

Official newsletter of the
Institute of Arbitrators and
Mediators, Australia, W.A.
Chapter

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Editor: Barry Tonkin JP



The View

Postal address: IAMA, PO Box 518 COMO WA 6952

Thanking the 2002 Corporate Sponsors:

JACKSON MCDONALD BARRISTERS AND SOLICITORS

ESSENTIAL DIARY DATES

General Meeting: 5.15pm **Wednesday 20th November**

Professional Development: 5.15pm **Wednesday 20th November**

@ Master Builders Association 35-37 Havelock Street, West Perth

Breakfast Meeting: 7.30am **Tuesday 26th November**

@Tawarri Reception Centre, The Esplanade, Dalkeith

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NOTES OF INTRODUCTION COURSES

The Editor's View

These pages include your contributions to The View. Editor, Barry Tonkin seeks your continued input.

A copy of this edition of The View is available in electronic 'pdf' format to be down-loaded or read on the IAMA National website. If you do not have access to the Web "The View" can be e-mailed to you when you let Sue Doherty know of your E-mail address.

Subject: Chapter News

From: Peter Condliffe CEO

Ph:03 96076908; Facsimile:03 96022833

Visit our website: www.iama.org.au

The Institute of Arbitrators and Mediators Australia Independent-National-Multi-disciplinary is Australia's leading ADR provider and trainer.

Dear Chapters

Jennifer Winzar and her team in Queensland have put together a terrific newsletter that I enclose for your information and dissemination as necessary.

Please note that we are now putting WA's Newsletter on the website.

Regards

Peter Condliffe CEO

Dear Councillors, Chapters and Journal Committee.

I am pleased to confirm that Russell Thirgood, presently a member of the Journal Committee, has accepted the position of Journal Editor following the resignation of Grant Holley. The Council passed a vote of thanks to Grant for his tremendous efforts and I am also pleased to inform you that he will remain as a member of the Journal Committee. For those of you who do not know Russell he is a Senior Associate with McCullough Robertson, Lawyers, in Brisbane. He specialises in commercial and construction law. This firm is the second largest in Queensland with 110 lawyers on its payroll.

Russell is also National President of Amnesty International. Russell can be contacted on 07 3233 8888 or his email shown above. Many thanks also to the Chair of the Journal Committee, Robert Hunt, for acting as intermediary in arranging Russell's appointment. Articles are already coming in for the next edition so if you have anything in the pipeline please let me or Russell have them.

Regards

Peter Condliffe

CHAIRMAN'S MESSAGE

COURSES

Mediation

There are still positions available for those interested in enrolling in the National Course. From all of the feed back and also from my personal experience with the previous program let me assure you that all participants will gain an immense amount of knowledge and experience from it. Please speak to Sue Doherty for more information

Introductory Seminar

Our public interest introductory seminar in August has resulted in at least two people registering for the Mediation Course and some new members. The next course is planned for 23rd October 2002 – we are expecting the same success.

If any member has any contacts that might be interested, pass on the flier in this newsletter to them or ask them to call Sue Doherty.

ROOMS

Richard Machell collated the survey results from those graded and accredited members who returned them to find that, while there will a reasonable income from possible room hire, it was not enough to encourage us progress with looking towards our own premises.

I am reconciled this as not a situation of disappointment, but of patience.

STATISTICS

Richard Machell has today forwarded to me the raw data of the Arbitration Survey conducted recently. Unfortunately the deadline for the newsletter caught us out and we are not able to publish anything here, but stay tuned.

BREAKFAST

Those of you who missed the (Tuesday 24th September) morning's breakfast meeting with former Premier Richard Court missed out on an excellent opportunity to hear a relaxed and somewhat light hearted overview of a politician's viewpoint on mediation and disputes generally.



The answer to Alan Layton's question regarding Aboriginal Land Right brought a quick-witted and somewhat humorous reply that made the early morning drive even more worthwhile.

RAIL ACCESS

Members might recall about this time last year several of our members attended an induction program at their East Perth offices and control centre, culminating in a panel of 10 Arbitrators (3 of whom from the eastern states) and 7 Mediators being put to the Regulator.

I have had contact from the Regulator regarding the need for an “update seminar” for those members interested in this discipline.

The main purpose of the seminar is to inform those members on the panel to be familiar with recent decisions of the Regulator.

We are in the process of making those arrangements, however, in the meantime could graded or accredited members interested in this area -whether you are currently on the panel or not – please make contact with either myself or Sue Doherty to confirm your participation.

MEMBERSHIP

Our numbers continue to grow with numbers in excess of 150.

During the course of conversation with potential members and others I am able to point out to them that, unlike other organisations, the WA Chapter has a culture of providing as much for our members as possible without them incurring extra costs. “Value added” if you will.

For instance, there is no charge for our CPD sessions; our training programs (such as the recent Award Writing Exercise) are purposely set up to recover our costs plus “*a few dollars for the kitty*”. Speakers and course coordinators offer their time and/or premises at no (or minimal) cost.

However, I wonder how much longer we can keep this up?

The running of the Institute, like all businesses, is a constant balance of “*costs-vs.-income*”. That is why we are ever so appreciative for sponsors such as Jackson McDonald Solicitors and Minters Lawyers.

On the assumption that we want to keep the status quo, it would be useful to find alternative ways of generating income or reducing costs. It is a question that arises on a regular basis at committee meetings.

If you have any thoughts – no matter how outrageous they may seem - give me, or one of the committee, a call or e-mail.

But please, I decline to give my permission for any of the committee to pose for a calendar shoot. (Now there’s a thought to water your eyes!)

Phil Faigen, Chapter Chairman

SPECIAL NOTICE

RAIL ACCESS REGIME

See Comments in the Chairman’s Report

CHAIRMAN’S MEMO

NOTE TO: MEMBERS INFORMATION TO DISPUTANTS

I have just put the phone down after taking a call from a disputant party to arbitration to which I just made the nomination.

His questions related to the process to follow – questions about

- Representation
- Privacy
- Conflicts of interest
- Documents he should have
- If all steps for the nomination had been followed

and so on.

I know that most arbitrators inform the parties of what is expected to occur at a Preliminary Meeting in their initial letter to the parties.

This person pointed out that there was a vacuum of information about the process between the time when the nomination was sought and the Preliminary Meeting.

I asked this (well-educated) person (he was somewhat confused and I dare say frightened) if he would get some solace if he were given a leaflet of some basic information.

That information accompanies the nomination advice. He thought that was an excellent idea.

I intend to raise this at the next meeting as I am not sure how much such information we already make available for lay people.

From Phil Faigen
ph. 9316 3025, fax 9316 3023
Date 11 September 2002

From the Administrator

MEMBERSHIP

Welcome to new members:

<i>David Kernohan</i>	<i>Welfare (not for profit)</i>
<i>Henry Esbenshade</i>	<i>Native Title</i>
<i>Luia di Lallo</i>	<i>Commercial Property</i>
<i>Margaret Mendelawitz</i>	<i>Researcher</i>
<i>Barbara Kwiecien</i>	<i>Geologist</i>

APOLOGY

In the August edition of The View, Fred McCardell was listed as a retired member. This information is incorrect. Fred is a Life Fellow of the Institute and he had retired from practice as an arbitrator.

EVENTS/HAPPENINGS

The response to the recent session “An Introduction to the Processes of Commercial Arbitration & Mediation” held on 14 August and sponsored by Minter Ellison, was quite overwhelming – some 55 people attended. A wide range of professions were represented and included a large number from government bodies. Several of those who attended have registered for The Practitioner’s Certificate in Mediation & Conciliation in November. I also received calls from people who attended the introductory session requesting information about standard clauses. The WA Chapter Committee has decided to repeat the introductory session on Wednesday 23 October.

Planning is under way for the November training - The Practitioner’s Certificate in Mediation & Conciliation. Su Lloyd will be presenting the course.

With the end of the year approaching it is time to start thinking about budgets and CPD for 2003. It is now October and I find that as I reflect on my year October is the month when I start to think of all the things I want to do before the end of the year. For me sorting out the difference between my needs and wants somehow puts everything into perspective.

Regards
Sue Doherty



The Institute of Arbitrators & Mediators Australia’s website (www.iama.org.au) contains the name and contact details of 1400 institute members including our accredited mediators and graded arbitrators. As Australia’s largest and only national dispute resolvers organisation the Institute is dedicated to providing the community with a reliable properly accredited listing.

The website also contains a range of other information that you may find useful including:

- Mediator and arbitrator rules
- Relevant state legislation
- Recent copies of the journal “The Arbitrator and Mediator” and news letters
- Contract dispute clauses
- Membership information

If you change any of your contact details please let me know and I will pass this information onto National Office to enable them to update your information on the web-site.

EXPERT DETERMINATION COURSE

Venue: Institution of Engineers
Australia,
712 Murray Street West Perth.
Time: 8.30am – 5pm,
Saturday 2nd November 2002.

IAMA Members \$250, Non members \$280
The fees include course notes, morning &
afternoon tea and lunch

Presenters: Alan Swann
Greg Steinepreis
Joe Luxford

Numbers: Limited to 20 on first come
first served basis

Cost: \$250.00 (IAMA members)

Alan Swann and Greg Steinepreis are two of Perth's most experienced dispute resolution practitioners. Course participants will gain a broad understanding of the theory and practice of the expert determination process, and the law as it applies in WA through a series of lectures and interactive workshops on the day.

Eh, you!

Stupid people should be required to wear signs that just say, "I'm Stupid." That way you wouldn't rely on them. You wouldn't ask them anything.

It would be like, "Excuse me... oops, never mind. Didn't see your sign"

Before my wife and I moved our house was full of boxes and there was a Wridgeways truck in our driveway. My neighbour came over and said, "Hey, are you moving?"

"Nope. We just pack our stuff up once or twice a week to see how many boxes it takes.

Here's your sign."

A couple of months ago I went fishing with a mate of mine and as we pulled his boat into the ramp, I lifted up a big whiting and this idiot on the ramp asked, "Hey, you catch them fish?"

"Nope. Talked 'em into giving up.
Here's your sign."

I was watching one of those animal shows on the Discovery Channel. There was a guy who had invented a shark bite suit - And there's only one way to test it. OK, imagine... "Alright Jimmy, you got that shark suit on, it looks good... They want you to jump into this pool of sharks, and you tell us if it hurts when they bite you."

And imagine the reply:

"Well, all right, but can you hold my sign. I don't want to lose it".

Last time I had a flat tyre, I pulled my car into a fuel station. The attendant walked out and looked at my car, looked at me and said, "Tyre go flat?"

Could you resist saying, "Nope. I was driving around with all four flat and those other three just swelled up.
Here's your sign."

I was trying to sell our car. A guy came over to the house and drove the car around for about 45 minutes. We got back to the house and he got out of the car, reached down and grabbed the exhaust pipe and burnt his hand, then said, "Oh, that's hot!" See? If he'd been wearing his sign, I could have stopped him.

I was out driving and a guy in a truck had misjudged the height of a bridge just in from of me. The truck smashed into the underside of the bridge and stopped quickly. The driver couldn't get it out no matter what he tried so he had radioed for help.

As would occur in times like these a uniformed policeman eventually showed up to take notes and make a report.

He went through his basic routine of questioning. "Ok". And he asked, while opening the note book with me observing, "So. Is your truck stuck?"

I looked at him, looked at the driver and back at the truck and then back to him and waited for the driver's response:

"No I'm delivering a bridge"
Here's your sign."

I stayed late at work one night. The cleaner, before cleaning around my desk, asked "So, you are still here, then?" I replied, "Actually no. I left about 10 minutes ago.

Here's your sign.

Anybody you know need a sign?

Pathways Towards Dispute Management Conference

Canberra 18 –20 September 2002

The Conference had over 300 attendees with 10 from Western Australia and others from USA, NZ, Germany, India, Canada, Hong Kong and Indonesia. A vast range of backgrounds were evident with single private practitioners, church sponsored groups, Defence Department Officers, academics, magistrates and lawyers all presenting and contributing.

Streams of subject matter covered Theory and Practice, Family and Community, Global Peacekeeping, Family Relationships, Commercial and Legal, Cultural Diversity, Complaints Management, Commercial and Community, Courts and Tribunals, Restorative Justice, Environmental and On – Line ADR.

Presenters included Dr. Bernard Mayer from CDR Associates USA, The Hon Daryl Williams, Federal Attorney-General and General Peter Cosgrove, Chief of the Australian Defence Force and Jon Stanhope Chief Minister of the ACT.

One session which aroused much discussion was titled “ADR Industry – Is it a Headless Chook”. This raised the much-discussed matter of a Peak Body for the ADR Industry. An analogy with Michael the headless chook who lived for many months after his head was cut off was raised. (For those interested there is a web site on Michael). In other words without a head you can still survive but it is unlikely you will flourish. The matters of seed funding to kick the Peak Body off was a major stumbling block as it has always been in the past. Some views were that some of the individual ADR bodies spread through out Australia are in such a parlous state if the Peak Body was formed it may well be a head without a body or any substantial foundations to hold it up.

General Cosgrove and Dr. Alan Ryan from the Land Warfare Study Centre spoke on Global Peace Keeping and perplexed some

listeners with the proposition that for a peace keeping or peace restoring force to be effective they need to be prepared with a big stick. And they must be willing to use the threat of the big stick to influence the decision making of the parties involved. Examples of failed peace keeping operations were sited. This seemed to fly in the face of other presenters who espoused the need for the mediators to balance the power of the parties with less threatening means.

One constant theme was the willingness of both the Federal and State agencies to integrate ADR into the present prescriptive systems of dispute resolution to speed up decision making and to reduce costs to government. The Defence Forces now have a Director of Alternate Dispute Resolution and Conflict Management situated in the Defence Legal Service. Examples of dealing more even handedly with force personnel by mediation by independent mediators were sited as gaining a better solution for the forces and the individual.

Discussion on the size of the ADR market was characterised by the need to win more territory (markets) without damaging the key assets (consumers) without fighting current occupants (lawyers).

One form of ADR, which will soon sweep before us is ODR-On line Dispute Resolution. With the growth in e-commerce across state and international borders the need for e- Dispute Resolution is already evident.

Many challenges such as which law applies, cultural and language differences have hindered its growth to date. A number of on-line ADR systems already exist however the efficiency and safety of using these sites was not known. Currently the average size of e-commerce purchase are only in the order of \$500 so the need while real may take a while to become economically necessary.

The standard of the presenters over all was very high and as usual much food for thought was forth coming.

Kim Doherty

Some questions

Who was the first person to look at a cow and say, "I think I'll squeeze these dangly things here, and drink whatever comes out"?

Why do toasters have a setting that turns the toast to a horrible black crisp that no normal human being would eat?

Why is there a light in the fridge and not in the freezer?

If Jimmy cracks corn and no one cares, why is there a song about him?

If the professor on Gilligan's Island can make a radio out of coconut, why can't he fix a hole in a boat?

Why do people point to their wrist when asking for the time? (They don't point to their crotch when they ask where the bathroom is.)

Why does your Doctor leave the room or pull the curtain when you get undressed even when they intend to look up here and there anyway?

Why does goofy stand erect while Pluto remains on all fours? They're both dogs!

If Wile E. Coyote had enough money to buy all that Acme gadget stuff, why didn't he just buy dinner?

Why is a person that handles your money called a 'Broker'?

Corn oil is made from corn, vegetable oil is made from vegetables, so what is baby oil made from?

If electricity comes from electrons, does morality come from morons?

Is Disney World the only people trap operated by a mouse?

Do illiterate people get the full effect of Alphabet Soup?

Notice that when you blow in a dog's face, it gets mad at you, but when you take it on a car ride, a dog sticks its head out the window.

For those who like Candid Cameras.

Innovation!!.

Some people currently see the camera before the flash when they are on the side of the road!

This new system gives the term 'wheely' a new meaning.



CANCELLATION OF "ALERT"

It is a review of the recent decision of Supreme Court of WA in *Fletcher Constructions Australia v Newman* and relevant to arbitrators, particularly in the light of a recent article, and presentation.

Graham Morrow, Articled Law Clerk & Quantity Surveyor, Kott Gunning, Perth.

Following the February 2002 article *Alert, Taxing Costs of an Arbitration* & the subsequent informative professional development talk given by Laurie James, the reasons for the "alert" appear to have subsided with the Supreme Court judgement of Parker J, in *Fletcher Constructions Australia Ltd v Newman* [2002] WASC 162 (26 June 2002).

Following a lengthy and detailed arbitration proceeding, an interim award was made pursuant to Section 34 of the *Commercial Arbitration Act* 1985 (WA). The award directed the Respondent to pay the costs of the Arbitration to the Claimant, 'as between party and party and as agreed between the parties ... [or if not agreed, by] ... to be taxed and settled by the Taxing Officer of the Supreme Court'. The matter before Parker J concerned the taxation of costs, as both parties were unwilling to agree the costs of their legal representation. This case does not change the position of lay advocates with regard to their ability to reclaim representation costs.

The respondent argued that:-

1. the Arbitrator was not competent to make special costs orders, as only the Supreme Court can make such orders.

This argument was rejected following a detailed consideration of Order 66 rule 12, and Order 81D rule 16(i), of the Supreme Court Rules.

2. further to 1. above, the arbitrator, in making special costs orders, had transferred power from the Court without any legislative authority.

This argument was rejected by applying Section 61(1) of the Commercial Arbitration Act, confirming that the Court can provide for the taxation of costs of an arbitration.

3. the scale to be considered by the Supreme Court, under taxation of bills of costs, had to be that applicable to legal practitioners when working on a Supreme Court legal case and no such scale could be applicable to arbitrations in the absence of a *Gazetted Order* from the Attorney-General, so the bill could not be taxed by the Court.

This argument was rejected, as the scope of Section 34 of the Commercial Arbitration Act allowed the Supreme Court to tax costs on a fair and reasonable basis, without needing an applicable scale.

Readers may recall from the "alert" that the regulating of costs of proceedings in the Supreme Court are fixed by determinations under Section 58W of the *Legal Practitioners Act* 1893. They may

also recall that those determinations incorporate item 25 of the Supreme Court Scale of Costs. Item 25 states that costs in arbitration proceedings are the same as those of a Supreme Court Action.

Readers may further recall that, under Section 58W, the Attorney-General is empowered to declare any court to be a court in respect of which a Determination may be made - but to do this requires the Attorney-General to have such an order published in the *Government Gazette*. Avid *Gazette* readers and arbitrators alike will be aware that no such order from the Attorney-General has featured in the *Gazette*.

Without such an order a taxing officer is not bound to apply the Determinations under Section 58W of the *Legal Practitioners Act* 1893, which incorporated the Supreme Court Scale of Costs, causing serious concerns as to the basis of taxation and indeed as to whether the Supreme Court could tax at all, in the absence of an applicable scale.

These concerns have been alleviated by the *Fletcher* decision. The status quo has been returned by :-

- the taxing officer, in the absence of specific instructions from the arbitrator in his/her award, having a discretion to allow reasonable costs when taxing costs of an arbitration,
- in exercising that discretion, the taxing officer 'may find it convenient' (as Parker J put it) to refer to the *Supreme Court Scale of Costs* to tax costs by way of analogy to those applicable to a Supreme Court action.

The latter point can be read as a strong judicial hint that, unless the arbitrator clearly states otherwise, taxation of costs referred to a taxing officer will be taxed in a similar manner as to those of legal practitioners in a Supreme Court action and with reference to the same scale.

Although taxing by the court relieves the arbitrator of a considerable and lengthy burden, it is submitted that Arbitrators should tax and settle costs themselves, rather than referring the taxation of costs to the courts, save in exceptional circumstances. It is also submitted that the advantages '...of the familiarity of taxing officers with the process of taxation' (quoting Parker J in *Fletcher*)

are negligible at best, and the arbitration process would be better served by arbitrators determining the costs of representation in all but exceptional circumstances.

TRAINING

Dear All,

Further to the discussion regarding obtaining financial assistance from the BCITF for training that the IAMA may provide to Building Industry participants, refer to the following information-

Courses do not need to be accredited. Training providers need to be accredited, refer to website www.tac.wa.gov.au for information.

There is a course that the Department offers on how to become an RTO, details at the website.

If we want to proceed, we need to write to the BCITF describing the course, duration, cost, qualification attained, expected number of participants in the year and confirm that a RTO will deliver the course. The courses that we could offer would fall into the Industry Skills Program of the Fund, which specifically mentions negotiation and conflict resolution as an eligible area. The website is www.bcitf.org, look in 'Funding Available' and then Industry Skills Program (download)

If the course is approved they will subsidise eligible persons (Building Industry participants) 45% of the course cost.

Please give me some feedback after reviewing the websites, particularly in regard to the requirements of becoming a RTO.

regards
Richard Machell

Rooms

Rooms that may be suitable for conducting Arbitration and or Mediation are often in short supply. Following from requests for information from members,

the following rooms have been identified and are available by arrangement, starting at \$35 per half day and going up to \$160 per full day, depending on the location and size. Many include tea and coffee within the realm of their service and some may provide hire of equipment or other services.

Master Builders Assoc	9322 5133
Institution of Engineers	9321 3340
Institute of Architects	9321 7114
APESMA	9321 8187
Curtin Business Schl- 78 Murray St	9226 3237

If members are aware of other rooms that may be suitable please e-mail

rmachell@southwest.com.au and the list can be updated in The View, from time to time

Results of Survey into proposal for the establishment of IAMA rooms

9 responses were received in total to the survey form sent out to all graded Arbitrators and accredited Mediators

Question 1

8 said that they would probably use an IAMA venue

1 said they would not use an IAMA venue

1 of the people that said that they would use the IAMA rooms, noted that they would only use it for IAMA nominated Arbitrations

Question 2

3 said that the preferred location is West Perth /Subiaco.

2 said that the preferred location is either West Perth/ Subiaco or South Perth

2 said that the preferred location is South Perth /Como

1 said that the preferred location is anywhere in the Western Suburbs

1 alternate preference was East Perth

Question 3

Usage was estimate at the following number of days each year

Arbitration	Mediation	Training
4	4	
6	3	2
5		
Unknown	Unknown	
	6	2
12	2	
24	2	5
2		
53	17	9

A combined total of 79 days per year was estimated and assuming no clashes would result in a gross income of \$10,270. (\$130 per day)

Question 4

6 responses indicated that \$130 was reasonable- 1 of those wanted a half day rate

1 wanted an hourly rate- \$30 acceptable

1 had an existing facility that was available for \$12 per hour and presumably \$130 was a little less competitive.

Newsletter Report SCRAM 2002 Round Four

By Ariel Cregan
Year 10 student, MODERN SCHOOL

On Wednesday, no one knew exactly what would come out of SCRAM round 4. And what with video recordings, microphones and team members to organise, before eight o'clock that morning, we actually hadn't had a chance to worry.

SCRAM scenarios are perhaps something which take a little while to study before a good understanding of what you are going to say develops. Tamara Miletic, fresh of the plane from Canada was offered no such chance when as one team member was sick; we found another to fill in her shoes. White runners with formal uniform added a little 'light' to the situation.

Mr Phil Faigen, our adjudicator for the session was wonderful, and fresh of the architectural side of building sights (sites?), the sound of tubular bells in the

background of the mediation may have offered some relief from the harsher outside world. He certainly seemed in his element giving us a helping hand through his experience of mediation.

On a team side of things, Lucy takes the honours (first class) for her acting ability, Tamara for spontaneous actions, mostly for being part of the mediation at all, and Melissa Hobson and Alice Farley both put in a sound performance in bringing their simulated problems and personalities.

As each round brings its own particular problems and characteristics, we may well say that we have experienced a range of school based problems. These problems have required us to embrace them through the mediation process to reach a reliable resolution.

From a mediator's point of view, namely mine, the mediation was a wonderful success, as much as any one can be when looking at a clock after fifteen minutes or so and finding out that actually we were finishing in five minutes, that video cameras will work for Ms Gorringer, but when you need them to turn on they don't, and when you're waiting for Ms Gorringer to receive the SOS from room 27, it turns on and we wait for five minutes for the film to tape our novice embarrassment. Ah well, it all adds to the atmosphere I say.

Of course, now we come to the customary ending, as both time and space are running out. A huge thankyou to the team: to Sanja, who couldn't make it, to Alice, Lucy, Amy (my co-mediator), Tamara and Melissa. Also to Mrs Baird, the Perth Modern School SCRAM coordinator for this year, and to Ms Gorringer who supplied us with ample expertise in the media technology department in the videoing of Round four. So, thank to all of the above, and hopefully, following our job done on the 28th August, we can make it to the finals!

...oOo...

Let me congratulate all participants in the completion, especially the students I had the absolute pleasure to assess.

Phil Faigen

The more you put in The more you get out.

WHY we need CPD -

1. Participation by Members in a range of high quality professional development activities, with credit given for the level of participation in these activities.
2. Achieving and maintaining high standards of professional competence and ethical behaviour.
3. Demonstrating to Courts and the community that the Institute is committed to the accountability of its members, in requiring them to undertake Continuing Professional Development activities which keep their expertise current and which are of benefit both to the members and the community at large.
4. To promote public perception of the Institute and its members as proponents of high standards of professional excellence in the resolution of disputes.

Eligible Activities: Ratings

- 1 **Institute Masterclasses/Workshops** - 2 hours per contact hour
- 2 **Other Institute training activities** - conferences, seminars - 1 hour per contact hour
- 3 **Training activities conducted by other professional bodies approved by the Institute** - as determined by the Education Committee (including rating), up to a limit of 8 hours per annum
- 4 Approved undergraduate course - 1 hour per contact hour up to a limit of 5 hours per annum
- 5 Approved postgraduate courses 1 hour per contact hour up to a limit of 8 hours per annum
- 6 Lecturing or Tutoring in an approved tertiary course- 3 hours per contact hour up to a limit of 8 hours per annum
- 7 Published Papers and Articles, or Presentation of Original Material – rated by Education Committee.
- 8 Professional Practice (including writing awards and pupil training) as an arbitrator, mediator or other ADR practice - 1 hour per hour actually spent - up to a limit of 8 hours per annum.
- 9 Approved Pupillage - 1 hour per hour actually spent - up to a limit of 8 hours per annum.

- 10 Member of Council/Committee/Chapter - 1 hour per hour actually spent - -up to a limit of 8 hours per annum
- 11 Other Activities - as approved by the Education Committee.
- 12 Members living more than 200 km from Chapter Headquarters must obtain 15 attendance points and the remaining 10 in each year can be from reading, study or other approved activities to be detailed.

Compliance

- Required from graded arbitrators and accredited mediators
- Submit to N.O. on or before 31st March every year for the preceding calendar year
- Submit with application (regrading, accreditation, transfer) for the 12 months immediately preceding the application
- Audits requiring verification will be conducted by the Professional Affairs Committee each year on a range of record sheets
- Failure to submit a CPD Record Sheet or to complete CPD requirements - the member shall be asked to show cause why she/he should not be removed or regraded.

All members require 75 points over 3 years.

Target 25 points each year

Members applying for grading must have 25 points in the preceding 12 months.

For details

Contact - Alan Swann.

Tel. 9257 2032 Fax. 9293 3936

e-mail – swann107@ozemail.com.au

Possible Points for 2002 – CPD

General meetings	5
CPD sessions	5
Breakfasts Seminars	5
Arbitration Workshop	10
Award Writing Workshop	12
Expert Determination Workshop	12
Symposium	8
National Mediation Course	30

So attend all the meetings

**plus a course
plus other CPD activities,
plus seminars, etc.**

and you have the required points.

MEMBERSHIP UPDATE INFORMATION

If you have changed your place of employment, contact details for work or home – address, phone or FAX number and/or e-mail address please advise the Chapter Administrator on 9368 4755 or e-mail: suedoherty@bigpond.com

Working parties for WA Chapter Activities 2002

COURSES

Industrial Arbitration

Clive Raymond, Ian Johnstone

Arbitration Workshops & Expert Determination

Alan Swann, Phil Faigen

Masters Course

Laurie James

MEETINGS

Professional Development, Speakers/ questions for General Meetings

Bruce Phillips

Breakfasts

Barry Tonkin

THE EXECUTIVE COMMITTEE can be contacted for any matter relating to the Institute.

Committee Members 2002/2003

Chairman - Phil Faigen
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THE
INSTITUTE of
ARBITRATORS & MEDIATORS



AUSTRALIA

ACN 008 520 045/ABN 80 008 520 045

The Education and Promotions Sub Committee of the Institute of Arbitrators and Mediators, Australia, together with Minter Ellison
Presents

An Introduction to the Processes of Commercial Arbitration and Mediation

Objective: To introduce members of commerce and industry to the principles and ideals of arbitration and mediation

Those who should attend include: lawyers, accountants, contract administrators. Engineers, architects and builders. Valuers, real estate agents and representatives.

All commercially minded persons concerned with avoidance of and speedy resolution of disputes

Venue: Central Park Theatrette

(access off Hay Street, Perth)

Date: Wednesday 23 October 2002 – 3.45pm for 4.00pm - 6.30pm

Cost: \$40 incl. GST Includes notes of all sessions, tea / coffee and after session drinks
(2 CPD points for members)

Further enquires phone 93684755

Registration: Complete the form below and return to:

The Administrator, Institute of Arbitrators and Mediators

P.O. Box 518 COMO 6952 W.A. 6154

Ph: 93684755 **Fax: 9368 4744** email: suedoherty@bigpond.com

RSVP by Monday 21 October 2002

Registration Form for Introduction to Arbitration and Mediation on 23 October 2002
THIS FORM BECOMES A TAX INVOICE/TAX RECEIPT ON FULL PAYMENT

Mr/Mrs/Msof Organisation

Address:.....Postcode:.....

Phone E-mail:

PAYABLE BY CHEQUE/MONEY ORDER/CREDIT CARD

Please make cheques payable to: *The Institute of Arbitrators and Mediators Australia.*

Credit Card details: *tick applicable box* Bankcard Mastercard Visa

CardNumber:.....Expiry

Date:.....

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Name:.....

Cardholder's signature:.....

Visit our webside at www.iama.org.au

Perth

**Venue: St Catherine's College
Stirling Highway, NEDLANDS**

**Limited places
Register early
to avoid
disappointment**

Intensive Workshop Days: 14th, 15th, 16th November 2002
Coaching & Assessment Days: 18th & 19th November 2002
Enquires to West Australian Chapter: Telephone: (08) 9368 4755 Email: wa.chapter@iama.org.au

Costs: (incl. GST) (Accreditation)	5 Days (Workshop + Accreditation)	3 Days (Workshop)	2 Days
IAMA Members:	\$1,540.00	\$913.00	\$627.00
Non-members:	\$1,760.00	\$1,045.00	\$715.00

Participants will receive a folder of workshop notes and writing materials. Morning Tea, Afternoon Tea and Lunch will be provided

By both enrolling in this course and joining IAMA as an Associate Member, you can receive a special discount of 30% off the associate membership fee. Please contact the Western Australian Chapter for this special offer on (08) 9368 4755.

About the Course

The Practitioner's Certificate in Mediation and Conciliation will provide you with essential knowledge and professional skills in mediation and conciliation. It is a course designed for the practitioner with an emphasis on the practical application of skills and competencies. The course is designed for completion in two parts:

1. Certificate Course (3 days)
2. Practitioner's Certificate Course (2 days)

The Certificate Course introduces the concepts, frameworks and practice of the two processes while the Practitioner's Course provides a greater in-depth treatment of the understanding, knowledge and skills needed. The latter course is centred on micro-assessing the skills of participants. On successful completion of the Certificate Course, students are eligible for entry to the Practitioner's Certificate. Both courses must be completed within two years to qualify.

Objectives and Outcomes of The Practitioner's Certificate

The course has four broad objectives, which are for participants to:

1. Understand the structure and process of mediation.
2. Demonstrate practical mediation skills and techniques appropriate to commercial, industrial, family and related disputes.
3. Describe the limitations of mediation particularly with regard to situations involving power disparities, lack of goodwill and related issues.
4. Describe and understand the legal and ethical constraints upon the mediator.

Each of these objectives is linked to a number of the 36 competencies (specific criteria or standards) which have been developed as necessary indicators of skills that should be developed. Each participant will be assessed against these competencies.

Registration as a Mediator

On successful completion of the *Practitioner's Certificate in Mediation and Conciliation*, and provided you are a member of the Institute of Arbitrators and Mediators Australia, you may apply for registration as a Mediator and inclusion on the *Register of Practising Mediators*. The Institute requires all prospective new mediators to hold a Professional Certificate or equivalent recognized by the National Council of the Institute if they are to be considered for registration. While completion of the Practitioner's Certificate is an important requirement to achieve status as a Mediator with the Institute, it is not the only criterion. In assessing a member's suitability, the Institute will consider the member's reputation in his or her occupation as well as relevant knowledge, skills and experience. The rigorous accreditation process is designed to ensure that the general community can be confident in engaging a mediator from the Institute's panels.