

LCIA EQUALITY, DIVERSITY & INCLUSION (EDI) GUIDELINES



The London Court of International Arbitration



INTRODUCTION

This introduction sets out why EDI matters in international arbitration, offering context for stakeholders who wish to adopt these principles. We include definitions of EDI values and what positive outcomes they may yield, along with general considerations that serve as a foundation for practical guidance.

The actual EDI Guidelines consist of two sections. **Section I** outlines specific EDI practices and considerations at key stages of the arbitration process, relevant to all stakeholders. **Section II** details the distinct roles and responsibilities of primary stakeholders (parties and legal representatives, the institution, and arbitrators) in promoting EDI. Many other stakeholders participating in an arbitration, such as court reporters, experts, funders, interpreters, tribunal secretaries, etc. can all contribute in their own ways as well.

The LCIA encourages the use of these Guidelines where feasible and invites stakeholders to adopt them flexibly, recognising that they are not mandatory. Moreover, these Guidelines are not static and will need to be updated from time to time. To learn more about the collaborative, stakeholder-driven process that yielded this document, visit the LCIA website [LCIA Unveils New Equality, Diversity, and Inclusion Initiative](#).

VALUES

EDI are core values of the LCIA, championed by its Board and key stakeholders. Recognising the meaning and potential positive impact of these practices is crucial to fostering an inclusive arbitral process.

Diversity in arbitration consists of two key, interconnected categories. Cognitive Diversity refers to differences in thought processes, expertise, learning styles, and neurodiversity, all of which bring varied perspectives. Demographic Diversity includes social, cultural, and national identities, shaped by factors like socio-economic background, education, and intersectionality, reflecting the complexity of individual experiences.

Inclusion involves fostering an environment where all voices and perspectives are respected. This requires valuing diverse expertise, focusing debates on ideas rather than personalities, and adopting practices that enable everyone to contribute effectively. Inclusion also promotes cultural understanding and openness to different viewpoints.

Equality addresses discrimination and aims to close wealth and status gaps. Equity goes further by providing tailored support for historically marginalised groups. Together, equality and equity are crucial to ensuring a diverse and representative arbitration community.

OUTCOMES

When equality, diversity, and inclusion are present several positive outcomes are likely to be achieved:

Fairness is central to arbitration, supported by the principles of equality and equity. As an arbitral institution, the LCIA fosters fair and neutral dispute resolution through EDI-aligned rules, procedures, and policies. Arbitrators have a duty to act impartially, and promoting EDI in proceedings upholds that duty.

More generally, being open to diversity expands the talent pool, helping to ensure that the right person is chosen for the job. Diverse teams in turn can enhance **decision quality**. Cognitive and demographic diversity in tribunals may reduce bias, enrich deliberations, and lead to better decisions on both procedure and merits when inclusive practices harness differing perspectives constructively.

Finally, EDI and equal representation are critical for the **legitimacy of arbitration**. Users and the community expect arbitral institutions and their stakeholders to represent the international business community fairly.

CONSIDERATIONS

When consulting these Guidelines, consider making a '**PACT**' to incorporate EDI into your professional practice: Participate, Accommodate, Communicate, Train.

1. **Participate** – Encourage balanced and inclusive participation from all stakeholders, including within tribunals (e.g., interactions with parties, deliberations) and legal teams of various seniority levels.
2. **Accommodate** – Make known any adjustments or accommodations that may be required to ensure the full and fair participation of all involved in the arbitration and keep this regularly under review throughout the proceedings.
3. **Communicate** – Be mindful of any geographic, cultural, and/or other differences that may influence the timing and style of communications, such as religious holidays, time zones, working week, and cultural norms.
4. **Train** – Consider undertaking training to ensure adequate consideration of all contributions and to identify potential bias, such as unconscious bias or cultural awareness training.

LCIA EDI GUIDELINES

SECTION I: EDI AT EACH STAGE OF AN ARBITRATION

The LCIA is committed to improving the practical application of EDI values throughout all aspects of its work. To facilitate this, the LCIA, its stakeholders and users should apply an EDI lens to all decision-making points, including but not limited to the stages detailed below.

1. Commencing an Arbitration

- 1.1 Have regard to the importance of diversity and inclusion from the outset of the arbitration, including selecting the legal team, drafting the Request for Arbitration using the tools set out in the Encouraging Inclusive Conduct section, and when there is a right in the arbitration agreement (or a proposal) to nominate an arbitrator, using the tools set out in the guide on selecting candidates.
- 1.2 In the first communication or first procedural hearing, have regard to the importance of diversity and inclusion from the outset of the arbitration, including bringing these Guidelines to the attention of all participants in the arbitration.

2. Identifying Candidates

- 2.1 When identifying candidates for roles such as legal representatives, arbitrators and expert witnesses, have regard to the importance and advantages of diversity. Consider the following (non-exhaustive) list of characteristics: sex, gender, race, nationality, ethnicity, sexual orientation, age, disability, religion, geographic location, and social, professional and legal backgrounds (e.g. civil and common law).
- 2.2 When conducting searches for, and compiling shortlists of, potential arbitrators, tribunal secretaries, expert witnesses, etc. consider the below.
 - 2.2.1. The selection process is accessible to and takes account of all potentially suitable candidates regardless of background.
 - 2.2.2. Alternative sources/databases (and multiple sources) have been used.
 - 2.2.3. The LCIA's data on arbitrator selection has been reviewed e.g. in their [Annual Casework Reports](#).
 - 2.2.4. Varied and creative search terms have widened the candidate pool.
 - 2.2.5. Objective criteria such as experience with a particular type of dispute and legal qualifications rather than subjective criteria is used to compare candidates.
 - 2.2.6. Diversity of characteristics across candidates with the relevant experience and expertise is apparent, having regard to the above list.
 - 2.2.7. Diverse candidate lists have been given meaningful consideration, as this can help avoid tokenism and increase the likelihood of genuine selection.

3. Establishing Hearing Procedures

- 3.1 Consider establishing a visible commitment to EDI by opening a dialogue around potential barriers to participation. This commitment could be formalised in the first procedural order and referred to throughout the proceedings, or simply be addressed in initial discussions. For those opting to include a commitment in a procedural order, the following language is suggested:

The Tribunal, the Parties, and their Legal Representatives are encouraged to remain aware of diversity and inclusion in the conduct of the proceedings (including for the purpose of advocacy) and aim to ensure, to the extent possible, fair participation of all individuals involved in the arbitration, consistent with the LCIA's EDI Guidelines.

No person shall be discriminated against on the basis of sex, gender, race, ethnicity, nationality, sexual orientation, age, seniority, disability, religion, geographic location, and social and professional backgrounds.

- 3.2 Take into account and continue to monitor and update any adjustments or accommodations required by the parties, their legal representatives, and their fact and/or expert witnesses, such as those listed below.
- 3.3 Considerations when scheduling a hearing or a deadline should include (but not be limited to) the following areas.
- 3.3.1 Working Week: Is the weekend Saturday – Sunday for all? Is Friday a non-working day for some?
 - 3.3.2 Timings: Are participants in different time zones? Do participants have caring responsibilities that could be accommodated with adjusted hearing days?
 - 3.3.3 Culturally Significant Dates: Religious observances and important cultural days differ globally across an array of diversity characteristics. These special cases merit scheduling consideration.
 - 3.3.4 Disability: Do any participants have any form of disability for which a reasonable adjustment, including in terms of accessibility, timetabling and dress code for hearings or meetings, may be required?
 - 3.3.5 Breaks: Consider the frequency and length of breaks to account for factors such as fasting, religious engagements, fatigue or other challenges caused by menopause or pregnancy, neurodiversity, health conditions, caring responsibilities, and calls of nature.

4. Encouraging Inclusive Conduct

- 4.1 Those in positions of authority, such as lead counsel and presiding arbitrator, have a pivotal role in fostering equal participation by modelling inclusive behaviours and managing how diversity is reflected in proceedings, as outlined in these Guidelines.
- 4.2 Be mindful of any cultural or other differences that may influence communication styles (e.g. gesticulation, eye contact, etc.).
- 4.3 Ask participants at an early stage how they would like to be addressed, through respectful questioning. Supplement with neutral language defaults.
- 4.4 Request phonetic spellings of names accurately to address names of varied cultural origins, asking for correction with names that one may find more challenging to get right.
- 4.5 Adopt gender neutral language in appropriate circumstances, e.g. "Chair" or "President", rather than "Chairman".
- 4.6 Where a person's gender is not yet known, ask for clarification on how to address them properly. If corrected, promptly adopt the change.
- 4.7 Consider language respectful of diverse personal characteristics, consulting reputable resources, for instance, the UK Judiciary's [Equal Treatment Bench Book](#) offers non-exhaustive glossaries and regularly updated language guidance for a wide-range of diversity characteristics.

SECTION II:

WHAT THIS MEANS FOR DIFFERENT ARBITRAL STAKEHOLDERS

5. Parties and Legal Representatives

- 5.1 Include EDI provisions in arbitration agreements and reinforce expectations with their legal representatives that EDI be attended to in their cases.
- 5.2 Consider EDI principles when appointing legal teams and making decisions with respect to advocacy and selection of experts.
- 5.3 Ensure, to as full an extent as possible, a diverse team works on each arbitration, and that arbitrator and expert witness selection processes follow the selection guidance in this document.
- 5.4 Consider enabling junior members of the team to conduct some of the advocacy.
- 5.5 Apply the above guide for selecting arbitrator candidates *mutatis mutandis* when selecting legal representatives and expert witnesses.

6. LCIA

- 6.1 Provide training to casework counsel who propose arbitrator candidates to the LCIA Court, including unconscious bias training.
- 6.2 Publish statistics on gender and nationality in relation to arbitrator and tribunal secretary appointments, as well as first-time and repeat appointments in relation to arbitrators.
- 6.3 Invite tribunals, parties and their legal representatives to provide data on experts they have appointed in LCIA-administered arbitrations.

7. Arbitrators

- 7.1 Contact parties shortly after appointment and consider using the LCIA paragraph set out above in the Establishing Hearing Procedures section of this guide.
- 7.2 Make directions regarding attention to diversity when appointing expert witnesses and maintain an environment where first-time appointees can testify confidently.
- 7.3 When involved in appointing a tribunal expert or tribunal secretary, apply the same considerations for diversity as selecting arbitrators.
- 7.4 Encourage balanced and inclusive participation from all stakeholders including arbitrators (e.g. with respect to interactions with parties and deliberations).

8. Other Participants

- 8.1 Demonstrate courtesy and respect towards all stakeholders, regardless of their diversity characteristics or differences in opinion.
- 8.2 Promote EDI practices as outlined in these Guidelines and provide feedback on their effectiveness to the Presiding Arbitrator.
- 8.3 Ensure balanced and inclusive lists of potential experts are put forward when approached by clients or legal representatives.
- 8.4 Ensure, to the greatest possible extent, a diverse team works on each mandate.
- 8.5 Consider how best to ensure equality of opportunities and for aspiring experts to be given appropriate opportunities to be lead expert and testify.

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