Let's Get Together: Quo Vadis International Construction Arbitration?

Presented by

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Overview

- The Challenge: timely intervention to increase efficiency
- COVID-19 impact going forward
- Some techniques for the future

The Challenge

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A central tenet of success: recognising the importance of time to effective dispute resolution

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COVID-19 impact

Three areas of innovation promoting efficiency



Service Providers

- Advances in videoconferencing services
- Specialist services



Arbitral Institutions & Hearing Centres

- MC, HKIAC, IDRC, IAC, AP working with providers
- ▶ ICC, SIAC, HKIAC, COVID-19 directives



Arbitrators and Parties

- Virtual hearing rooms in home offices
- Developing hearing protocols

Virtual hearings going forward

2020

- Arbitrators and practitioners have embraced virtual hearings
- Technology has improved
- Upfront costs of a home office setup have been incurred

he Future

- Virtual hearings offer costeffective alternatives to physical hearings
- Hybrid hearings increase
- CMCs by videoconference becoming routine
- Virtual hearing platforms continue to innovate

2018

Just 8% of arbitrators in QMUL 2018 survey said they 'always' or 'frequently' used virtual hearing rooms

Some techniques for the future

- 1. Case management
- 2. Document production
- 3. Expert evidence
- 4. Bespoke summary procedures
- 5. Costs

1. Case management best practice

PO1 is optimal time for fixing many aspects of the procedure

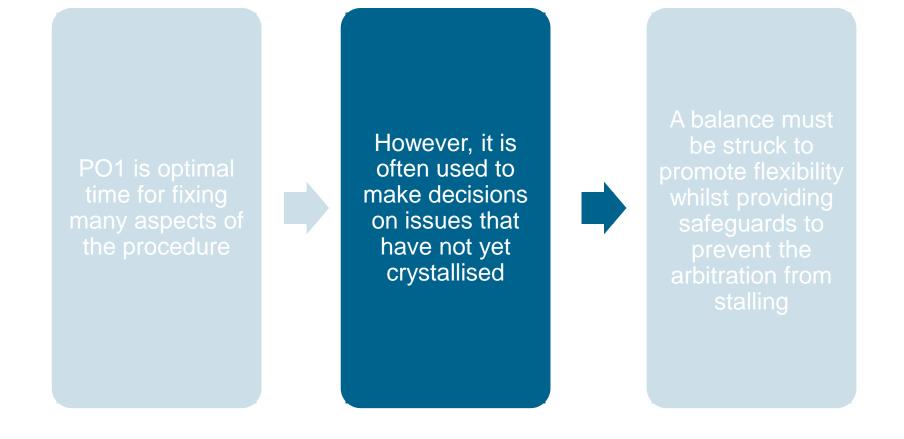


However, it is often used to make decisions on issues that have not yet crystallised



A balance must be struck to promote flexibility whilst providing safeguards to prevent the arbitration from stalling

1. Case management best practice



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A balance must be struck to promote flexibility whilst providing safeguards to prevent the arbitration from stalling

2. Document production best practice



Voluminous Requests

- ▶ Technical evidence
- Adversarial objections



Temporal Difficulties

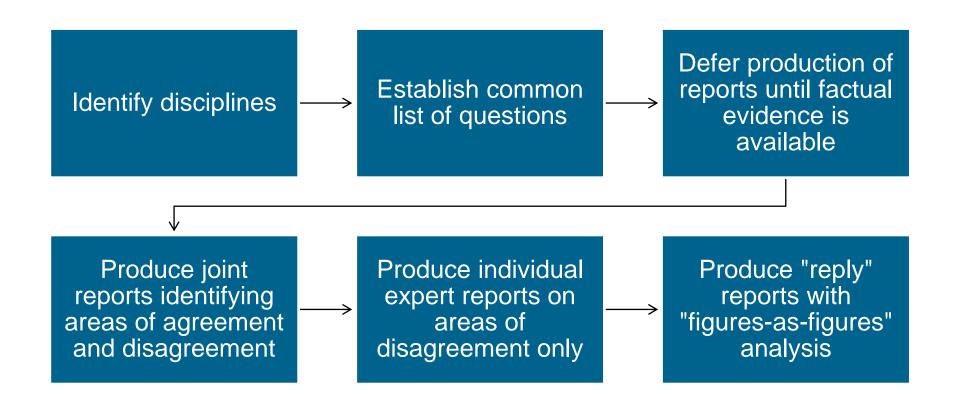
- Early requests
- Prior to ventilation of issues



Best Practice

▶ Ensuring the issues are crystallised

3. Expert evidence best practice



4. Bespoke summary procedures

Deciding matters on the papers

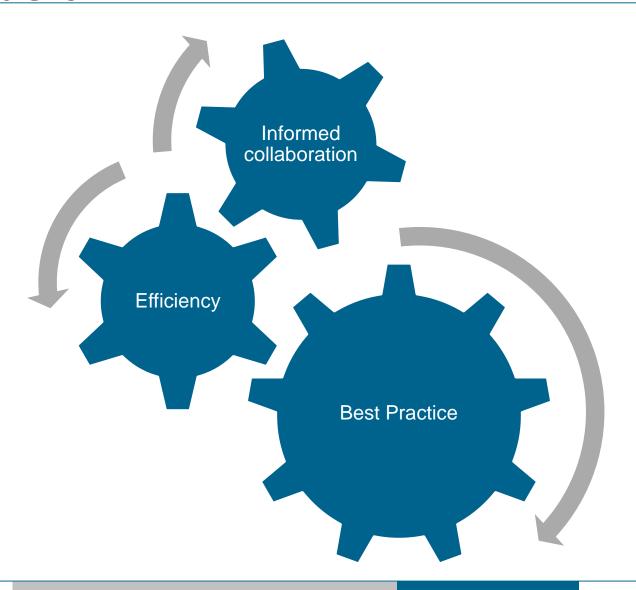
Proportional determination of small claims

Categorising claims and associated sampling techniques

5. Costs

The efficiency of Cost orders may be proceedings depends used to discourage on efficiency of the conduct that is: parties In the QMUL Survey 2019, 46% supported Unreasonable In bad faith the use of costs to encourage efficiency

Conclusion





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