

RAMSKILL MARTIN

The Programming and Delay Analyst Expert Advisor and Expert Witness

1. Introduction

In construction industry disputes it is common for experts to be appointed by solicitors to help the parties and their representatives reach a compromise agreement or, assist a judge, adjudicator or arbitrator in arriving at a judgement or decision.

An expert must follow relevant guidelines published by the court or professional body.

Consultants at ramskill martin know that when appointed as expert witness, there is an overriding duty to assist a tribunal and provide an opinion that is independent and does not promote the point of view of the instructing party. The position of the delay analyst is different when acting as expert advisor when the appointment is often less formal.

Ramskill martin has experience in acting as Expert Advisor and Expert Witness. Members of its team have prepared reports and given evidence in the Technology and Construction Court and also in arbitration and adjudication. More often, however, its consultants have worked with solicitors in the early stages of a dispute to give a view on quantum and time issues so that escalation of the dispute is avoided. Ramskill martin's consultants have also prepared reports and advice for use in mediation.

2. Expert Advisor and Expert Witness: two different roles

Expert Advisor

Often a situation will arise in which a party and its representative may want advice from an expert before any formal dispute has arisen. Advice may be required on the strengths and weaknesses of the position of either party. Disputes in the construction industry are often related to complex time issues. However despite this complexity if advice is sought at an early stage this can often lead to a negotiated settlement.

Expert Witness

It may be that what is required is a formal appointment under the Civil Procedure Rules, part 35. The appointment might be acting on behalf of either party or alternatively the appointment might be as single joint expert. Members of the team at ramskill martin have experience in either role and have received instructions from major firms of solicitors with large departments specialising in construction and also from smaller firms of solicitors with general litigation experience.

3. Summary of the experience of ramskill martin when acting as Expert Advisor or Expert Witness

Ramskill martin has experience of the following in disputes concerning time and delay issues.

- Advising solicitors/clients before any formal dispute resolution process has commenced
- Preparation of Expert Witness Reports and advice

The following are the main delay analysis techniques employed by ramskill martin's consultants:

	<u>As-Planned v As-Built</u>	<u>Impacted As-Planned</u>	<u>Collapsed As-Built</u>	<u>Time Impact Analysis</u>
Basis of Analysis	Compares the duration of an As-Planned activity on the original programme with the As-Built duration	Adds an identified delay, either as a separate activity, or added onto the duration of an existing activity, in the As-Planned programme. Duration of activity derived from the resource allowances on the As-Planned programme.	Removing from the As-Built programme identified excusable delays to show what the Completion Date would have been if those delay events had not occurred.	Analysis of the effects of delay events over the duration of a project by looking at the events which have affected progress within 'windows' of the contract period. The duration of each 'window' is not fixed and can be adjusted to suit circumstances. At the end of each 'window' the As-Planned programme is updated to take account of; (a) Any delaying inefficiency which is the Contractor's risk, (b) Any necessary logic or duration revisions because of mitigation measures undertaken, (c) All excusable and/or compensable events during the period.