

The Falcon Chambers CRCA Arbitration Scheme

Questions and Answers

Introduction

This document is designed to assist those who are considering the appointment of an Arbitrator from Falcon Chambers Arbitration (FCA) under The Commercial Rent (Coronavirus) Act 2022 (CRCA).

Question: How do I start the process for appointment?

Answer: By contacting our Arbitration Clerk, Geraldine Owen – ArbitrationClerk@falcon-chambersarbitration.com – or simply by filling in and sending the **Pro Forma Application** which will be available on our website.

Note: please do not do so unless you have first served notice of your intention to make a reference to arbitration on the other party under section 10 of the CRCA, and you have complied with the other requirements of that section.

Q: How will FCA respond, and how quickly?

A: The Arbitration Clerk will email you the **Pro Forma Application** (if you have not already taken that step) by return. As soon as you fill in and return the Application, the Arbitration Clerk will be able to carry out the necessary conflict checks and appointment. This should take no longer than seven days.

Q: Who will be appointed as Arbitrator?

A: An FCA member who is of an appropriate level of seniority in relation to the dispute, bearing in mind the level of complexity and the amount of rent at issue. Please see the FCA website for a list of our arbitrators.

Q: How can I be sure that the Arbitrator will be independent?

A: Our Arbitration Clerk will conduct a conflict check, with the assistance of other clerks from Falcon Chambers, who have a database of the cases upon which our arbitrators have worked.

Note: the conflict check should ensure that the Arbitrator has not acted for one of the parties in relation to the property in issue before. Our members all have busy practices, however, and may well have acted for one or both of the parties before in relation to other problems. If so, this will be disclosed, and you will be free to seek another appointment if you have reason to be concerned.

Q: What fees will the Arbitrator charge?

A: Our fee scales will be set out in the separate **Fees** document which will shortly be available on the FCA website. Broadly speaking, the fees will range from £1,000 upwards, depending upon the complexity of the dispute and the length of time that it will take to resolve it.

Q: If both parties are content with the appointment, what do we then do?

A: If neither party objects to the proposed appointment, the Arbitration Clerk will send to the parties a draft FCA CRCA **Agreement** for signature and return. The appointment will take effect upon receipt of the Arbitrator's fee and the administration charge of £100 plus VAT from the referring party and the Arbitrator counter-signing the Agreement, which will be emailed to the parties by the Arbitration Clerk.

Q: Will the Arbitrator be able to deal with more than one property at a time in the same arbitration?

A: Yes, but only if all the parties agree.

Q: How will the Arbitrator deal with any preliminary legal points that may arise?

A: In summary, upon receipt of each party's Final Proposal, the arbitrator will review the documents to see if it is obvious that any such preliminary points arise. It will obviously help if each party brings any such points that occur to them to the Arbitrator's attention as early as the **Pro Forma Application** stage. If the points appear to the Arbitrator to have substance in them, and that it is possible that the application is flawed, the Arbitrator will communicate with the parties to ensure the best way of disposing of the application at least expense.

Q: If the arbitration proceeds, will there be a hearing?

A: Yes, if either or both parties wish there to be a hearing. This may be held online or at a venue to be agreed, at either of which members of the public may attend, unless both parties wish the public to be excluded.

Q: Will the costs of the hearing be extra?

A: Yes: please again see our FCA CRCA **Fees** document.

Q: Given that the members of FCA are barristers without accountancy expertise, how will the Arbitrator deal with any issues that require such expertise?

A: The Arbitrator will use the powers available under section 37 of the Arbitration Act 1996 to appoint an expert with the requisite expertise. This will be done in consultation with the parties.

Q: When can the parties expect the Arbitrator's award to be published?

A: The Arbitrator has a statutory obligation to publish the award as soon as reasonably practicable after receipt of the latest final proposal under section 11 CRCA. If there is a hearing, the Arbitrator must publish the award within 14 days, or such later time as is reasonably needed.

Q: Will the Arbitrator's award be published?

A: Yes: it will be published on the FCA website, with suitable redactions to preserve commercial confidentiality.

Q: What if the Arbitrator has to step down or be removed for any reason?

A: This has never happened to us – but if it does, a suitable replacement arbitrator will be sourced from FCA, and the fees will be adjusted to reflect the reasons for the change. If there appear to be grounds for removal, please contact our Chambers Director, Edith Robertson –

e.robertson@falcon-chambers.com – explaining why removal is sought. There will be no administration fee for this, although (depending upon the reasons for stepping down), there may be a fresh administration charge of £100 plus VAT for appointing the replacement Arbitrator.

Q: What if I have a complaint about the arbitration?

A: You may be entitled to challenge the award under sections 67 to 69 of the Arbitration Act 1996. For all other complaints, please see the **Complaints Procedure** set out on our main Falcon Chambers website at <https://www.falcon-chambers.com/contact-us/complaints-procedure>.