



Pictured above are the Partners: Dave Cornes, Paula Jacobs & Simon Jacobs outside The Head Office

## Message from the Partners

Welcome to our second newsletter of 2006. We received positive feedback following our initial newsletter in June 2006 and we are pleased that you seem to like our publication.

In this issue we cover aspects of the Draft Tribunal & Courts Bill and a recently issued Legislative Consultation Paper that have relevance to the Bailiff Profession. We hope you find our comments useful and urge all Council's throughout England & Wales to pen a response.

We also use this opportunity to introduce our new Business Development Manager, Paul Kelly. Other features are news of our new bankruptcy service along with confirmation of our planned attendance at forthcoming local taxation and road traffic conferences / exhibitions.

*Simon Jacobs, Paula Jacobs & Dave Cornes*



Many practitioners will be aware that a rather hefty document containing 544 pages was issued by the Government earlier this summer. The Draft Tribunals and Courts Bill is the latest chapter in the Review of Enforcement that was announced back in 1998.

The Consultation Exercise to this Draft Bill ended on 22nd September 2006 and the Government has indicated that it will not be making any fundamental changes to its' content. This makes sense as the detail will follow in the form of Secondary Legislation once the Bill becomes Law and will likely follow recommendations contained in the White Paper of 2003. In other words the Bill lays the framework of the future of Civil Enforcement but the finer details will be subject to further consultation in due course.

There is some scepticism as to whether the Bill will receive Parliamentary time and we await the Queens Speech due in November to see if they intend to introduce the Bill in the next parliamentary session. If it is not in the Speech then it would need a Private Members Bill to be introduced and this is highly unlikely to happen.

Part 3 of the Draft Bill relates to the Enforcement of debts by "taking Control of Goods." It modernises terminology but leaves a couple of areas that need clarification.

Firstly there is an inability for bailiffs to use discretion and leave goods on the premises where the debtor refuses to sign a "controlled goods agreement". In the real world the debtor will often refuse to sign such an agreement but want time to pay. It is often more sensible and acceptable to our clients to make a list of available goods that can be removed if payments not maintained thereby giving the debtor a short time to pay the debt. There appears to be a gap in the legislation - If goods were removed every time a debtor refused to sign an agreement then not only would each job become more time consuming but also the costs of removal would also be

passed onto the debtor.

Secondly, the Bill allows for Bailiffs to use "reasonable force" to break into premises but fails to clarify what "reasonable" is. Our understanding is that the bailiff would need permission from the Courts to force entry and if abused could lead to the bailiff concerned potentially losing his Bailiff Certificate.

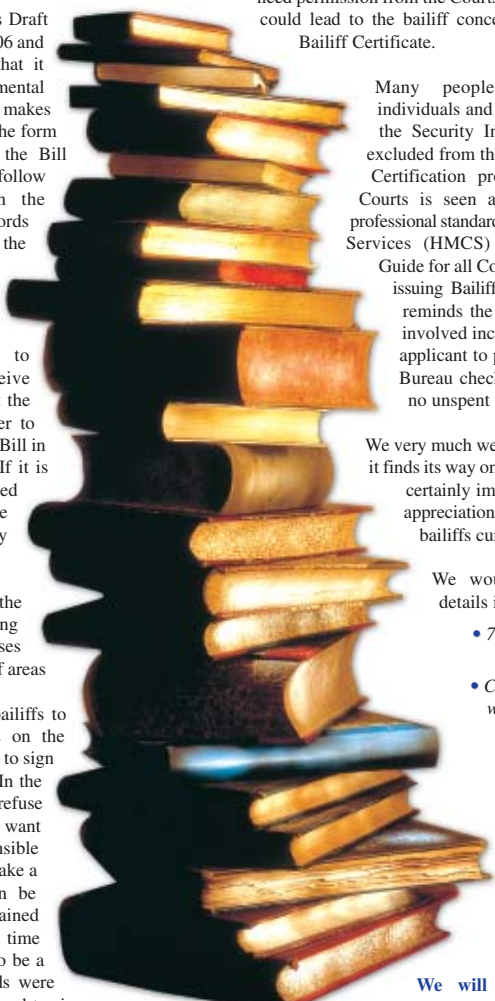
Many people wanted licensing of individuals and firms under the umbrella of the Security Industry Authority. This is excluded from the Bill and it appears that the Certification process through the County Courts is seen as being adequate to keep professional standards high. Her Majesty's Courts Services (HMCS) has recently produced a Guide for all Courts with responsibilities for issuing Bailiff Certificates. The guidance reminds the Courts of the strict criteria involved including a requirement for the applicant to produce a Criminal Records Bureau check to confirm that they have no unspent convictions of any sort.

We very much welcome the Bill and hope that it finds its way onto the Statute Books - it will certainly improve public perception and appreciation of how most professional bailiffs currently work.

We would then await the finer details including aspects such as:

- 7 days notice required before bailiff action
- Certain information to be left with the debtor at the time of bailiff visit
  - Acceptable call times (between 6am and 9pm)
  - Duration of a levy set as 12 months
  - List of exempt goods
    - Sale of goods only permitted 7 days after removal.

**We will keep you informed of developments and how any changes in law affect how we approach the task of maximising income for our clients in a firm but fair manner.**



### The Department for Communities and Local Government has issued a consultation paper on proposed Amendments to Council Tax and Non Domestic Rate Secondary Legislation.

The paper has a closing date for responses and asks 19 questions. Question 3 relates to bailiffs and basically asks "Should the amounts that can be recovered for bailiff charges be uprated in line with inflation?"

As you would expect our response was to say that this increase in line with inflation (8.4% between April 2003 and April 2006) is welcomed. However thought should also be given to the following:

- Perhaps a larger increase is more appropriate as the proposed rate merely brings the fees in line with real terms of levying distress. It makes no allowance for the past 3 years where inflation has risen but costs chargeable have remained the same (at £22.50 and £16.50). Similarly there is no provision for future inflation thereby ensuring the bailiff is, effectively, worse off in real terms from the introduction of the changes until the next increase is announced.
- The Government could use this opportunity to delete the anomalies that exist between Local Taxation and Road Traffic Enforcement. For Road Traffic fees may be raised 3 times where a bailiff attends with a view to levying distress. The charge for each is £28 plus VAT (£33 in total). It can be argued that the job is the same and so the same charges should be raised for Local Taxation.

Furthermore the VAT is paid for by the debtor in Road Traffic cases but by the local authority in

Local Taxation cases. Surely the VAT in both scenarios should be paid for by either the debtor or the local authority - there needs to be a better consistency in the charging mechanism.

- The same fee should be chargeable for the first and second visits.

The reason the 2nd visit fee is lower than the first is historical and relates to times when a bailiff would undertake first and second visit fees on the same day.

It was suggested that the 2nd visit should be at a cost less than the 1st visit because for the first visit the bailiff would have had to a) map up, b) drive to the area he was working in and c) make enquiries with neighbours as to when he could meet the debtor. It was therefore argued that when the bailiff returned later the same day he didn't have as much to do on the second visit and therefore the cost should be less.

- For local taxation many contracts stipulate that a 3rd visit needs to be undertaken outside of normal hours. It would, therefore, seem to make sense for the government to introduce a statutory charge for such a visit.

**In summary the proposed fee increase is welcomed but inconsistencies need to be addressed. It is also unfortunate that the fee increase will only initially relate to England and not Wales.**

## Exam Results

To prove our commitment to training Jacobs introduced a policy that all our bailiffs need to be professionally qualified through the Enforcement Services Association's examination.

In the last 12 months 55 bailiffs have sat the examination and we are pleased to boast 95% initial success rate. All other bailiffs have either successfully re-sat the exam or are due to do so within the next few weeks.





## Forthcoming Conferences:

Jacobs will be present at the following Conferences / Exhibitions and hope to meet with you if you are in attendance:

- 10th-13th October 2006 – Stand 23 IRRV Conference in Brighton
- 6th – 8th February 2007 – Stand 46 IRRV Benefits Conference in Harrogate
- 17th – 19th April 2007 – Stand P81 Parkex/Traffex International NEC Birmingham

(Dave & Simon pictured left at the IRRV Conference 2005)

## Bankruptcies - Open Day

We will shortly be sending invitations to our Local Taxation clients to attend one of two planned “Open Days” due on **29th & 30th November 2006**. The purpose of the day is to launch our Bankruptcy Service in association with our “Partners” who are **DWF Solicitors and Horsfields Insolvency Practitioners**.

Dave Cornes said “The Open Days will be an ideal way of explaining this optional additional service to our clients. We undertook a lengthy pilot with one of our clients and we are now able to offer a service that will take 4 months from cradle to grave.”

He added “The bankruptcy service has been carefully thought through and should assist in year collection rates on cases that previously would be returned as no or insufficient goods. It may also be seen as a Gershon saving for the local authority.”

**South Lakeland District Council** have recently agreed to a 2nd pilot exercise and are currently identifying potential cases to put through the bankruptcy process. **Simon McVey, Head of Revenues and Benefits** has commented that the total process looks to be extremely effective involving joint working between three firms highly specialised in their own area of expertise. **“We are impressed that the Local Authority will be involved at key stages in the process and that in the main, costs will only be invoiced when the bankruptcy order is made”**.

Should any client want further details of the open day they should contact either Dave Cornes or Paul Kelly at Head Office.

## Paul Kelly IRRV MESA

**Paul Kelly** (pictured right) is settling well into his role as **Business Development Manager** at Jacobs. Paul has considerable local taxation experience having held senior positions with 4 local authorities.

Paul said “I have found the transition from public sector to private enterprise most interesting. I hope my background and friendly approach to prospective clients will bear fruition in the future for the Jacobs organisation.” He added “I am finding it most beneficial to network around various seminars. I am getting to know the practitioners and various approaches to working in both the local taxation and road traffic environments.”



Should any prospective client wish to contact Jacobs to discuss our services further please contact Paul Kelly on: Tel: **0151 650 4988** Email: **pk@jacobsbailiffs.co.uk**  
Alternatively write to Paul at: **4 Europa Boulevard, Birkenhead, Merseyside, CH41 4PE**