



**THE CHARTERED INSTITUTE OF ARBITRATORS  
WEST MIDLANDS BRANCH**

**NEWSLETTER  
February 2008**

**Letter from the Chairman Tim Willis,**

*Dear Members,*

The month of November was a busy month for the Branch and the Chartered Institute. I attended the Branch Officers meeting in Dublin and the Conference hosted by the Irish Branch from the 2<sup>nd</sup> November to 4<sup>th</sup> November 2007. Much of the Branch Officers meeting was concerned with the agenda for change and the changes to the constitution are still being worked through, not least the new pathways to fellowship and accelerated membership programmes.

You will have seen from the publicity material there are new routes to membership and fellowship through arbitration or adjudication and that the route to fellowship via mediation is under development. The accelerated programmes and the diversity of routes should encourage greater participation.

Doug Jones, Chairman of the Board of Trustees made clear however that the trustees are equally concerned that the changes should not lead to the needs of the UK branches being overlooked. To strengthen the link between the trustees and the branches regular meetings between branch officers and UK trustees will now take place. The next meeting is to be held in London on the 27<sup>th</sup> February 2008.

The Branch has also been included in meetings with the staff from Bloomsbury Square to share information on how they can better serve the membership and how we can better work with them. We are fortunate that we have such a dedicated group of people. Their commitment to the Institute and its objectives is a great asset especially when we are faced with change on this scale. If you have views that you wish us to take to the meeting or suggestions then please do not hesitate to contact me.

The Branch Officers meeting in Dublin again reflected the international breadth of the Institute with contributions from all the branches. Against that background the UK branch chairmen had to consider what could be done to promote the activities of the Institute in the UK. The experience of foreign branches appears to be that they do more social and networking events. We are considering whether to re-institute a dinner event or some other social event to broaden the activities beyond education and training. The education and training events, for which CPD points are available, have been well supported. We are also considering a moot or competition to encourage more active participation from members and younger members.

This year we will be carrying out a telephone survey of your views. That will cost the Branch money – any “free” feedback you wish to give by e-mail would be much appreciated or if you simply want to update us with your e-mail address that too would be most helpful. Please contact me on [twillis@wilkes.co.uk](mailto:twillis@wilkes.co.uk). Alternatively you may contact Madelaine Hanlon on [madelaine.hanlon@jrknowles.com](mailto:madelaine.hanlon@jrknowles.com).

As a result of the discussions at Congress last year the Branch held courses locally in order to assist those wishing to complete pupillage by December 2007.

We have done further work on a Branch appointment system and Branch arbitration schemes to provide a local service to users and in order to provide opportunities for new arbitrators seeking to gain experience of arbitration to obtain necessary experience for panel certificates.

Our evening education and training events will continue and enclosed with this Newsletter are details of the next events and our AGM. I hope that these will prove of interest.

We are holding a conference this year on 12 June. Teresa Cheng a barrister engineer based in Hong Kong who is the President of the Institute has agreed to participate as part of her Presidential visit. I look forward to her contribution along with other high profile speakers. The conference will have an interactive theme involving role play as well as discussion of various forms of dispute resolution. The outline for the conference is enclosed.

I attended the thanksgiving service in memory of Harold Crowter. Harold made a huge contribution to the Branch and the Institute and we intend to honour his contribution with a prize which we hope to announce shortly. I also attended the RICS West Midlands QS and Construction Faculty Dinner as the guest of the Chairman. The theme to the Chairman’s address was that we should not let the headlines of January make us less optimistic about the coming year, a sentiment which we all can share.

We look forward to hearing from you with your views and to seeing you at our future events.

Yours sincerely

**TIM WILLIS**  
**CHAIRMAN**

## **CIArb WEST MIDLANDS BRANCH CONFERENCE**

**12 June 2008**

### **GETTING THE PROCESS RIGHT!**

Dispute resolution is rarely a matter of one size fits all. The nature of the dispute, the dynamics of the parties’ relationship and the location can all dramatically effect the available options and consequently the best solution. This interactive conference will involve the delegates in the decisions that clients and their advisers are faced with as they seek to map their way to an effective means of resolving their dispute. The clients and their advisers will be able to draw upon experts in the different fields of dispute resolution under the watchful eye of the Chairwoman.

At the start of the day the dispute will be presented to the delegates. The dispute will be based upon a claim by a large contractor against an employer that could be described as a global claim.

Martin Potter will play the Employer represented by a person yet to be confirmed the Contractor will be played by a person yet to be confirmed and represented by Mark Entwistle.

In addition to their representatives each client will have the benefit of hearing advice from and questioning an expert practitioner who will champion one of the following five options;

Arbitration	Peter Aeberli
Litigation	Ian Pennicott QC
Mediation	Colin Wall
Adjudication	John Riches
MedArb	tbc

To challenge the assumptions made by the clients and their advisers, the Chairwoman Teresa Cheng (The President of the Institute) , and the delegates will prompt and cajole as necessary. The clients and their advisers will then make their decision, by agreement or otherwise as to how the dispute will be managed.

The Chairwoman will close the event by analysing their conclusions and the strengths and weakness of dispute resolution procedures. Further details of the Conference will be circulated shortly. Please put the date in your diary !

### **From the Secretary**

The 32<sup>nd</sup>. Annual General Meeting of the West Midlands Branch will take place on Wednesday 23 April 2008 starting at 5.30 pm. Formal notice as required under the Branch Model Rules will be circulated in due course. Rule 12.1 requires that one third of the current Branch Committee members must retire and nominations are invited for election to the Branch Committee from members of the West Midlands Branch. A nomination form is enclosed with this Newsletter. The completed nomination form must be received by me no later than Friday 21 March 2008. The AGM will be held immediately before an evening lecture, details of which will be circulated nearer the time. On behalf of the Branch Committee, I hope that as many members as possible will be able to attend this year's AGM and lecture.

The committee would like to welcome the following new members to the Branch: Mr. S. J. Oakes, Mr. R. W. Tustin, Mr. L. J. Potts, Miss S. L. Fenoughty and Mr. C. J. Hackett.

**Madelaine Hanlon**

**Secretary**

## **From the Education and Training Secretary**

The provisional programme up to the summer break is included with this Newsletter. Some of you may have attended the meeting when the new procedure for resolving Neighbour Disputes was the subject under review and Martin Burns of the RICS presented a most interesting paper. For those of you who were unable to attend, a brief summary of the paper Martin presented is given below. Further details of the procedure can be obtained from the RICS.

**Robert Gemmell**

**Education & Training Secretary.**

### **Neighbours at War - Quick and Cost Effective Resolution**

Professional advisors' can now propose the Neighbour Disputes Service (NDS) to their clients. NDS is an innovative ADR service, designed specifically for resolving neighbour disputes. NDS, a fixed price service designed to resolve disputes in a short time with the costs known in advance; available to surveyors or solicitors who require third party assistance over matters such as boundaries, rights of access and rights to light. Managed by RICS Dispute Resolution Services, NDS calls on the skills of a panel of experienced chartered surveyors.

#### **How Neighbour Disputes Service Works**

The service includes three stages:

Stage 1- neutral evaluation to clarify the facts.

The first stage involves the appointment of an impartial surveyor who will contact both parties within 24 hours of appointment, meet with both neighbours and prepare an impartial written evaluation report on the facts, for example the location of the boundary. The report will be prepared within 10 days of the site visit or 21 days of appointment, whichever is later, and will give brief reasons for the decision.

Stage 2 - negotiation and encouragement for the parties to compromise.

Within seven days of delivering the Stage 1 report - the surveyor will enquire if the dispute is resolved or, failing agreement and knowing the facts from the stage one report, whether the neighbours require the surveyor to act further as an honest and impartial broker.

Stage two is not full scale mediation' but the surveyor can, if required, meet the neighbours, maintain confidentiality, provide 'reality checks' and try and build rapport between the neighbours to help them reach an amicable solution to their dispute. The surveyor will require each neighbour to submit a short written statement setting out their perspective and will then meet with them to discuss matters.

The surveyor's overall objective, is to identify the different needs of the parties and look for ways to break deadlocks. The surveyor will not impose a decision, but will summarise the matters discussed and key outcomes.

At the conclusion of the meeting with the neighbours, the surveyor will record details of any compromise in writing and provide copies to both neighbours. If appropriate, copies can be forwarded to the professional representatives of each party or to the court. If there is no agreement at stage two, then only the surveyor's evaluation report from stage one would be forwarded to the neighbours and, if appropriate, to their professional representatives.

Stage 3 - where it is not possible to resolve the dispute, the surveyor, if required, prepares an expert evaluation report for submission.

The first two stages are intended to resolve disputes, but if this fails, the RICS Neighbour Dispute Service is intended to help courts decide disputes and speed up the litigation process. If the parties agree, the surveyor will prepare an expert report, a reasoned report by an impartial expert which will save the courts time, provide clarification and possibly prevent escalation to a higher court.

### Service users

Users of the service are likely to be neighbours already involved in a dispute, where one or both parties have sought professional advice from a surveyor or solicitor.

In order for the service to work both parties have to agree to use it. Either party can pull out during the process if they choose.

### Key benefits include:

- The service is designed to be transparent and predictable in terms of time and cost.
- The service may help to reconcile the neighbours rather than encourage entrenched positions.
- The service is confidential. If agreement is reached without referral to court, the outcome will not be public knowledge.
- Failing resolution, use of this method will provide the courts with a reasoned evaluation by an impartial expert, giving the court clarification on technical aspects outside their expertise. This may prevent escalation to a higher court. The expert witness report will also indicate the parties' willingness to engage with ADR.

### Costs

Cost are fixed and shared equally across the two parties. Maximum cost does not exceed £1,200 per neighbour.

		<b>Total Costs</b>
RICS administration fee	£200	
Stage 1 only	£1,500	£1,700
Stage 1 and 2	£1,950	£2,150
Stages 1, 2 and 3	£2,200	£2,400
<b>*Total costs when stage 1 is used is only £850 per neighbour</b>		

