

This article provides an overview of Expert Determination.

What is an Expert Determination?

Expert Determination is a dispute resolution process whereby an independent Expert in the subject matter of the dispute, is appointed by the parties to resolve the matter. The Expert's decision is, by prior agreement of the parties, legally binding on the parties. Like all construction dispute resolution processes, other than litigation, it is entirely confidential.

When should I use Expert Determination?

Expert Determination is ideally suited to disputes which are primarily dependant on technical issues, such as construction cost and quantum disputes. Because of its flexibility, Expert Determination is ideally suited to multi-party disputes.

What if I do not agree with the Expert Determiner?

The Expert Determiner's decision is legally binding. There is only a very limited basis to challenge the Determination. It is therefore important that the parties select an Expert with both relevant expertise and experience in addition to knowledge of the Determination process.

How do I find an Expert Determiner?

The Academy of Experts has a wide ranging list of members who are experienced in their own fields and are trained in the skills, techniques, and practicalities of being an Expert Determiner. If requested The Academy can appoint the Expert Determiner.

How do I start the Expert Determination process?

Expert Determination may already be a provision in your contract. If not, the first step is to agree to use Expert Determination preferably using The Academy's standard set of Rules for Expert Determination. Similarly you will need to agree the terms of the Expert's appointment.

What will it cost?

Costs will vary depending on the complexities of the matter, but are directly related to the decisions of the parties. The Appointment fee, the Expert's charges and costs, will be known in advance, other costs will vary with the extent of the written and other evidence the parties choose to submit. It is usual for the parties to share the costs equally.

How long will it take?

Significantly less time than for arbitration, litigation, or other forms of building and construction dispute resolution. The time varies with the number of parties involved and the complexity of the dispute. The Academy's Rules for Expert Determination incorporate a suggested timetable.

For more information, contact Gary on gbushell@expertqs.co.uk or The Academy direct at www.academy-experts.org.