

Arbitrator's Award: Conference Drafting Guide

1. Introduction

An arbitrator's award is the final and binding decision issued by an arbitral tribunal resolving a dispute between parties. The drafting of an award is a critical phase of arbitration, often carried out during or after deliberations in what is commonly referred to as the "award conference." This document provides a structured guide for drafting a clear, enforceable, and well-reasoned arbitral award.

2. Purpose of the Award Conference

The award conference is a meeting (physical or virtual) where arbitrators:

- Deliberate on the merits of the case
- Reach decisions on liability, damages, and other issues
- Allocate responsibilities for drafting sections of the award
- Ensure consistency in reasoning and conclusions

Key objectives include:

- Achieving consensus (or majority decision)
 - Structuring the award logically
 - Assigning drafting roles efficiently
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3. Structure of an Arbitral Award

A well-drafted award typically includes the following sections:

3.1 Title and Identification

- Name of the tribunal
- Case reference number
- Names of parties
- Date and place of arbitration

3.2 Procedural History

- Summary of arbitration proceedings
- Key procedural steps (filings, hearings, submissions)
- Applicable arbitration rules

3.3 Parties' Positions

- Claimant's claims and arguments
- Respondent's defenses and counterclaims

3.4 Issues for Determination

- Clear framing of legal and factual issues

3.5 Findings and Reasoning

- Analysis of evidence
- Application of law to facts
- Tribunal's reasoning on each issue

3.6 Decision (Operative Part)

- Final rulings on each claim
- Damages awarded (if any)
- Interest
- Costs allocation

3.7 Signatures

- Arbitrators' signatures
- Date of signing

4. Drafting Principles

4.1 Clarity and Precision

- Use plain, unambiguous language
- Avoid unnecessary legal jargon

4.2 Logical Organization

- Follow a coherent structure
- Use headings and subheadings

4.3 Consistency

- Ensure consistency between reasoning and conclusions
- Avoid contradictions

4.4 Completeness

- Address all claims and defenses
- Ensure no issue is left unresolved

4.5 Enforceability

- Ensure compliance with applicable arbitration laws
 - Include required formal elements (seat, signatures, date)
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5. Drafting Process During the Conference

5.1 Allocation of Responsibilities

- Chairperson often leads drafting
- Co-arbitrators may draft specific sections

5.2 Deliberation Notes

- Record key decisions and reasoning
- Maintain confidentiality

5.3 Iterative Drafting

- Circulate draft versions among tribunal members
- Revise based on feedback

5.4 Resolving Disagreements

- Aim for consensus
- If not possible, apply majority decision
- Allow dissenting opinions if permitted

6. Common Pitfalls to Avoid

- Incomplete reasoning
- Failure to address all claims
- Inconsistencies in findings
- Ambiguous language in operative section
- Errors in calculation of damages or interest

7. Checklist Before Finalizing the Award

- All issues addressed
- Clear reasoning provided
- Operative section precise and enforceable
- Correct names, dates, and references
- Signed by arbitrators

8. Conclusion

Effective drafting of an arbitral award requires careful deliberation, structured writing, and attention to legal requirements. The award conference plays a vital role in ensuring that the final document is coherent, enforceable, and reflective of the tribunal's collective reasoning.

9. Appendix: Sample Operative Clause

"For the reasons set forth above, the Tribunal hereby orders that:

1. The Respondent shall pay the Claimant the sum of [amount];
2. Interest shall accrue at [rate] from [date] until payment;
3. The Respondent shall bear [percentage] of the arbitration costs; and
4. All other claims are dismissed."

