

Queen Mary University arbitration surveys 2006-2025 analysis

2006 QMU-PWC survey

https://www.qmul.ac.uk/arbitration/media/arbitration/docs/IAstudy_2006.pdf

- 1) The cost and time of international arbitration were the first two concerns of participants.
- 2) Proceedings increasingly simulate court proceedings, increasing the time to an award.
- 3) Relevant industry and/or regional expertise are increasingly desirable attributes of an international arbitrator.
- 4) Arbitration users have concerns, including the currently small pool of arbitrators

2008 QMU – PWC survey

https://www.qmul.ac.uk/arbitration/media/arbitration/docs/IAstudy_2008.pdf

- 5) 57% of the participants had taken less than one year to enforce and execute their arbitral awards. 14% were successful in less than six months. However, in 5% of cases, the proceedings took between two and four years. Most counsel pointed to the 1958 New York Convention as the principal reason for relatively short proceedings.

2010 QMU – White & Case survey

https://www.qmul.ac.uk/arbitration/media/arbitration/docs/2010_InternationalArbitrationSurveyReport.pdf

- 6) 50% of respondents have been disappointed with arbitrator performance. The top reason respondents were disappointed with an arbitrator was a 'bad decision or outcome' (20%), followed by excessive flexibility or failure to control the process (12%). 11% said the arbitrator caused delays and 9% each said that there was poor reasoning in the award and the arbitrator lacked knowledge or expertise in the subject matter of the dispute. 8% said that the arbitrator was tardy in rendering the award.
- 7) It is noteworthy that respondents prefer a pro-active case management style rather than a deferential or reactive style (43% vs. 21%) and an arbitrator that focuses on the commercial disposition rather than the legal determination of disputes (32% vs. 24%). Relevant industry experience and languages are also seen as important (43% and 44% respectively).
- 8) It may be questioned whether the influence of external counsel over arbitrator selection gives those firms disproportionate influence over the participants in the process, making them virtually 'gatekeepers'. This may reduce the diversity of the arbitration community and mean that undue importance is placed on arbitrator relationships with law firms.

- 9) Availability was a specific issue focused on by respondents and interviewees: many felt that arbitrators should be required to publish information about their pending commitments so parties could have a better idea of the time the arbitrator would have to commit to the matter, as this is a factor that can lead to delays. Corporations are increasingly becoming more self-aware of their strong position as the main 'consumers' of the arbitration product and thus they feel that they should have more input into this decision.
- 10) It was noted that corporate users are not happy with the time it takes between the final hearing and the rendering of the award. Most interviewees said that they would consider it appropriate for an award to be delivered around three to six months after the close of hearings, whereas it is common for awards to be rendered more than 12 months after the close of hearings (with some 'horror stories' of awards not being rendered for up to three years).

2012 QMU – White & Case survey

https://www.qmul.ac.uk/arbitration/media/arbitration/docs/2012_International_Arbitration_Survey.pdf

- 11) For sole arbitrators, two-thirds of respondents believe that the award should be rendered within 3 months after the close of proceedings. For three-member tribunals, 78% of respondents believe that the award should be rendered either within 3 months (37%) or within 3 to 6 months (41%).
- 12) many interviewees expressed some distrust in arbitral institutions selecting arbitrators. In particular, they were concerned about the small and static pool from which some institutions pick their arbitrators, and of the fact that not all institutions are paying sufficient attention to the availability of arbitrators.
- 13) An analysis of the overall results in Chart 9 reveals that 'identification by the tribunal of the issues to be determined as soon as possible after constitution' was identified as the most effective method of expediting proceedings (64% of respondents find it 'the most effective' or 'quite effective').

2013 QMU – PWC survey

<https://www.qmul.ac.uk/arbitration/media/arbitration/docs/pwc-international-arbitration-study2013.pdf>

- 14) The survey confirms that arbitration is more popular in some industry sectors than others, most notably in the Energy and Construction sectors.
- 15) The most influential factors in the appointment of arbitrators were the individual's (1) commercial understanding of the relevant industry sector; (2) knowledge of the law applicable to the contract; and (3) experience with the arbitral process; technical (non-legal) knowledge and language were also cited but were less influential.
- 16) Some interviewees have expressed concerns over the "judicialisation" of arbitration, the increased formality of proceedings and their similarity with litigation, along with the associated costs and delays in proceedings. This trend is potentially damaging to the attractiveness of arbitration.

- 17) A recurrent theme in interviews with respondents from various sectors was the risk of “judicialisation” of arbitration. Interviewees expressed concern about their perception that the process of arbitration has become more sophisticated and more “regulated”, with “control” over the process moving towards law firms – and away from the actual users of this process. Several interviewees linked concerns over increases in the costs of arbitration with this encroaching judicialisation.

2015 QMU – White & Case survey

- 18) “Cost” is seen as arbitration’s worst feature, followed by “lack of effective sanctions during the arbitral process”, “lack of insight into arbitrators’ efficiency” and “lack of speed”.
- 19) A growing concern in international arbitration is a perceived reluctance by tribunals to act decisively in certain situations for fear of the award being challenged on the basis of a party not having had the chance to present its case fully (“due process paranoia”).

2016 QMU – Pinsent Masons survey (Technology, Media and Telecoms disputes)

https://www.qmul.ac.uk/arbitration/media/arbitration/docs/Fixing_Tech_report_online_singles.pdf

- 20) Expertise in the arbitral process and technical knowledge of the industry are both important to selecting external counsel and arbitrators.
- 21) A key change demanded by respondents was for more specialised arbitrators, in particular with TMT expertise, and a need for greater confidence in the capabilities of arbitrators.
- 22) Interviewees expressed a desire for more industry-expert arbitrators as opposed to the “usual suspects”. Particularly in the area of information technology and outsourcing services disputes, respondents cited a need for arbitrator candidates to have greater expertise in the subject at issue.

2018 QMU – White & Case survey

<https://www.qmul.ac.uk/arbitration/research/2018/>

- 23) “Cost” continues to be seen as arbitration’s worst feature, followed by “lack of effective sanctions during the arbitral process”, “lack of power in relation to third parties” and “lack of speed”
- 24) Respondents primarily think that “*publicly available rosters of arbitrators with specialist industry/sector experience*” and “*more industry/sector-specialised arbitral institutions*” would make international arbitration more appropriate for energy disputes.
- 25) Attitudes to diversity in tribunals was surveyed, however this “diversity” referred to gender, geographic, age, cultural and ethnic. There was no strong consensus in support of this kind of diversity. The assumption is that 3 lawyer tribunals are the norm and diversity of decision making and experience were not considered. Although in some instances databases with more ‘diverse’ lists of arbitrators are already being circulated internally within their law firms, actual appointments still fail to reflect the larger pool of available arbitrators and rather continue to perpetuate the nomination of repeat players. Arbitral institutions were voted by nearly half of respondents (45%) to be the best placed stakeholders to ensure greater diversity across tribunals, but the main institutions never, or almost never, appoint non-lawyers.

- 26) Thirdly, respondents are concerned with all relevant data that would indicate the degree of arbitrators' availability. Specifically, users would appreciate knowing the number of, and more information on, their ongoing cases, including how many proceedings they are presiding over.

2025 QMU – White & Case survey

<https://www.qmul.ac.uk/arbitration/media/arbitration/docs/White-Case-QMUL-2025-International-Arbitration-Survey-report.pdf>

- a) Time and cost of proceedings consistently arise as the most significant drawbacks for users.
- b) 80% of respondents would like to be able to provide an assessment of arbitrators at the end of a dispute. Nearly 90% would do so by reporting to an arbitral institution.
- c) The most effective mechanisms for enhancing efficiency were expedited arbitration procedures (50%) and early determination procedures for manifestly unmeritorious claims or defences (49%).
- d) Some arbitrators are too busy to be proactive. Arbitrators taking on too many appointments was considered a primary issue.