

# **GAR Interactive: Damages**

*Presentation of damages: what arbitrators want from lawyers and experts*

## **Party-appointed Experts**

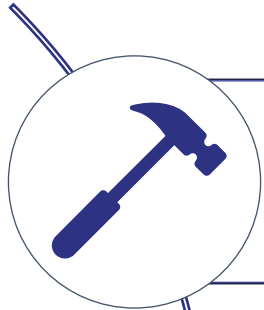
Presented by

**Professor Doug Jones AO**

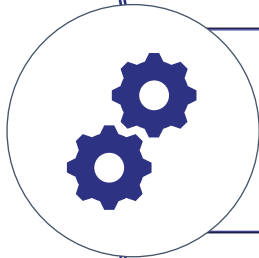
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# Overview

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**What is the role of experts in arbitration?**



**What are the challenges involved?**



**What are the solutions?**

# Party-appointed expert witnesses

## Quantum Experts



Provide opinions based on witness evidence and documents



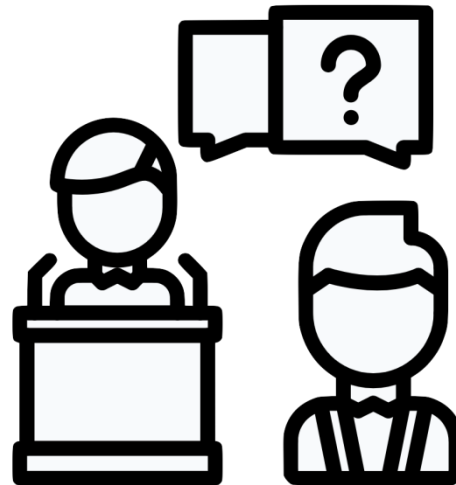
Assist Tribunals in a field of unique complexity

# Party-appointed expert witnesses

Quantum Experts

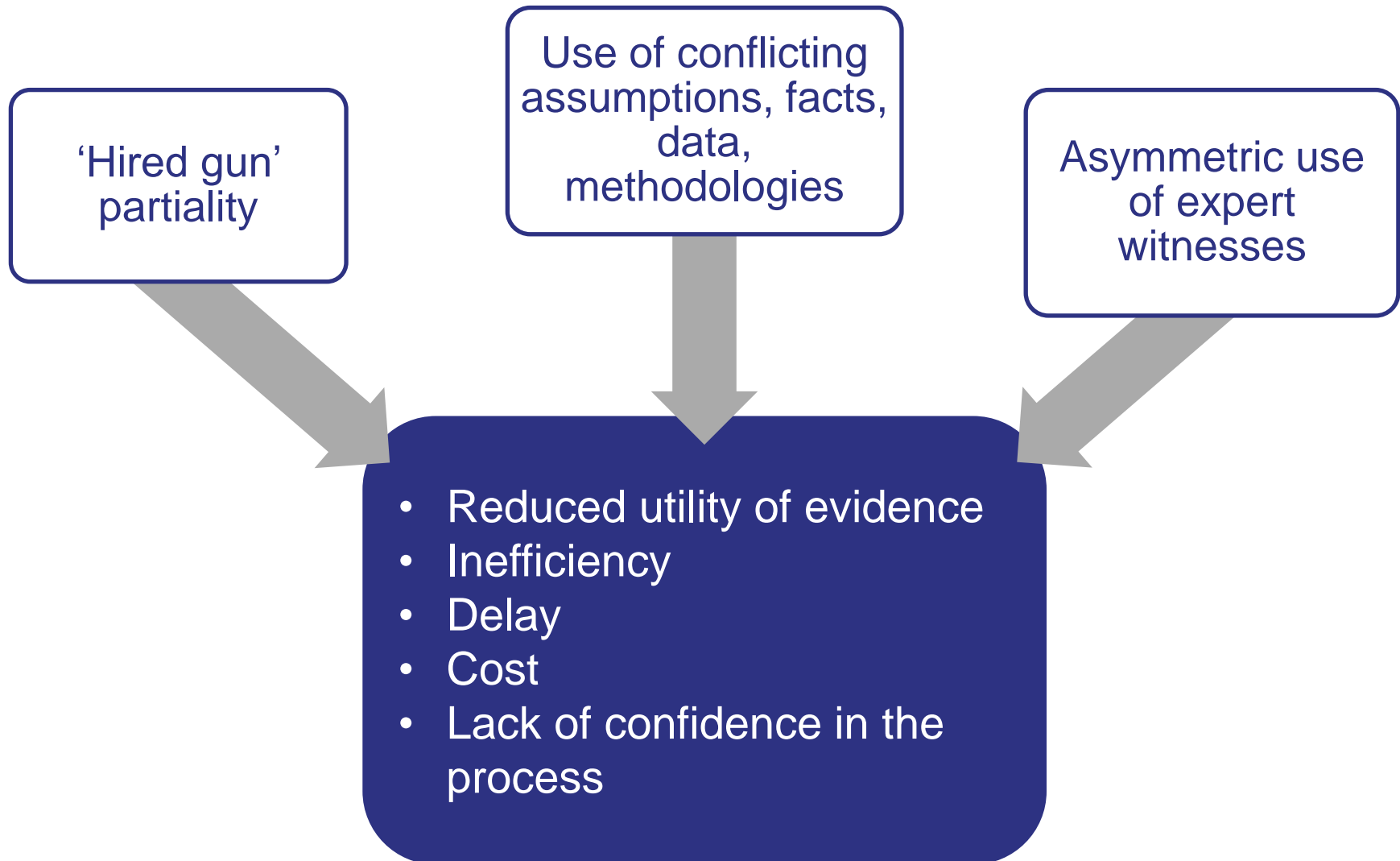


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# What are the challenges?



# Existing solutions in international arbitration

## Institutional Guidelines

- IBA Rules on Taking of Evidence 2010
- CIArb Protocol 2007
- Expert Codes of Conduct

## Primary duty of experts

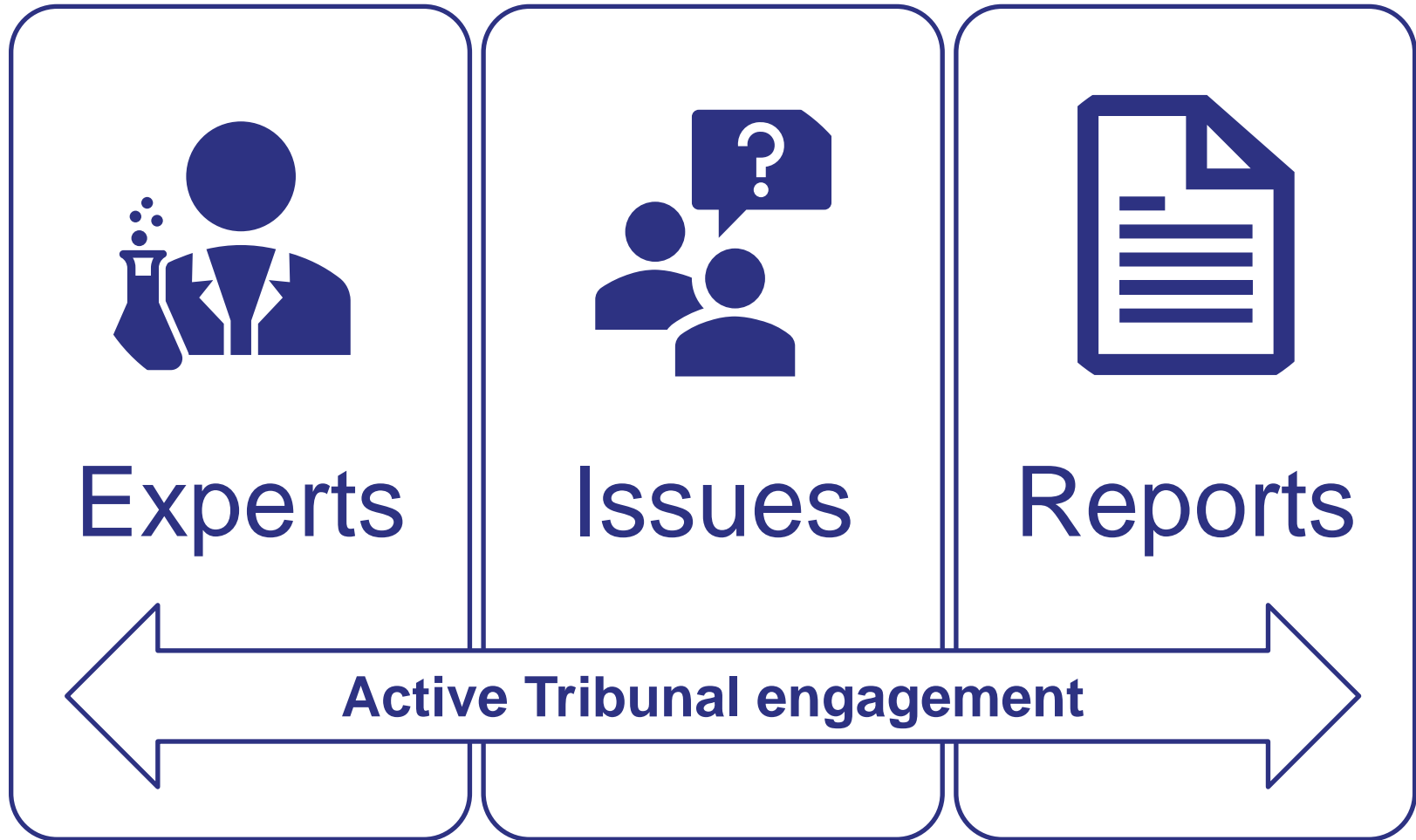
Party-appointed experts, although paid by the parties, provide expert evidence and are to be impartial and independent of the parties, their legal advisors and the Arbitral Tribunal. The experts offer their own objective opinion.

# An approach

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1. Early identification of disciplines and experts
2. Common list of questions
3. Deferral of expert reports until factual evidence is available
4. Common data set
5. First - joint expert reports identifying areas of agreement and disagreement
6. Then - individual expert reports on areas on disagreement only
7. Experts providing alternative views on the other's assumptions and methodologies

# Proactive case management





# Use of experts for calculations

Joint Model for the Tribunal  
delivering an accumulating calculation

or

Experts

Expert Access Protocol

Tribunal

## Delivering the experts to the Tribunal *after* the hearing

Tripartite agreement between the parties, the tribunal and the experts

Experts can be valuable to the tribunal's calculations in the final award

Confidential communication between tribunal and experts post-hearing