



Electricity Market Reform: *Contracts for Difference*

22 August 2013

Dispute Resolution and Change Control



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Change control procedure

- **Material Amendment**

- A proposed amendment which wouldhave an effect on the revenues and/or costs of the Generator under this Agreement; or
- The overall balance of risks, benefits and liabilities of the Generator under this Agreement

- **Technical Amendment**

- Not material
- Required to correct a manifest error

- **General Amendment**

- Is a Technical Amendment
 - Relevant to all CfDs the CPB is party to at the time
 - To a particular category of CfDs

Purpose of the Change Control Procedure (Annex 3)



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Specify it's an Amendment Notification

Description of proposed amendment

Proposed effective date

Material or Technical?

If Technical, is it a General Amendment?

If General, to does it apply to all CfDs or a specific category

Supporting material



Material

- Notification process
- Provision of explanatory and supporting material
- Discuss it, agree it
- Agree implementation
- Only implemented when both parties agree

Technical

- Generator can object to proposed technical amendment
- CPB can consider and decide whether to amend
- Or Dispute Resolution Procedure can be triggered
- Technical Amendment (General)
 - 75% threshold

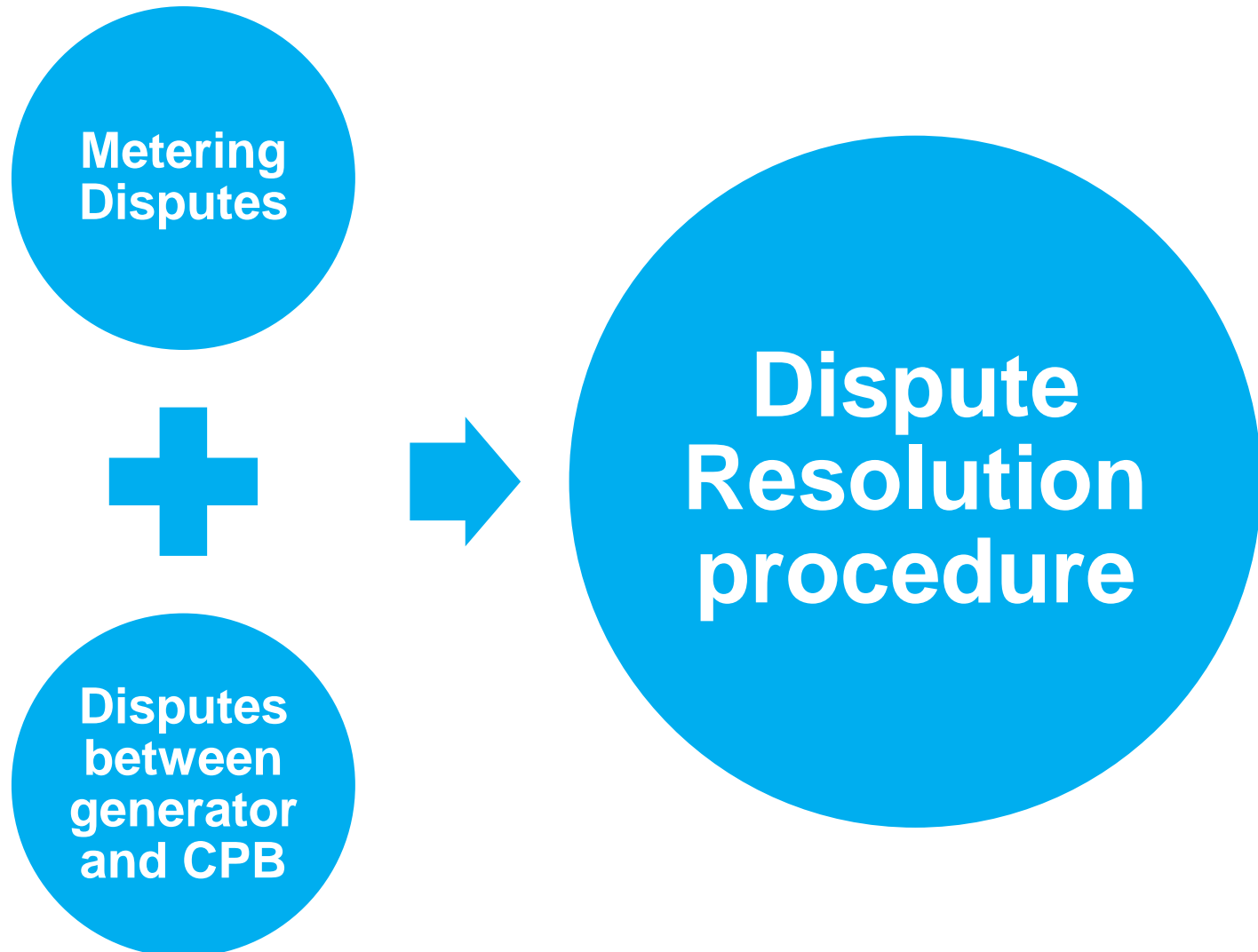


- In what way could the Change Control procedure be enhanced?
- Where do you think disputes are most likely to arise and why?
- Is the dispute resolution procedure proportionate
- In what way could it be improved?
- Clause 36.29, what is an appropriate amount of time?



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Dispute Resolution Procedure



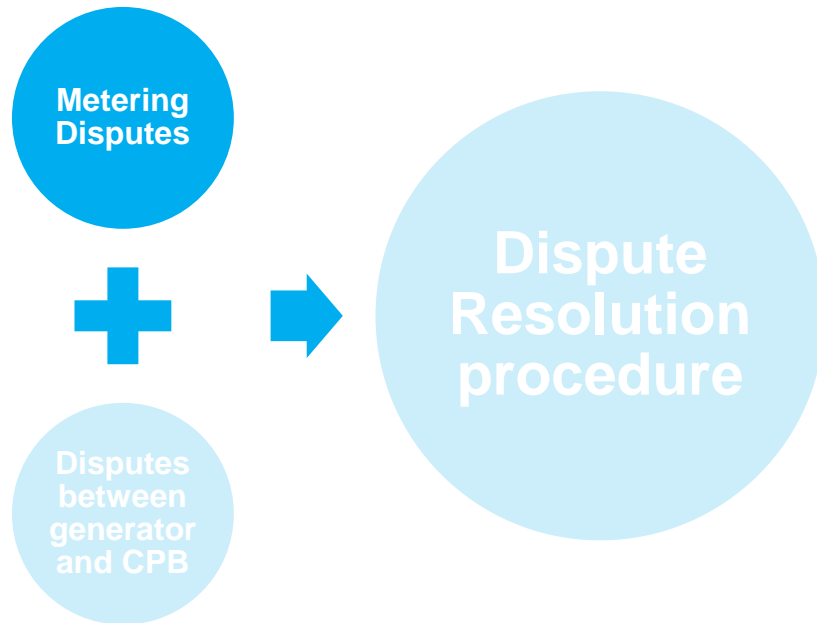
Metering disputes are to be treated separately



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Metering Disputes

- Section W of the BSC applies



BSC

ELEXON

Section W: Trading Disputes

Introduction

Section W of the BSC covers:

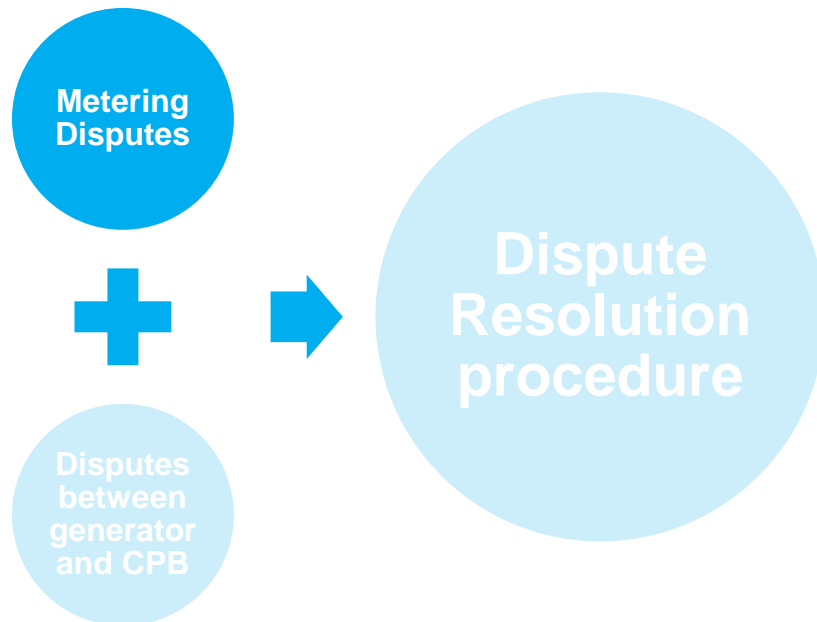
- (a) arrangements for the resolution of Trading Disputes under the BSC;
- (b) arrangements for the establishment and operation of the Trading Disputes Committee (TDC);
- (c) actions to be taken upon resolution of a Trading Dispute; and
- (d) the effect of resolution of a Trading Dispute.

Trading Disputes

A Trading Dispute is, by reference to an affected Settlement Period, any query, difference or dispute on:

- (a) the existence, nature or effect of errors in the data and/or processes used for the purposes of Settlement or in the application of the rules for Settlement, to the extent that such errors might affect the Trading Charges determined under the BSC or the settlement amounts payable (as provided for in Section N) in relation to those Trading Charges;
- (b) the existence, nature or effect of errors in the data and/or processes used in determining whether and when a Trading Party is in Credit Default (as specified in Section M).

Note that Trading Disputes relate to the way in which the BSC rules have been applied (and the data used), rather than the BSC rules themselves.



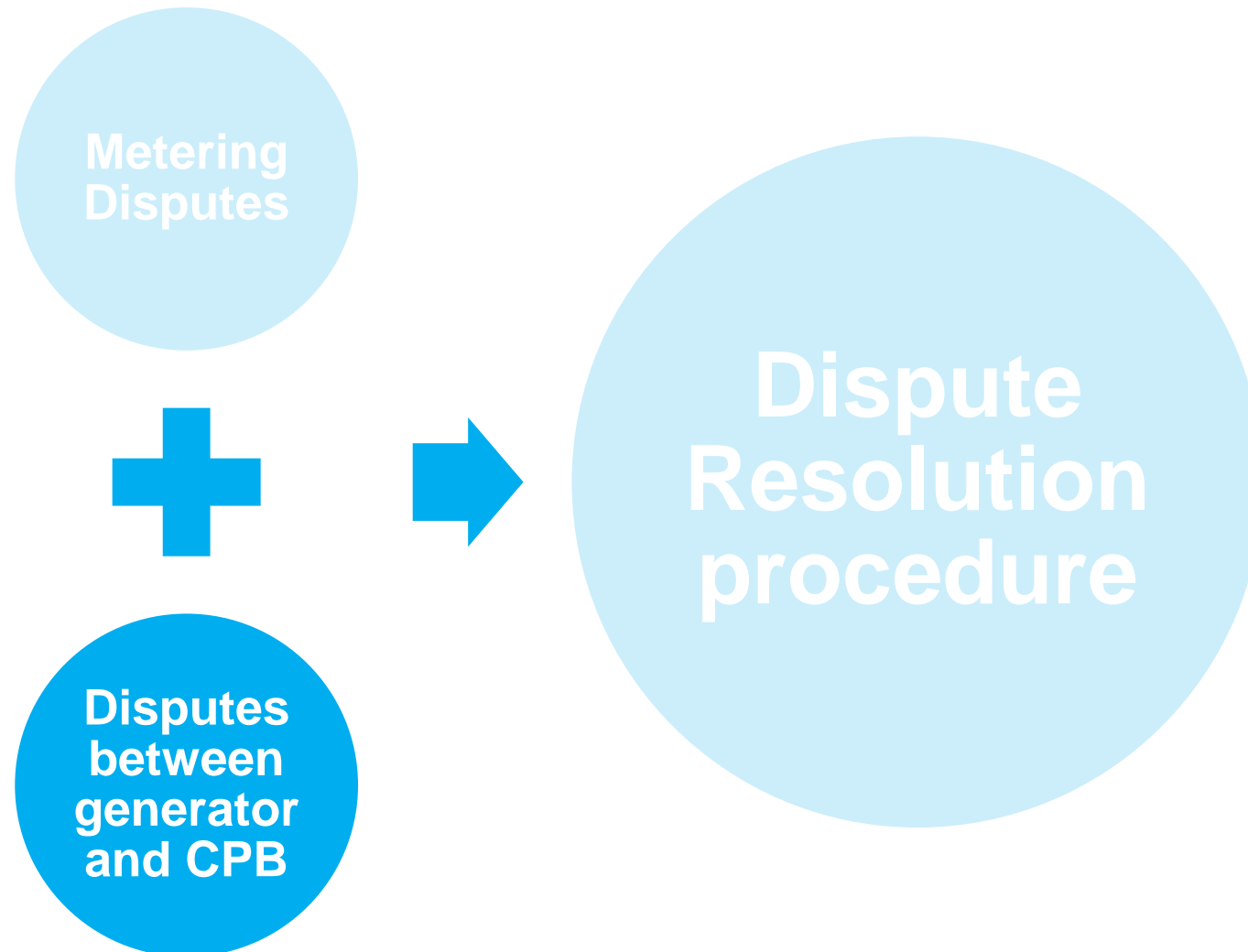
Metering Disputes

- Section W of the BSC applies
- Note that as a result neither the Arbitration Procedure;
- Nor the Expert Determination Procedure Applies

Separate procedure for disputes that do not involve metering



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Clause 36.2, 36.3

‘Each party shall, at each stage of the Dispute Resolution Procedure, endeavour in good faith to resolve any Disputes through negotiation.’

‘Shall continue to observe and perform all respective duties, responsibilities and obligations...’

If a dispute arises, either party may issue a 'Dispute Notice' (36.4)



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Specify it's a notice

Description

Relevant Clause

Correct position

Details of other disputes

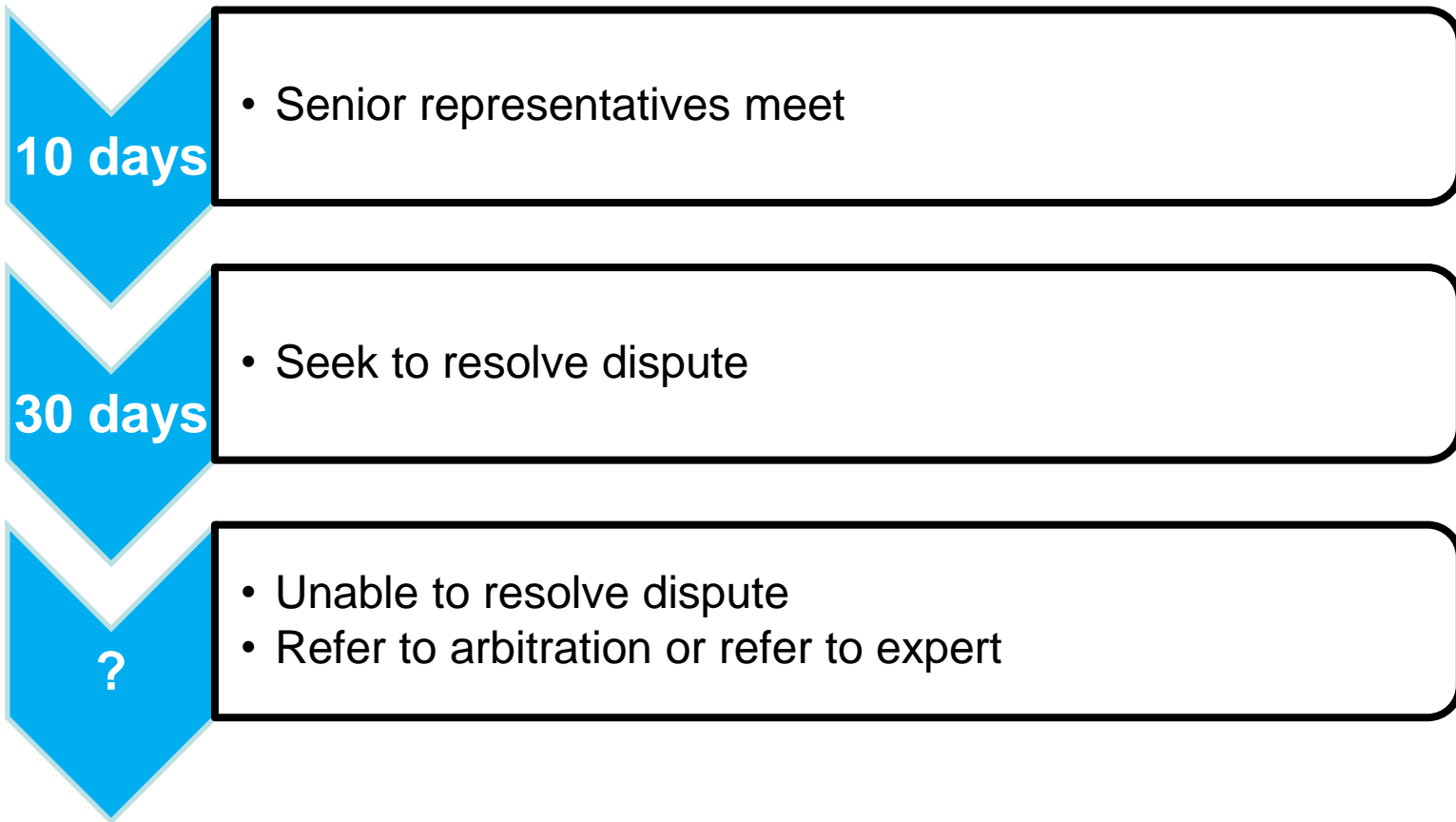
Relevant documents, suggested remedy

Should dispute be referred, details of
representative

After the notice has been issued, seek resolution through senior representatives (36.6)



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Expert determination process is set out in clauses 36.10 to 36.20

<div>Specify it's a notice</div>	
<div>Description</div>	
<div>Relevant Clause</div>	
<div>Correct position</div>	
<div>Details of other disputes</div>	
<div>Relevant documents, suggested remedy</div>	
<div>Should dispute be referred, details of representative</div>	

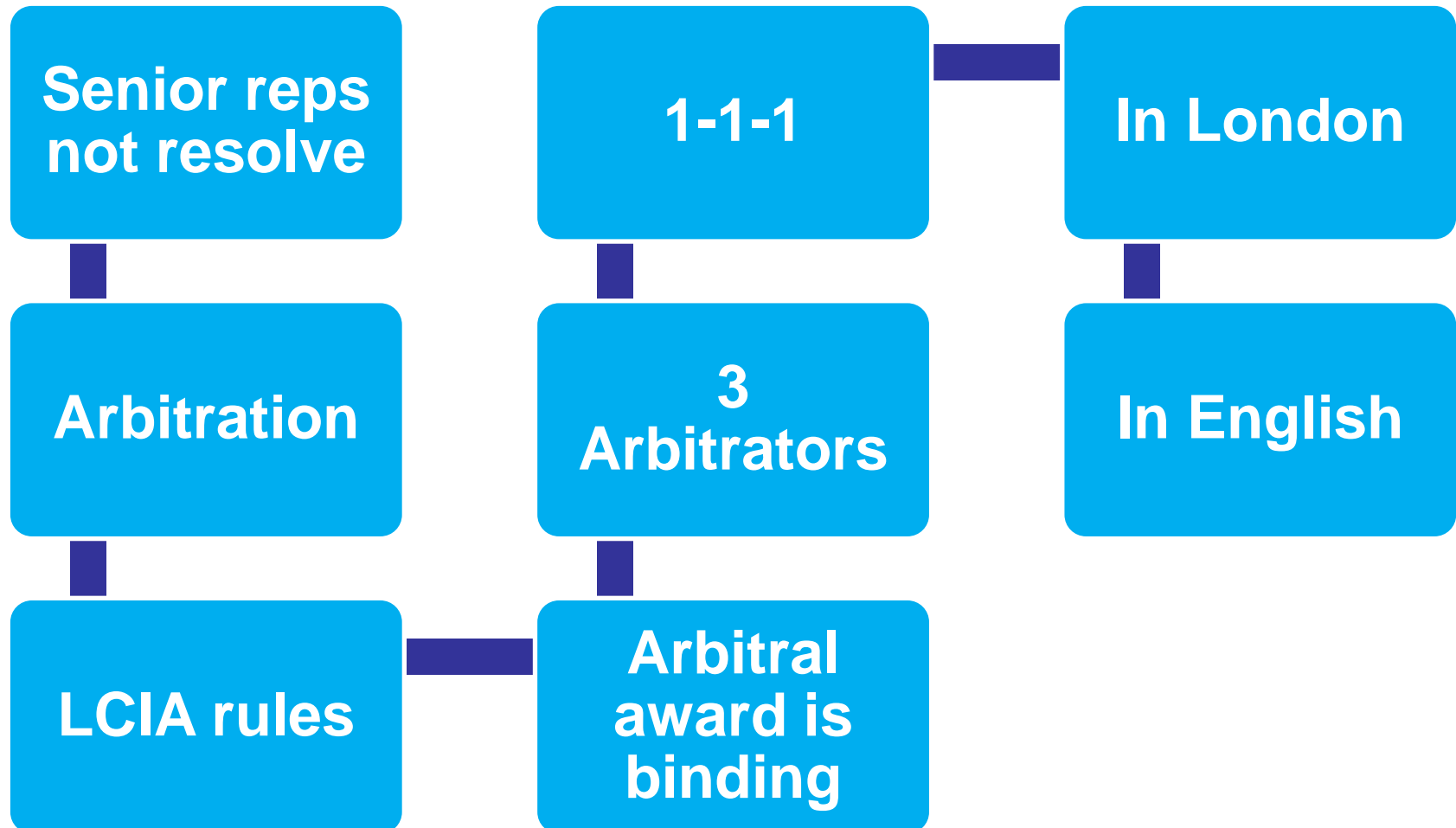


Appointing the expert

- Propose the expert
- Include relevant qualifications
- Agree that has appropriate experience
- Respondent to agree in writing
- If not willing to accept proposed expert, must provide alternative
- Fail to agree identify within 20 days, can ask expert to be nominated by LCIA
- Expert to agree in writing

Expert

- Not disclose information
- Be exempt from any liability
- Act fairly, impartially
- Establish procedure for determination of the dispute
- Can be replaced if unable, unwilling to act
- Expert's fees can be paid by one or both parties
- Decided by Expert, but where no direction provided, each party pays own costs





- There's a notice
- Description of subject matter of dispute
- Description of connected disputes
- CPB to set out why it believes consolidation is appropriate
- Agreement from generators required
- But no less than 50%



- Where do you think disputes are most likely to arise and why?
- Is the dispute resolution procedure proportionate
- In what way could it be improved?
- Clause 36.29, what is an appropriate amount of time?
- How can the Change Control procedure be enhanced?