



## **AMINZ Appointments Policy**

1. There will be appointed an Appointment Advisory Panel ("**AAP**") for the purposes of providing advice and recommendations to the President, Vice President or Executive Director (as the case may be), (each an "**Appointing Officer**") on requests from parties, for the appointment of an expert to resolve or otherwise assist in the resolution of a dispute (be that an arbitrator, mediator, adjudicator, expert, conciliator, etc) (a "**request to appoint**").
2. Members of the AAP will be appointed by the Council from time to time; such appointments to be reviewed annually by the Council as part of its regular review of committee and other related appointments.
3. The AAP membership will comprise AMINZ members with suitable experience in the following:
  - (a) AMINZ members with suitable experience in commercial arbitration generally (at least one of the three having experience in international commercial arbitration);
  - (b) AMINZ members with suitable experience in mediation;
  - (c) AMINZ members having experience in adjudications carried out pursuant to the Construction Contracts Act 2012; and
  - (d) AMINZ members having experience in rural dispute resolution.
4. The members of the AAP need not have particular experience acting as arbitrator, mediator or adjudicator etc (as the case may be), but rather have experience in the particular fields referred to at paragraph 3 above (be it as arbitrator, mediator or adjudicator, etc or as experienced counsel, or other roles, in those areas).
5. Where a conflict arises or a member(s) of the AAP becomes unavailable in respect of any given appointment, the Appointing Officer may consult with any other suitably qualified person who meets the criteria in paragraph 3 for the purposes of that appointment.
6. All requests for appointments must come through the AMINZ office and be made via the AMINZ office.
7. Upon the Appointing Officer receiving a request to appoint, the Appointing Officer is to consult with the relevant members of the AAP as to their views and recommendations as to a suitable appointee. The particulars of the case will be anonymised. Where an application for appointment is urgent or where consulting all the relevant members of the AAP is impracticable, the Appointing Officer may consult with so many of the members of the AAP as are available (if any).
8. In the ordinary course, it would be expected that the Appointing Officer would consult with two of the three AAP members of the relevant specialty on the AAP, but again if particular circumstances do not permit that (for example, in the case of urgency, conflicts, or unavailability of a member), one member of the AAP may be consulted.

9. Members of the AAP who are consulted pursuant to Rule [7] above are expected to review the available materials relating to the proposed appointment and provide their recommendations to the Appointing Officer as quickly as possible upon being asked to do so.
10. The Appointing Officer may take the views of the relevant AAP member(s) into account when making his or her appointment. The Appointing Officer is not required to follow the recommendation(s) of the relevant AAP members and the appointment will be made by the Appointing Officer as they see fit in all the circumstances. The Appointing Officer is to record the recommendation of the AAP and the reasons for all appointments.
11. The Appointing Officer does not need to provide an explanation as to the appointment to any party.
12. Members of the AAP may be considered for appointments, where appropriate.
13. In considering any request to appoint, the Appointing Officer and the relevant members of the AAP (as the case may be) will have regard to the following criteria:
  - (a) The relevant experience and expertise of the proposed appointee.<sup>1</sup>
  - (b) The geographical location of the potential expert to be appointed.<sup>2</sup>
  - (c) The complexity of and, where applicable, the amount in, dispute.
  - (d) Any preferences (or strong objections) as set out by the parties in their communications regarding the appointment (though noting that the Appointing Officer is not bound by such matters).<sup>3</sup>
  - (e) The desire, where appropriate and consistent with the other criteria, to enable a broad spread of appointments, including to suitably qualified newer AMINZ members.
  - (f) The desire to ensure the spread of appointments encompasses the full range of diversity among AMINZ members.
  - (g) The principles and procedures contained in Articles 8-10 of the UNCITRAL Arbitration Rules 2010.
14. Criteria (a) referred to above will be the prevailing criteria in any appointment.

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<sup>1</sup> Every effort must be made to appoint a person who has relevant experience/expertise for resolving the particular type of dispute, and who is appropriate for the proposed role.

<sup>2</sup> For example, for many larger scale or commercial appointments, this may not be so relevant, though for lower value disputes, this may be a more relevant factor, particularly if it is expected that the parties will be required to pay the appointee's travel costs. This may also be relevant where the dispute has arisen in a relatively small community and it is important that, for the purposes of actual and perceived independence, an expert from outside that community is appointed to resolve the dispute.

<sup>3</sup> This is to avoid a party "gaming" the appointment process.