



The Bar Council

Barristers in international arbitration

2024-2026



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This brochure provides a brief introduction to:

- Key features of international arbitration – the challenges and opportunities it presents to disputing parties and their legal advisers
- The advantages which barristers bring to international arbitration
- Services provided by barristers in international arbitration
- How to involve a barrister to assist in an international arbitration

Introduction to barristers

Barristers are specialist advocates among the UK legal professions. The profession has existed for nearly 800 years. Barristers undergo a unique education and training programme in order to be able to present cases to a court in a way that is focused, rigorous and – above all – persuasive.

Barristers are also sought after to give specialist advice on complex issues that require expert judgement.

Barristers are generally independent, self-employed advocates. They practise from “chambers”, which are not law firms but associations of independent barristers who share certain overhead costs (e.g. a building and support staff). (Colloquially, barristers often refer to a chambers as a “set”, which refers to the set of rooms comprising the chambers). Barristers in the same chambers are fully independent of each other, and it is common to find barristers from the same chambers appearing against one another, on opposite sides of a case. Chambers are practiced in ensuring strict separation in administrative arrangements to ensure all parties’ confidentiality.

Reputable chambers can be found in most cities and major towns in England and Wales. Many leading chambers are located in and near the Temple area of London, near the four Inns of Court, dating from

medieval times, which still administer important parts of barristers’ education and training. Today, some chambers also have premises outside the UK, e.g. in Singapore and Dubai.

There are about 17,700 barristers in total, about 14,100 of which are in independent practice. About 3,100 barristers are in employed practice (e.g. in law firms or government legal offices).

About 1,900 barristers have obtained the quality mark of King’s Counsel (KC – also referred to as “silks”). This represents approximately 1% of the UK legal profession. To become a KC, a barrister must go through a rigorous and transparent selection process which evaluates their excellence in advocacy, as well as certain additional requirements (leadership and working with others, ethics, and commitment to diversity of the legal profession).



Introduction to international arbitration

International arbitration is the leading choice of businesses around the world for dispute resolution. When parties based in different countries do business together, they need a dispute resolution process that is fair, neutral and efficient. They value arbitration because it is:

- **Neutral** – usually the seat of arbitration and the arbitrators will be based in a different country from both parties
- **Confidential** – arbitration proceedings are generally held in private and parties often agree to keep the proceedings and terms of the final resolution confidential
- **Flexible** – allowing parties to choose and shape their own procedure
- **Final** – with very limited rights of challenge or appeal;
- **Effective** – with arbitral awards widely and readily enforced under the New York Convention 1958

Increasingly, disputing parties from around the world are using barristers from England and Wales to advise and represent them in international arbitrations.

Barristers are highly effective advocates and co-counsel in international arbitrations, because they:

- Have advocacy skills obtained through unique levels of training and experience
- Are experienced in co-counselling with lawyers from many other jurisdictions (whether civil or common law) and in handling matters involving different applicable laws
- Work on cases themselves, rather than using employees or associates
- Generally charge lower fees (due to lower overheads) and have more flexible fee arrangements than law firms



Key features of international arbitration

International arbitration is a diverse field. It is not the product of any one country or legal system, but has grown over centuries to provide a workable solution where legal relationships – especially of trade and commerce – cross jurisdictional and cultural boundaries.

While no country can claim international arbitration as its own, England and Wales are certainly one of the original and early ‘homes’ from which international arbitration grew. English and Welsh case law from the 1600s shows that arbitration was a familiar part of the trading scene in London from as early as 400 years ago. The practice of international arbitration today has been shaped by its evolution in England and Wales, among other centres of commerce.

Over time, different sectors and different regions of the world have evolved distinct approaches to arbitration.

Many arbitrations today are conducted through institutions such as the International Chamber of Commerce (ICC), London Court of International Arbitration (LCIA), Stockholm Chamber of Commerce (SCC), International Center for Dispute Resolution / American Arbitration Association (ICDR/AAA), Singapore International Arbitration Centre (SIAC), Hong Kong International Arbitration Centre, Cairo Regional Centre for International Commercial Arbitration (CRCICA), Regional Centre for International Commercial Arbitration Lagos (RCICAL), Asian International Arbitration Centre (AIAC) (Kuala Lumpur) and others.

That said, many business sectors have developed their own more specialised arbitration systems and rules, which resolve a high volume of cases and are well regarded by business users, e.g. GAFTA (Grain and Feed Trade Association), FOSFA (Federation of Oils, Seeds and Fats Association), the LMAA (London Maritime Arbitrators Association) for shipping disputes, and Bermuda Form arbitration (reinsurance).

For general commercial arbitrations the UNCITRAL (United Nations Commission on International Trade Law) arbitration rules have been a popular choice since the 1970s.

Increasingly, international arbitration is a specialised community where arbitrators, advocates and other professionals collaborate to improve the arbitration process, share best practice, and develop common standards and guidance. There is now an extensive body of 'soft law', rules which parties or tribunals may adopt or treat as guidance, and other 'best practice', which often plays an important role in arbitration procedure.

It is therefore vital to have advocates experienced in arbitrations under a range of different rules, who understand which approaches work best with different kinds of tribunal, and are familiar with rules, soft law, and other guidelines.

The international arbitration community has also been active in building up the capacity of new arbitration centres and arbitration practitioners in emerging jurisdictions around the globe. The English and Welsh Bar has been at the forefront of capacity-building, training and promoting the establishment of new arbitration centres joining this global community.



Advantages barristers bring to international arbitration

Barristers bring several key advantages to international arbitration, including:

- **Uniquely rigorous training.** It is extremely difficult and competitive to gain one of the highly sought-after training positions for the Bar (known as “pupillage”). Individuals who attain pupillage and then practice in a set of chambers have a strong intellectual background and have demonstrated their excellence to fellow barristers with more experience.
- **Proven quality.** Each individual barrister has their own practice. Any successful barrister will have developed their own individual reputation and client following.
- **Rigour and objectivity.** With their unique training and strict professional Code of Conduct, barristers are known for providing rigorous and objective advice. Their independence means that their advice is often more objective than law firms, and ensures that the strengths and weaknesses of the client’s case are kept constantly under review, as is the overall strategy and the potential to achieve a settlement.
- **Work is done personally.** Barristers are generally engaged as individuals. They cannot charge fees for work done by other individuals. This is very different from law firms, where partners often spend much time on marketing and use junior

associates to handle much of the legal work. With barristers, the client can have confidence that the barrister undertakes the work personally and does not delegate.

- **Flexibility to tailor the team to the case.** As noted above, barristers are independent and self-employed. In larger cases, it is often helpful to use a team of two or more barristers, and barristers’ independence means that the team can be built around the particular demands of the case. This is different from law firms, where a partner’s team are permanent salaried employees, so the firm will generally be looking to have the same whole team engaged whatever the case. Barristers are accustomed to working in teams, with different individuals each time.
- **Co-counselling without seeking a relationship with the lay client.** Barristers are usually engaged by other lawyers. Barristers mostly market their services to lawyers, seeking engagement on a ‘referral basis’, rather than to the lawyers’ business clients. A law firm can engage barristers and work with them as co-counsel, with the comfort of knowing that the barrister will not seek a relationship with the underlying client. Rather, the barrister hopes to build a relationship with the co-counsel law firm, to collaborate on other cases in future.
- **Cost effectiveness.** Barristers provide specialist and high-quality advice. Nonetheless, the fees they charge are usually very competitive and can be less than those charged by law firms, because barristers have significantly fewer overheads (e.g. office accommodation and staff) to cover.

Services provided by barristers in international arbitration

Lawyers and other clients around the world regularly use barristers to provide services in relation to international arbitration such as:

- Legal advice on a client's position, rights, risk exposure, and strategic options for dispute resolution
- Guidance on how to make the most effective use of the arbitration procedures
- Advice on who to nominate / appoint as an arbitrator;
- Drafting written statements of case and advocacy documents
- Presenting the case orally at a hearing, including oral examination of witnesses and experts

Generally, barristers undertaking international arbitration work have extensive past experience of all the above, which they bring to bear in the case to the client's advantage.

Beyond their work as advocates, it is also common for barristers to be engaged as an independent expert witness on English or Welsh (or, if appropriate, other UK) law.

Finally, a substantial number of barristers also accept appointments to sit as arbitrators and are experienced in doing so.

Some barristers develop highly specialised practices in which they become leading experts on some of the most difficult legal issues. English and Welsh solicitors and firms of foreign lawyers frequently instruct specialist barristers to advise upon points of law that arise in complex cases.



Facts and figures

UK



is the largest legal services market in Europe (valued at **£43.7bn** in 2022) and is second only to the US

English law was estimated to have governed around

£250bn

of global mergers and acquisitions (M&A), and

40%

 of global corporate arbitrations in 2019

Matters arising from arbitration made up

25%

of claims issued in the English Commercial Court in 2021/22



The LCIA reports that in 2022

88%

of parties in its arbitrations came from

90

 countries other than the UK

The number of civil disputes resolved through arbitration, mediation and adjudication in the UK in 2022 exceeded

16,320

More than

80%

of the world's maritime arbitrations are handled in

London



How to involve a barrister to assist in an international arbitration

Involving a barrister

A non-UK law firm (and, for that matter, a non-UK lay client, such as a business) can directly instruct a barrister to assist in an international arbitration. There is no requirement to involve an English or Welsh law firm in order to engage a barrister.

For larger cases, it may be desirable and cost-effective to engage a team of barristers.

The first step is to identify an individual barrister, or a chambers, with a reputation in the relevant field. This guide provides a short list of commercial chambers known for their international arbitration work, with details of the fields in which their barristers tend to specialise (see pages 22–23 and 26–35). Legal directories such as *Legal 500* and *Chambers and Partners* provide a wider range of barrister options based upon requirements.

All chambers have clerks or practice managers who assist in managing barristers' workflow and diaries. The profession of clerk is a long-established institution of the English and Welsh Bar. Far from being merely administrative assistants, clerks are generally very experienced and knowledgeable about their barristers' practices, and therefore very useful professionals when it comes to identifying a suitable barrister for a particular case. Clients can speak to clerks confidentially and seek frank

comments and recommendations about different barristers in the chambers.

In the past, clerks handled all aspects of a barrister's engagement, but today it is very common for lawyers and clients to approach barristers directly. For more information, please visit:

www.directaccessportal.co.uk

Barristers' fees

Barristers' fees will depend on a range of factors such as their seniority and reputation, the nature of the work involved, and the size and importance of the dispute. Barristers can be (and often are) engaged on an hourly rate basis, but it is also common to agree fixed or capped fees for particular tasks. Fee arrangements are often tailored to the particular circumstances of a case, so that they can take account of the needs and funding arrangements of the client.



For advocacy work – especially preparing for and representing clients at major hearings – barristers will almost always charge a “brief fee”. This will be payable somewhat in advance of the hearing, reflecting the fact that if the barrister accepts an instruction for one hearing, they are unlikely to be able to accept any other cases in that period. Usually, the brief fee covers the expected preparation time plus the first day of the hearing, with subsequent days of the hearing being paid at a daily rate (traditionally called “refreshers”). The terminology may seem a little obscure, but what it amounts to is that the client agrees to pay the barrister for the time spent preparing and appearing at the hearing, usually based on the barrister’s normal hourly rate. Barristers have been at the forefront of the development of international arbitration practice, not just in the UK but in many jurisdictions around the world, often through providing training and capacity-building assistance in emerging jurisdictions. A fair, transparent and efficient system of dispute resolution is essential in order to make legal rights effective and ensure that the rule of law is a reality. Much has changed over the world since the Inns of Court began organising moots and training new barristers nearly 800 years ago, but in today’s globalised world the need for a rigorous and highly ethical legal profession is more pressing than ever. We are proud that the Bar continues to play a leading role in the growth of international arbitration, and we hope this short introduction provides information that helps increase the connectedness of the legal profession across borders.



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Chambers & Partners UK Bar

3VB is a leading barristers' chambers providing specialist advocacy and advisory services worldwide in all areas of Commercial and Financial Litigation, Dispute Resolution, International Arbitration and Public International Law.

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- Insurance & Reinsurance
- International Arbitration
- Media & Entertainment
- Proceeds of Crime
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- Public International Law



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BRICK COURT CHAMBERS



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PUBLIC LAW



INTERNATIONAL/EU



ARBITRATION



MEDIATION

Members of Brick Court Chambers have recently been involved in significant investment treaty cases, international commercial arbitrations and cases in the courts that concerned international arbitration:

Investment treaty cases - including ICSID, UNCITRAL and SCC cases acting both on behalf of investors and states in sectors such as real estate, energy, telecommunications and finance

International commercial arbitration - acting both as counsel and arbitrators under all the major arbitration rules, often working in multiple languages, in sectors including energy, telecommunications, hospitality, banking, shareholder disputes, general contractual and commercial disputes

Cases in the courts - concerning all key sections of the Arbitration Act, including challenges for lack of substantive jurisdiction (s. 67), serious irregularity (s. 68), error on a point of law (s. 69), complex enforcement proceedings and associated freezing injunctions, as well as applications for interim measures in support of arbitration proceedings - including cases reaching the Supreme Court and Privy Council on issues of state immunity, the law governing arbitration agreements, and public policy

Brick Court Chambers

7-8 Essex Street, London WC2R 3LD
United Kingdom

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Falcon Chambers



“Falcon Chambers is an excellent set with great strength in depth across all levels.”

Legal 500 2024

For further information please call John Stannard, Senior Clerk, or Edith Robertson, Chambers Director, on **020 7353 2484** or email clerks@falcon-chambers.com

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ONE ESSEX COURT

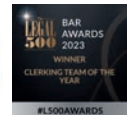
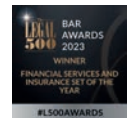


Top tier set for international commercial arbitration

The Legal 500

One Essex Court is a leading commercial litigation and international arbitration set of barristers' Chambers, specialising in high-value, complex and multi-jurisdictional disputes work.

Our expertise extends across all areas of business and commerce, with a particular focus on arbitration; banking and finance; civil fraud and investigations; company law; competition; energy and climate; construction and infrastructure; investment treaty disputes; intellectual property; and tax.



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Commercial Dispute Resolution Set of the Year

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4 Pump Court is 'a very strong set of barristers chambers for complex document heavy arbitrations.' - **Legal 500**

'There is a real strength in depth – I have worked with numerous silks and juniors over the years and they have consistently been excellent and very good to work with.' - **Legal 500**

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- Banking
- Commercial Litigation
- Civil Fraud
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- International Arbitration
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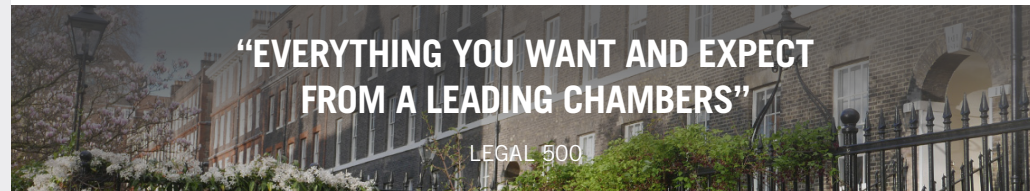
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39 Essex

CHAMBERS

INTERNATIONAL ARBITRATION

"a world class institution able to provide top talent in a myriad of practice areas" - The Legal 500

Our barristers use their enormous experience of international arbitrations to tailor their approach when testing evidence or making oral submissions, so as to accommodate the varied legal and cultural backgrounds and traditions of different international tribunals.

Our barristers advise clients on all tactical and strategic matters involved in international arbitration, including drafting pleadings and memorials, advising on evidence and addressing any preliminary issues.

Members of Chambers act in multi-million and multi-billion dollar arbitrations in Africa, Australasia, China, the Caribbean, Europe, India, the Middle East, North and South America and Southeast Asia. These disputes concern clients engaged in international transactions and investments, who then use international arbitration to resolve disputes arising from the range of commercial arrangements. Those clients span the entire range of international trade and investment, from upstream energy and engineering, mining, infrastructure, construction and shipbuilding to manufacturing, international trade, hotel operators, aviation and finance.



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“A class act... an outstanding bench of barristers, from market-leading silks to rising star juniors.”

Chambers and Partners

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Justin Wilson Senior Clerk jwilson@atkinchambers.com atkinchambers.com



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Please contact: Andy Flanagan, Flanagan@crownofficechambers.com

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 Legal 500, 2023

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LONDON - SINGAPORE



Fountain Court

“Fountain Court Chambers is a notable force in arbitration proceedings, whose barristers handle the full range of international disputes.”

Chambers & Partners

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BARRISTERS

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SILKS

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JUNIORS

A set apart from the rest.

Kings Chambers is an established, specialist set, with a considerable track record in domestic and international arbitration. Providing experienced arbitrators and counsel, members of the team have conducted and participated in arbitrations under the rules of leading arbitral institutions (including the AAA, CAS, HKIAC, SIAC, ICC, DIAC, QICCA, LCIA, ARIAS, UNCITRAL and ICSID) and ad hoc arbitrations. Such cases have been seated in London and internationally, and under the governing laws of various common law and civil law jurisdictions, including England & Wales, Northern Ireland, the USA, France, Switzerland, Qatar and Dubai.

Members handle a broad range of disputes, including:

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For more information, please contact Chief Clerk for Business & Property:
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Raises the Bar in Chancery and Commercial

Serle Court's Arbitrators have extensive experience in commercial and chancery law and are involved in both international and domestic arbitrations. They appreciate the importance of dealing with matters fairly and expeditiously, and they only accept appointments where they have sufficient time to prepare fully for any hearings and deliver an award.

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'Great set for international arbitration with many top tier counsel and arbitrators of all levels from junior to KC'
(Legal 500, 2024)

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- » Insolvency
- » Insurance
- » International Arbitration
- » Ship Building & Offshore Construction
- » Shipping & Maritime



About the Bar Council

The Bar Council is the leading representative body for all barristers in England and Wales. Our nearly 18,000 members make up a united Bar that is strong, inclusive, independent and influential. We support the Bar in the public interest by:

- championing the rule of law and access to justice for all
- promoting the Bar's independence and world-class advocacy and advisory skills
- upholding the independence of the Bar and highest standards of ethics, equality, and diversity across the profession
- developing career and business opportunities for barristers at home and abroad

As the General Council of the Bar of England and Wales, we are also the approved regulator and delegate regulatory functions to the operationally independent Bar Standards Board (BSB).

For more information about the Bar Council, please visit www.barcouncil.org.uk



The Bar Council

www.barcouncil.org.uk

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