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Members Information

All of The Academy's information is available for Members from the Member's website.

This includes:

- Guidance
- Publications
- Reports
- Member's Handbook
- Model Terms of Engagement

This and past editions of 'update' are available from:
members.academyofexperts.org

Further information about anything contained in this publication may be obtained from The Academy of Experts

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'update'

From the Chairman



Competency of Experts

Many of our members will have seen the Channel 4 investigation broadcast in mid-March concerning the competency of experts, particularly in the field of psychology and cases in the family courts. This has recently been given greater exposure as a result of the case concerning Rohan Wray and Chana al-Alas who had their second child taken into care at birth following the death and suspected murder of their infant son, but were subsequently cleared of all charges due to a later diagnosis of rickets. On 1st May 2012, The Times followed up this story and provided a full page news leader which drew attention to poor quality control of reports, apparent impartiality of experts, the lack of qualifications and experts working outside their field of expertise.

Worryingly, the report gave a false impression that there is no approved register of expert witnesses; in 2011, The Times had a readership of circa 1.5 million people (3% of the adult population) and therefore the report has reached an enormous number of people. This inaccurate or misleading reporting could potentially be seen as more damaging than saying nothing at all.

In order to redress the balance, on behalf of

members, I wrote a letter to the Editor of The Times the following day:

Sir, Your news leader ("Expert witnesses 'putting children at risk'" May 1) raises many serious issues concerning regulation, quality control of reports, and working to the courts as opposed to working for the individual parties. The reported percentages of unqualified 'experts' and those reports deemed to be "poor" or "very poor" is worrying in the extreme. However, of greater concern is the false impression given to the general public that there is no approved register of expert witnesses. It is equally misleading to state that family court lawyers "often have to take a chance on a person they do not know."

The Academy of Experts, now in its 25th year and with a Judicial Committee chaired by its President Lord Saville of Newdigate, has for many years had such a register of formally trained and accredited expert

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From the Chairman continued

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witnesses from a wide variety of disciplines who are governed by codes of practice, backed up by robust disciplinary procedures. It has been extremely influential in the setting of standards and Procedural Rules governing Experts and their use.

Its vetting and accreditation process is tried and tested; detailed training is provided to new and existing members to meet exacting standards. For an individual to be accredited as a Practising Expert, they must receive endorsement from instructing solicitors who have seen the expert 'in action'. Their skill and competency as an expert witness has therefore been tested and approved by users of expert witnesses even before consideration for formal registration by The Academy.

It is essential that the users of expert witnesses, whether they be the general public or instructing solicitors, are informed that they do not have to, nor should they "take a chance on a person they do not know." They need not know the expert personally, but they do at least have the option of considering the appointment of an appropriate person from a premiere professional body such as The Academy.

Disappointingly, it was not published (I 'missed the boat' by perhaps 12 hours – at least that's what I like to think...). At best, the inaccuracy of The Times report remains uncorrected and perhaps 1.5

million people could have been better informed as a result of its publication. We, all members, have to make a difference and reduce the widening public perception of a lack of regulation, training and accreditation; put simply, we must inform and market the existence and services of The Academy. It is in the public interest, even more so since the news article in The Times.

Quote of the Month:

"A professional; is someone who can do his best work when he doesn't feel like it."

**Alistair Cooke
Journalist, 1995**

On other positive matters, I have been invited by a number of organisations to various functions and am delighted to be The Academy's representative. I attended a reception given by The Chartered Institute of Legal Executives in late March and am due to attend their President's lunch later this month. I was a guest at the New Civil Engineer (NCE) Consultants Awards at the end of March, and I hope to be able to get better exposure for civil engineering and construction experts through my good contacts at the NCE and ICE. The Society of Construction Law (SCL) has also invited me later this month to their Annual Dinner and we have the potential to enter into a Memorandum of Understanding with them.

The SCL has their survey on 'Expert

Evidence' live on their website. All TAE members who are members of the SCL are encouraged to consider this and give their views (www.scl.org.uk/experts/questionnaire). It is an important survey, albeit limited to the construction industry, but The Academy will be interfacing with this in the coming months and I will continue to represent our interests on the Working Group.

Evening Meetings

Our evening meeting programme continues to develop. Mr Justice Coulson's presentation on the Trebor Bassett case on 14 March was extremely well received with a larger than usual number of attendees joining him afterwards to continue the lively discussion in the bar. Michael Cohen presented his ever popular "That was the Year that was" lecture to members based in or near Leeds and there is a call for more meetings in that region in the future. The May meeting was William (Bill) Woods QC, who spoke on the future of mediation in England and Wales; this was particularly relevant taking place on 16 May, a day after the Civil Mediation Council's Annual Conference in which the theme is "Mediation – Who needs it?"

Training

In the last month, The Academy provided its first Foundation Course in Belfast, and this promises to be a new hub for future courses. As a reminder about training, particularly relevant given the recent negative exposure in the press about the quality of experts and their reports, there is a variety of courses available through the summer months; all members are encouraged to consider these as part of Continuing Professional Development and details are on the website.

We have the Queen's Jubilee weekend to look forward to in early June and then we will be gearing up for the Olympics. Please do keep in touch with the Officers of The Academy if you have any ideas for development or other initiatives. I wish you all well as we approach the summer months.

**Richard Swan
Chairman
May 2012**

Keep up to date

Experts, like all professionals, have a duty to keep up to date. Making sure you comply with the appropriate procedure rules is part of this.

Experts are facing increasing criticism from the Judiciary amongst others and simple steps such as using the correct Expert's Declaration in your report can help to minimise your risks.

The latest versions of The Academy's declaration can be found on the TAE website.

www.academy-experts.org

Justice for Business: Supporting Business and Promoting Growth

On the 8th May 2012, the Justice Minister Jonathan Djanogly launched 'Justice for Business: Supporting Business and Promoting Growth'.

The new paper outlines how the Government's reform programme is making the justice system more effective, less costly and better for business. The reforms include streamlined court processes, improved regulation of legal services and reduced burdens on business through cheaper and easier dispute resolution.

Jonathan Djanogly launched the paper at the business led Dispute Resolution Commitment Breakfast with FT350 business leaders and representatives where he commended their support for out-of-court ways of resolving disputes.

The ongoing reforms include:

- ❑ Helping business and consumers resolve disputes more quickly and more amicably through increased focus on non-legal ways to resolve disputes, for example mediation, which can reduce costs to business and avoid good business relationships from being damaged;
- ❑ Introducing 'Alternative Businesses Structures' which provide opportunities for legal and non-legal businesses to work together to explore new markets and new business models, with greater opportunities for international investment into the UK legal services sector;
- ❑ Reforming legal costs in 'no win no fee' cases so that they are proportionate and fair, and businesses can operate with less threat of being sued or being forced to settle through the fear of high legal fees - MoJ are also banning referral fees in personal injury claims which encourage a compensation culture;
- ❑ Consulting on introducing fees for Employment Tribunals to give employees a financial stake in their own cases and to encourage users of the system to think more carefully about whether the tribunal provides the best way to resolve their dispute;
- ❑ Improving enforcement to give courts stiffer powers to ensure that creditors and businesses receive the money they are owed, and fewer debtors default on their court fines;
- ❑ Better regulation of legal services, simplifying regulation and removing unnecessary red tape to reduce the burden on business;
- ❑ Working with the private sector to provide opportunities for businesses to run a range of public services on behalf of the department, and to enter into joint ventures with public sector providers such as HM Prison Service.
- ❑ Expanding the Working Prisons programme to make it easier for businesses to participate and access labour and manufacturing facilities at competitive prices.

ADR Corner

Civil Mediation Council

Elections

The Academy of Experts has following a successful assessment been re-accredited as a Mediation Provider organisation of the Civil Mediation Council. This accreditation is effective until 31st March 2013. The Academy's information can be found on the "Find a Civil Mediation Provider" website which is being run by the Ministry of Justice.

Conference

The annual CMC conference took place at the University of London on 15th May. A strong audience heard speakers on a wide variety of subjects.

Mediation Audit

At the conference Graham Massie of CEDR presented the results of CEDR's 5th Biennial 'Mediation Audit'. Full details are available from CEDR but some of the highlights are:

- ❑ The Mediation Marketplace
CEDR estimate that there are 8,000 cases per annum. This represents a

year-on-year increase of about 15% pa since the 2010 Audit.

- ❑ Contribution to the field
Since 1990 the total value of mediated cases is approaching £50 billion.

By achieving earlier resolution of cases that would otherwise have proceeded through litigation, the commercial mediation profession this year will save business around £2 billion a year in wasted management time, damaged relationships, lost productivity and legal fees

- ❑ Mediator fees
Average fees of the less experienced mediator group for a one-day mediation have increased from around £1,390 in 2010 to £1,517, an increase of 9.1% over a two year period.

- ❑ Sources of work
Mediators rated the most significant factors in determining their appointments as being:
1st - Professional reputation



- 2nd - Availability
 - 3rd - Professional background/ qualifications
- Lawyers similarly rated the significant factors in selecting a mediator with one major difference:
- 1st - Professional reputation
 - 2nd - Fee levels
 - 3rd - Availability
- ❑ Performance in Mediation
Mediators report that just over 70% of their cases settled on the day, with another 20% settling shortly thereafter so as to give an aggregate settlement rate of around 90%.

www.cedr.com

NEWS & ANNOUNCEMENTS

Law Commission



It has been announced by The Lord Chancellor and Secretary of State for Justice that The Honourable Mr Justice Lloyd Jones has been appointed as the Chair of the Law Commission for England and Wales for three years from 1st August 2012. He succeeds The Right Honourable Lord Justice Munby.

Legal Aid

The Legal Aid, Sentencing and Punishment of Offenders Bill has now received Royal Assent and has become an Act of Parliament.

The changes to scope, eligibility and other aspects of legal aid are due to be implemented from 1st April 2013. Under the Act the Legal Services Commission (LSC) will be replaced by the Legal Aid Agency which will be an Executive Agency of the Ministry of Justice.

The changes will see the appointment of a Director of Legal Aid Casework who will have independence from the Lord Chancellor in applying directions and guidance to individual funding decisions which is protected under the new statutory framework. It is anticipated that Matthew Coats who is the Chief Executive Designate will also be appointed as Director of Legal Aid Casework.

www.legalservices.gov.uk/civil/legal_aid_reform.asp?dm_i=4P,SEFO,7SBVN,2B4I2,1

Seminars

Training is always important and should be an ongoing process. A new range of 'advanced' courses for the experienced expert is being developed.

The first stage will be a new series of afternoon seminars starting in October. Rather than a full day course covering a wide range of content these will be a focussed in depth look at a single subject.

- Meetings of Experts - 10th October
- Single Joint Expert - 31st October

Gray's Inn Garden Party

Gray's Inn has again extended an invitation to TAE members for the Treasurer's Reception. This year the reception will be taking place on Friday 20th July.

Numbers for this very popular event are always limited. As soon as we have details of the price and our allocation we will be sending a registration form.

President's Dinner

Butchers' Hall

Wednesday 7th November 2012

The Academy's most formal function of the year - The President's Dinner - will be taking place on 7th November at Butcher's Hall.

A full registration form for the dinner will shortly be available from the member's website - alternatively - call the TAE office to register your interest.



Fees Survey

Response to the Fees Survey has been very good so far. The survey is being closed shortly but we do still need as many members to complete the survey as possible.

If you have not yet completed the survey please do so now. If you know any other experts then please direct them to our website so that they may participate in the survey.

Do remember that the survey is anonymous - the data we receive will be used for statistical purposes only.

www.surveymonkey.com/s/877TXSM

D i a r y D a t e s

June

Monday	4	Bank Holiday
Tuesday	5	Bank Holiday
Wednesday	13	↗ Council
Monday	18	↗ Into Court
Wednesday	20	↗ Commercial Mediation Training - Module 3
Thursday	21	↗ Commercial Mediation Training - Module 4
Friday	22	↗ Commercial Mediation Training - Module 5
Monday - Tuesday	25-26	↗ Foundation Course

July

Monday - Tuesday	2-3	↗ Law & Procedure
Thursday - Friday	5-6	↗ Commercial Mediation Training - Assessment
Wednesday - Thursday	11-12	↗ Expert Determination
Friday	20	↗ Treasurer's Reception - Honourable Society of Gray's Inn
Friday	27	↗ Gray's Inn Hall closes
Tuesday	31	Deadline for ED Assessment Application

September

Monday	10	↗ Gray's Inn Hall reopens
Wednesday	12	↗ Executive Committee
Wednesday	12	↗ Evening Meeting
Friday	14	↗ Into Court
Wednesday - Thursday	19-20	↗ Foundation Course

November

Wednesday	7	↗ President's Dinner
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See members.academyofexperts.org for more dates

Key to events:

- ↗ Academy Courses
- ↗ Academy Events & Meetings
- ↗ External/Joint/Supported Events

Unless otherwise shown all courses/meetings will be held in London