

## The Advantages of Expert Determination

- ❑ Expert Determination provides **Cost Efficient Resolution** for disputes and problems.
- ❑ Expert Determination is confidential and private.
- ❑ The parties control the procedures to be used, and can adopt The Academy's standard Rules.
- ❑ The process is quick and a mutually acceptable timetable can be set by the parties.
- ❑ Matters are determined by an Expert.
- ❑ The outcome is final and binding, unless otherwise agreed in advance.
- ❑ Expert Determination is controlled by the parties not court or arbitration rules.
- ❑ Expert Determination is inexpensive.
- ❑ **Expert Determination Works!**

## Other Academy Publications include:

- ❑ Experts Serving the Legal Community
- ❑ Resolving your Dispute by Mediation
- ❑ What is Mediation
- ❑ Model Form of Expert's Report
- ❑ The Expert & Dispute Resolver

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## Further Information

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# The Academy of Experts

## What is Expert Determination?

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## What is Expert Determination?

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Expert Determination is a dispute resolution process in which an independent expert in the subject matter of the dispute, is appointed by the parties to resolve the matter. The expert's decision is - by prior agreement of the parties - legally binding on the parties. Like all ADR processes it is entirely confidential.

## When should I use Expert Determination?

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Expert Determination is ideally suited to disputes and matters of valuation and/or which are primarily dependent on technical issues eg does the computer match the specification; is the malfunction due to a design or a manufacturing fault; valuations of shares; rent reviews and contract performance matters. It can also easily be used in many other areas such as insurance wording disputes, sale of goods disputes, fitness for purpose and boundary disputes.

Although Expert Determination is an Alternative Dispute Resolution process, it can also be used when there is no dispute, but a difference which needs to be resolved for example the valuation of a private business.

Because of its flexibility, Expert Determination is ideally suited to multi-party disputes.

## What if I do not agree with the Expert Determiner?

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The Expert Determiner's decision is legally binding. There is only a very limited basis to challenge the determination. It is therefore important that the parties select an expert with both relevant expertise and experience in addition to knowledge of the Determination process.

Sometimes the expert's decision is not binding, but advisory. This is known as Expert Evaluation. Although not binding the evaluation often forms the basis of a settlement.

## How do I find an Expert Determiner?

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The Academy of Experts has a wide ranging list of members who are experienced in their own fields and are trained in the skills and techniques of dispute resolution. The Academy trains experts in the practicalities of being an Expert Determiner. Members come from a wide variety of disciplines such as arboriculture, accountancy, insurance, medicine, surveying and valuation, and zoology.

If requested The Academy can appoint the Expert Determiner or assist in finding the appropriate experts.

## How do I start the Expert Determination Process?

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Expert Determination may already be a provision in your contract. If not, the first step is to agree to use Expert Determination preferably using The Academy's standard set of Rules and Procedures. Similarly you will need to agree the terms of the Expert's appointment.

Once all involved have agreed to use Expert Determination, simply contact The Academy of Experts giving brief details of the problem. We will assist you with the few essential formalities including, the selection of a suitable Expert to help resolve your problem.

## What happens next?

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Each Expert Determiner will have his own approach but in general:

The parties must agree the exact wording of the question(s) to be determined by the Expert. They then provide such evidence as they think necessary. The Expert may ask for any further evidence that he considers appropriate. He will decide whether or not to deal with the matter on a documents only basis or if it is necessary to hold a hearing and/or a technical examination. Sometimes the Expert may choose to hold

a preliminary procedural meeting to deal with some of these questions.

Once the Determination is completed the Expert will issue his decision (the determination) in writing in accordance with the agreed procedures.

## Do I have to provide a venue?

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If the Expert decides that it is necessary to hold a hearing, The Academy of Experts can provide suitable neutral facilities at the ADR Centre.

## Will it work?

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Yes – Expert Determination has been in use for many years in a large number of technical arenas and has a proven track record.

## What will it Cost?

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Costs will vary depending on the complexities of the matter, but are directly related to the decisions of the parties. The Appointment fee, the Expert's charges and costs, will be known in advance, other costs will vary with the extent of the written and other evidence the parties choose to submit. It is usual for the parties to share the Expert's fees and other purely administrative costs equally.

## How long will it take?

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Much less time than that for arbitration or litigation. The time varies with the number of parties involved and the complexity of the dispute.

The Academy's rules incorporate a suggested timetable.