

# SINGLE JOINT EXPERT – THE PRO’S AND THE PRO’S

**Alternative Dispute Resolution (ADR) has moved forward in leaps and bounds in the last 10-years but a wide range of Property Disputes have failed to keep pace with this change. Even in straightforward 1954 Act Lease Renewal cases, Professional Arbitration on Court Terms (PACT) has not been taken up as much as had been expected and other disputes continue to rumble on to Court with neither party willing to appear weak by suggesting ADR.**

In such situations, Surveyors and valuers are frequently called upon to make the transition from Negotiator on behalf of the client to Expert Witness in proceedings, but this is not always conducive to a pre-trial settlement or to a Tribunal placing weight on their evidence. Brinkmanship will often arise, negotiating stances will remain entrenched and substantial costs are incurred as no balanced or impartial view is introduced into the equation.

In a recent informal survey of RICS Arbitrators, the vast majority felt that far too frequently an “Expert Witness” had simply extended their client’s negotiating stance into proceedings, a position which led to greatly reduced weight being attributed to their evidence and which could entirely undermine a claim through the courts.

So what alternatives are there? Much has been written of the growing role of Mediation but many parties still approach this with the same mindset as formal litigation, seeking to uphold an argument rather than reach a resolution.

In our experience, a Single Joint Expert Report, at the appropriate point in proceedings, can assist both parties to reach a cost effective solution to a dispute. It will introduce a reasoned, impartial voice into pre-trial conduct and will frequently re-open the path to a negotiated settlement or provide a background against which a mediated settlement can be reached.

Whilst influential, such a report is not binding on either party and if a resolution does not prove possible the Single Joint Expert still represents a highly cost effective alternative to separate Experts, substantially reducing cost, confusion and potential trial length.

A typical example of such situations, where Maple Leaf has been asked to assist, has been in terminal dilapidations disputes. A Scott Schedule has been prepared setting out the Building Surveyors’ respective positions, justification and costing for each item of disrepair and in this way the parties’ views can be considered.

A Single Joint Expert Report is then prepared providing a Valuation under S18 Landlord & Tenant Act 1927 and a second confidential ‘pre-mediation’ report can be prepared for the parties providing a reasoned view on the damage arising to the landlord from other breaches of covenant. These have provided a foundation in each case for a negotiated or mediated settlement to be reached and have undoubtedly saved all parties considerable time and cost.

With the rising cost of litigation and The Courts’ growing scrutiny of the parties’ conduct in a dispute, the importance of ADR is growing exponentially. If a client’s interests in litigation are to be best represented, property professionals must remain at the innovative forefront of ADR and the Single Joint Expert Witness has a strong and central role to play.

*John Williams is a Member of the RICS, an Associate of the CI Arb and a CUBS Accredited Expert Witness.*

- Independent Landlord & Tenant Specialists.
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Maple Leaf is an established independent practice of Landlord & Tenant surveyors with extensive experience in the Commercial and Retail property markets and specialising in Expert Witness work on behalf of both Landlords and Tenants.

All our L&T surveyors have at least 15-years experience in their specialist field meaning each case is handled solely by a knowledgeable and experienced surveyor. This expertise covers not only rental valuations, but also updated lease provisions on renewals and Section 18 dilapidations valuations.

The key to our approach is to combine in-depth knowledge and experience with balanced impartiality. This has proved particularly beneficial to clients seeking Single Joint Expert Reports.



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The only source of knowledge is experience.

- Albert Einstein ”