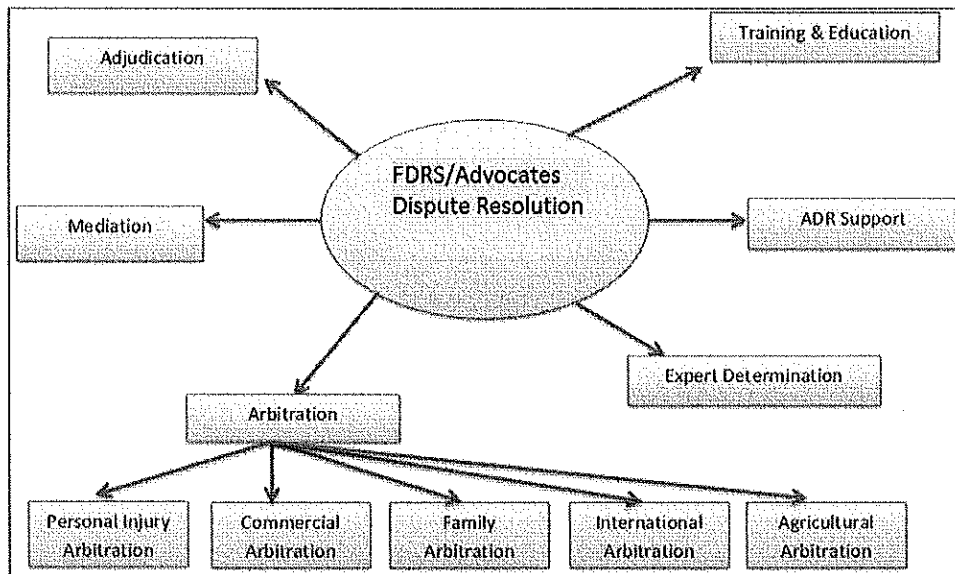




The Faculty of Advocates'
Dispute Resolution Service (FDRS)

FDRS provides qualified Arbitrators, Adjudicators, Mediators and Expert Determiners from the bar¹. The Faculty is currently developing FDRS with the intention to offer a number of dispute resolution services via a central hub. The hub will provide a common positioning, and access point, for the services. FDRS intends that the services will be easy to access via the hub, and its website. The hub is designed to be sufficiently flexible to accommodate additional services. An illustration of the hub concept is shown below.



FDRS will facilitate the provision of training from independent institutions. Advocates will only be admitted as members of FDRS if they are able to demonstrate they are suitably qualified and experienced.

¹ <http://fdrs.advocates.org.uk>

Service provision

The Faculty is aware that concerns have been expressed about delays and increased costs in the court system, together with a perceived lack of flexibility, choice and specialism. There appears to be an increased interest in other forms of dispute resolution.

The Faculty has members who have developed considerable experience in all fields of litigation. The Faculty considers that that experience, and the accompanying skill base, can be provided in the field of dispute resolution. The Faculty intends to build on its collective experience to promote all forms of dispute resolution in a number of different areas, including construction, commercial, agricultural, international, family and personal injury.

The Faculty is firmly of the view that it is essential that the service offered should combine experience in the relevant field, with an independent qualification in the particular dispute resolution service, including arbitration, and membership of a recognised professional body. The Faculty aims to ensure that solicitors, their clients, and the public in general, can have confidence that a member of FDRS is suitably experienced and qualified to resolve disputes in the manner that has been chosen by the parties. The intention is to widen the choices available to parties to resolve their dispute. FDRS also wishes to draw on the experience and skills of members who would be suitably qualified to act for parties in their dispute.

FDRS has 20 Advocates currently accredited as arbitrators. In addition, 38 Advocates are studying for a qualification in International Arbitration Law delivered through the University of Aberdeen. The course will be completed in April 2017, after 11 weeks of

study and a final exam. Successful completion of this course will also allow for membership of the professional body, the Chartered Institution of Arbitrators, London ("CIArb).

This will then be followed by additional training concentrating on practice, procedure and award writing. After successful completion and examination, this will entitle members to apply for Fellowship of CIArb ("FCIArb"),

Appointment of an Arbitrator where Parties cannot agree

Parties to an arbitration have the power to select their own Arbitrator. In the event they are unable to agree, it will be open to parties to invite the Dean of Faculty to make an appointment². FDRS wishes to ensure that the appointment process is independent, and this maintains the integrity of and confidence in the service. Accordingly, the Vice Dean has asked a retired Senator of the College of Justice if he would be willing to provide recommendations to the Dean of those who are suitably qualified to act as an arbitrator in the particular dispute.

Access to Online System

The Faculty intends to make available an online platform (an e-Arb system) to parties using FDRS to ensure that the arbitration is as cost effective, efficient and flexible as possible. The platform will be managed by the arbitrator. It will be secure and confidential. An e-Arb system is considered by the Faculty to meet the needs of parties in the modern era. The Faculty has been investigating what systems are available for this purpose and has now received proposals from two separate companies. There are significant costs involved in each and monies have been directed from the Faculty to FDRS to allow this online system to be secured. Negotiations are currently ongoing.

² The Dean of Faculty is authorised under section 24 of the Arbitration (Scotland) Act 2010 to act as an arbitral appointments referee

Collaboration

Whilst pursuing our plans for the introduction of our new Scheme, the Faculty wishes to work with the other bodies currently engaged in Arbitration and other forms of dispute resolution. In particular, we wish to collaborate with the Scottish Arbitration Centre and to take an active role in assisting them with preparations for and attendance at the ICCA Conference in Sydney 2018 (for the handover) and the ICCA Conference 2020 in Edinburgh.

The Faculty has also had discussions with RICS, FLAGS and other relevant bodies.

Personal Injury Arbitration

The Faculty is commencing its plans by introducing Personal Injury Arbitration, which has never before been tried in Scotland. It is our intention to have a pilot scheme commence in the summer. We intend to quickly develop into other areas as noted above.

Conclusion

We very much hope that the Scottish Government will welcome this innovative approach and see the potential benefits for those for whom litigation may not be necessarily the right option. We are very happy to discuss any aspect of these arrangements further.