

Money walks?

Could London lose prominence in the new dispute resolution landscape, asks **Khawar Qureshi QC**

In the midst of the financial crisis, there have been significant developments which are seen as potential challenges to London's pre-eminent role as a dispute resolution hub.

Increasing concerns as to cost and delay in Arbitration and court proceedings, coupled with the proliferation of regional dispute resolution centres, in places such as Singapore and Dubai, will inevitably mean that some international parties will locate their dispute processes elsewhere. This is already happening, with Indian and Chinese parties being actively encouraged and incentivised to identify Singapore as the seat of arbitration in their contracts.

Nevertheless, there are clear signs that London's legal community is beginning to take notice, and recognise that the room for complacency is limited.

The City UK

Responses include the formation earlier this year of The City UK, for the purposes of promoting London's financial and professional services overseas. Chaired by Stuart Popham of Clifford Chance, the City UK is supported by UKTI, the Corporation of London and has as its members the leading financial and professional institutions in the country. Specialist committees are addressing country and discipline specific issues to provide a sharper focus and more dynamic response to the challenges and opportunities of globalisation. To find out more see www.TheCityUK.com.

A glance at the table below illustrates the surge in referrals for most ADR institutions.

KEY INDICATORS

The Commercial Court

As for the more traditional form of dispute resolution, 1259 Claim Forms were issued in the Commercial Court in 2009, 951 of which involved foreign parties (75.5% of all cases). Data for 2010 so far indicates an increase in the number of Claim Forms issued this year. Of the 56 trials which took place last year, 36 involved foreign parties.

The imminent move from St. Dunstan's House to the nearly completed Rolls Building in Fetter Lane will provide the Commercial Court with a state of the art home. More pro-active case management,

The statistics

A report published by The City UK, *Dispute Resolution in London and the UK 2010* (the Report) has gathered together data from the leading dispute resolution centres in London and the UK.

Arbitrations and mediations conducted in London

Number of referrals, appointments or cases submitted

	2007	2009
Mostly international		
London Maritime Arbitrators' Association	2673	4445
London Court of International Arbitration	137	253
Lloyd's Open Forum	107	122
ICC Int. Court of Arbitration (UK seated)	58	73
Centre for Effective Dispute Resolution*	64	72
Ad hoc arbitrations (estimate)	300	300
Total international	3339	5265
Mostly domestic		
Royal Institute of Chartered Surveyors	9063	8845
Chartered Institute of Arbitrators	2882	4659
Centre for Effective Dispute Resolution*	650	600
PIM Senior Mediators	669	732
HMSC Small Claims Mediation Service	---	9240
Other mediations	2281	4668
Trade associations (estimate)	500	500
Total domestic	16045	29244
Total	19384	34509

*CEDR disputes involving domestic and international parties are listed separately

Source: Dispute resolution organisations

greater control of costs and a reminder (however gentle) that the Commercial Court is open to business from all over the world will ensure that the Commercial Court continues to play a vital role in international dispute resolution.

Mediation

CEDR (The Centre for Effective Dispute Resolution) conducted a review of mediation in early 2010 which indicates that around 6,000 civil and commercial mediations are conducted annually in the UK (of which 750 were CEDR based

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mediations last year). This figure does not include workplace mediations or the 9,240 mediations conducted by HMSC Small Claims Mediation Services in the year to March 2009.

CEDR's findings reflect a 67% increase from 3,600 in 2007 and 2,500 recorded in 2005. CEDR's survey indicated that three quarters of mediations are settled in a day with a further 13% settled shortly afterwards.

LMAA

The financial crisis led to a near collapse in the cost of shipping with an inevitable explosion in disputes. The number of individual appointments received by the 40 full time members of the London Maritime Arbitrators Association increased sharply from 2,673 in 2007 to 4,326 in 2009.

As the table above makes clear, LMAA arbitrations (based upon rules which in essence mirror the English High Court CPR Rules, and are handled by a very small group of arbitrators) account for the bulk of international arbitrations in the UK.

LCIA

The London Court of International Arbitration has seen a doubling of disputes referred to it since 2007—from 137 to 285 in 2009. A further 123 disputes were filed in the first six months of 2010. Over 90% of LCIA disputes are international, and most parties choose London as the seat of arbitration.

ICC

The International Chamber of Commerce has offered an arbitration service to international business since 1923. The most frequently selected seats for arbitration over the past 4 years have been Paris, London, Geneva, Zurich, Singapore and New York. In 2009, Paris was the most popular with 113 arbitrations, followed by 73 in London, 62 in Geneva and 50 in Zurich.

Valuable insight

The data contained in the Report provides a valuable insight into the dispute resolution processes being undertaken in the UK..

With the emergence of formidable regional dispute resolution centres in places such as Singapore, London and the UK will need to respond positively and dynamically to the challenges and opportunities which lie ahead. The signs so far are encouraging.

NLJ

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