

Q&A #5QUESTIONSWITHMAXWELL ANNA KIRK Independent Arbitrator



1 As one of the Co-chairs of the Asia Regional Committee from the Campaign for Greener Arbitrations, could you share an update on any upcoming initiatives that the Committee is working on?

We are working on some very exciting events to promote the Campaign for Greener Arbitrations at Singapore Convention Week, Hong Kong Arbitration Week and Australia Arbitration Week – please look out for us and join these events if you can! We will also be working with the CGA Institutional Taskforce to promote the findings of an institutional survey on sustainable practices. We are seeking to increase awareness of the CGA amongst the many arbitral institutions in the region.

“ Our longer-term plan is to hold events throughout the region that promote the CGA to law firms and arbitrators and give them practical tips and advice on how to implement the pledge and minimize the environmental impacts of their arbitral practices. ”

2 What technology devices are essential for you during a hearing?

The aim is to be paper-free at a hearing if possible and there are a variety of technological tools that allow practitioners and tribunals to do that. I always seek to agree that communications, filings and bundles are all electronic and that any procedural hearings are virtual unless there is a strong natural justice reason otherwise. There is a great virtual hearing protocol on the CGA website.

“ It may be useful to use in larger cases to use a specialist provider of electronic hearing services. The cost of any such provider is often significantly offset by the elimination of printing and shipping costs. ”

Such solutions are usually simple to use and make the post-hearing phase more efficient.

3 The Green Protocols for Arbitrators suggest various sustainability measures that arbitrators can adopt during proceedings. Are there specific measures you would particularly recommend?

The most important measure we can all take is being mindful of our carbon impact. Many of us default to our usual practices without thinking about their environmental impact and whether they are really necessary. Often the option that is best for the environment (whether that be a virtual (or hybrid) hearing or electronic bundles) is also cheaper and more efficient for the parties. Everybody wins. Many of the steps we can take to minimize carbon impact are straightforward, such as not printing unnecessarily and only holding hearings in person when necessary.

1 As arbitrator, I do not hold procedural conferences in person (including in domestic arbitration) and I do not request hard copies of submissions or documents.

2 Hybrid (substantive) hearings and virtual deliberations are also great options for suitable cases.

3 I also always pay the optional carbon offset on my flights and have recently started to incorporate a reference to environmentally sustainable practices in my PO1.

These simple steps can make a significant difference if we all do them.

4 How can the arbitration community collaborate to further sustainability goals? What advice would you give to practitioners to enhance their contribution to these efforts?

To start, sign the Green Pledge. This can be done on the CGA's website at <https://www.greenerarbitrations.com/sign-green-pledge>. The pledge provides several easy ways to immediately reduce your carbon footprint and there are also some great resources available on the CGA website.

Second, when appointing members of a tribunal, seek to appoint those who are committed to similar goals.

Finally, if possible, incorporate a reference to the Pledge or sustainable practices in PO1 to ensure that everyone remains mindful of ways they can minimize the environmental impact of an arbitration. If we all take these small steps, it will go a long way to reducing the carbon impact of arbitration.



5 What challenges do you foresee in promoting greener practices within arbitration, and how can these be overcome?

Climate change remains the greatest existential threat all of us face right now and we all have a moral obligation to do what we can to reduce our carbon footprint. Most people want to be “green” in their law practices and it is just a matter of sharing ideas and being open to new ways of doing things. For those who are resistant to change, there might be some small steps that can be taken that also help to make arbitral practice easier or more efficient.

“ There will always be a balance, however, and some carbon impact is unavoidable in international dispute resolution – the international nature of our practices and the importance of the “human” element means that a fully carbon-neutral arbitration practice may be difficult to achieve. ”

This should not be discouraging – helping to promote the initiative and mindful carbon practices will make a huge difference and is something that all of us can do.

