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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 Chief Executive

Welcome to the latest edition of 'update'. You will notice that this FTC is From The 'Chief Executive'.

The sun is, at last, shining on London and it is hard to believe that up until a few weeks ago we had been experiencing the wettest summer in history. London is taking centre stage with the Olympics. I am sure the members who took part in the two Academy visits to the Olympic Park during construction have found it interesting to see the finished product at last.

Celebration

2012 has already been a year of celebration with the Diamond Jubilee and the Olympics but for TAE there is more yet to come. In October The Academy celebrates its 25th birthday and the beginning of our Anniversary year.

Over the 25 years since The Academy's foundation there have been many changes to the world of dispute resolution and during the year we will undoubtedly focus on them and their impact on our work. I am sure The Academy's founders could not have envisaged just how much we have developed and the influence that we have had in standard setting not just in the UK but worldwide.

The Executive has decided to mark this landmark with a special programme of events which will run alongside many of our normal activities such as evening meetings. The full programme is being finalised and will be published very soon.

The year will begin on 10th October with our new seminar on the subject of Meeting of Experts and the many issues that arise from them and this of course ultimately led to the loss of immunity for Experts. After the Seminar there will be the opportunity to network over a glass or two of wine – even if you cannot attend the Seminar you will be most welcome to join us for a drink. We will of course look forward to welcoming you to this and other events.



New Guidance for Experts

At the end of July the Civil Justice Council published "Guidance for the instruction of experts to give evidence in Civil claims 2012". It is anticipated that this will ultimately be adopted as the Protocol annexed to PD35.

At first glance the revisions are mainly a tidying and clarification exercise making for easier reading. It does include a section on "the impact of sequential exchange of experts' reports." This will be of particular interest to the construction industry. Full details and TAE's advice will, of course, follow in due course.

There will be other developments during the year – perhaps one of the most exciting is that

continued inside...



Forty TAE members attended the Gray's Inn Garden Party. The catering was as excellent as ever!

From the Chief Executive continued

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work has begun in earnest and is now almost complete our new look website (for full details see below).

Terms of Engagement

Also nearing completion are TAE's new Model Terms of Engagement. Ever since the **Jones v Kaney** decision members have been asking about their terms and if they should be updated. TAE has been working diligently on the behalf of members and the revised terms which have been extensively revised

will be published very shortly. There will be a pre-launch Evening Meeting on Wednesday 12th September to discuss and explain the new terms prior to the official launch.

With luck the current run of good weather will continue and provide us with an Indian Summer to launch the 25th Anniversary celebrations - I look forward to welcoming you there.

Nicola Cohen
Chief Executive
August 2012

Quote of the Month:

“Laws and institutions, like clocks, must occasionally be cleaned, wound up, and set to true time.”

Henry Ward Beecher
1813-1887

TAE Website

We have previously reported that TAE's new website has been under construction. Development is now proceeding apace and we are busy adding content and refining the workings of the new site.

As well as bringing the website up to date the new site will bring with it a big improvement in the functionality and options available to members.

The most obvious change will be that members will now be able to amend their entry details for the online register.

Online Register - ExpertSearch

ExpertSearch, TAE's online register is used every day by solicitors trying to find qualified, accredited experts. We are completely revamping the register to make it more usable and attractive both to members and users.

There will be three levels of entry on the register. The Basic level - Bronze - is based on the level of information which is currently available. Silver and Gold are enhanced listings allowing members bigger 'better' pages. The initial 'search' will, however, still be based on expertise ie it will not be possible to 'buy' a higher ranking.



Option	Bronze	Silver	Gold
Name	✓	✓	✓
Profession	✓	✓	✓
Company	✓	✓	✓
Address	✓	✓	✓
Telephone	✓	✓	✓
Mobile	✓	✓	✓
Email	✓	✓	✓
Web Link	✓	✓	✓
Qualifications	✓	✓	✓
Snapshot (words)	150	300	450
Corporate Logo	✗	✓	✓
Personal Photo	✗	✗	✓
Full CV Download	✗	✗	✓
Additional accreditations	✗	✗	3
TAE Registers (QDR, ED etc)	✓	✓	✓

How much will it cost?

To commemorate the 25th Anniversary there will be a special pricing structure in place.

Bronze: £60

Silver: £100

Gold: £150

Sponsor: £1,000

All current members on the register will automatically be transferred to the new register with Bronze entries. Members wishing to upgrade should contact TAE.

We will be writing to all members in the next couple of weeks with full details and instructions on how to update your entry.

Notice of AGM

Notice is hereby given that the Annual General Meeting will be held on Wednesday 10th October 2012 at, 3 Gray's Inn Square, Gray's Inn, London.

Agenda

- 1 Apologies for absence
- 2 To approve the minutes of the AGM held on 12th October 2011 – published in 'update' Volume 19 Issue No 4
- 3 Matters arising
- 4 Chairman's Report
- 5 Treasurer's Report including adoption of accounts for the year ending February 2012.
- 6 To appoint the Auditors for the year 2012-2013
- 7 Election of Officers (Chairman, Deputy Chairman, Vice Chairmen, Secretary and Treasurer)
- 8 Election of Council Members
- 9 To approve 2013-2014 subscription levels
- 10 Any other Business

Jackson Reforms

Changes to Civil Litigation Costs

It is likely that April 2013 will be the implementation date for reforms to the civil procedure designed to bring about the changes recommended by Lord Justice Jackson in his Report on Civil Litigation Costs published in 2010.

The main change will be the abolition of the entitlement of winning parties to recover from losing parties both the success fees payable to lawyers under conditional fee agreements (CFAs) and after the event (ATE) insurance premiums. Any CFAs or ATE policies entered into prior to the change will not be affected.

CFA's will still be possible but parties will have to fund the success fee themselves. A new funding method will be permitted in the form of contingency fees or damages based agreements where the lawyers fees can be a proportion of the damages recovered.

Appropriate regulation will be introduced to implement the changes.



MedicoLegal Guidance - General Medical Council

On 9th July the General Medical Council launched its latest guidance "Protecting children and young people – The responsibilities of all doctors." The Guidance comes into effect on 3rd September and can be downloaded at from the GMC website (see below). One of the areas covered by the guidance is that of giving evidence as an expert witness (paragraphs 83-89)

- 83 The role of an expert witness is to help the court on specialist or technical matters that are within the witness's expertise. Courts find the evidence of expert doctors extremely important in judicial proceedings. An expert witness is able to consider all the evidence available, including defence statements and reports, before forming and providing an opinion to the court.
- 84 You must make sure you understand exactly what questions you are being asked to answer. If your instructions are unclear, you should ask the solicitor instructing you to explain. If the instructions are still not clear, you should not provide expert advice or opinion.
- 85 You must only give expert testimony and opinions about issues that are within your professional competence.¹ If a particular question or issue falls outside your area of expertise, you should either refuse to answer or answer to the best of your ability but make it clear that you consider the matter to be outside your competence.
- 86 You must give an objective, unbiased opinion and be able to state the facts or assumptions on which it is based. If there is a range of opinions on an issue, you should summarise the

range of opinions and explain how you arrived at your own view. If you do not have enough information on which to reach a conclusion on a particular point, or if your opinion is qualified (for example, as a result of conflicting evidence), you must make this clear.²

- 87 If you are asked to give an opinion about a person without the opportunity to consult with or examine them, you should explain any limits that this may place on your opinion. You should be able to justify the decision to provide your opinion.
- 88 If, at any stage, you change your view on any relevant matter, you have a duty to make sure the solicitor instructing you, the other party and the judge are made aware of this without delay. You should tell your instructing solicitor, who should tell the other people who need to know. If the solicitor fails to do this, you should tell the court about your change of view. If you are not sure about what to do, you should ask the court or get legal advice.
- 89 You must respect the skills and contributions of other professionals giving expert evidence, and not allow their behaviour to affect your professional opinion.

Notes:

¹The same principle applies where a doctor acts in a role other than as a witness – for example, as an adviser in a case.

²See **Oldham MBC v GW & Ors** [2007] EWHC 136 (Fam).

www.gmc-uk.org/childprotection

DIARY, NEWS & ANNOUNCEMENTS

New President of the Supreme Court

Lord Neuberger of Abbotsbury, currently Master of the Rolls, has been named as the next President of the Supreme Court of the United Kingdom.



Lord Neuberger will succeed Lord Phillips of Worth Matravers, who steps down from the role as the most senior judge in the United Kingdom on 30 September 2012. The new President will be sworn in at a special ceremony at the Court on 1 October 2012.

The Rt Hon Lord Neuberger of Abbotsbury has held the office of Master of the Rolls and Head of Civil Justice (the second most senior judge in England and Wales) from 1 October 2009. Before that, from 2007, Lord Neuberger was a Lord of Appeal in Ordinary ("Law Lord"), after serving for three years as a Lord Justice of Appeal.

Family Justice Board chair appointed

The Government has appointed David Norgrove as the chair of the new Family Justice Board. Mr Norgrove, who recently chaired the Family Justice Review, will oversee the board which is a key part of the reforms announced in the Family Justice review. The creation of the Family Justice Board forms part of the government's strategy to ensure better cross-system working. The board, accountable to ministers, is made up of senior figures representing the key organisations in the family justice system. The board is focusing on reducing delay across the system, and helping it prepare for the introduction of the statutory six month time limit in care cases.



Witness Intimidation?

Academy members might be interested to learn of a recent case in the US where a Cobb County Judge disqualified defence lawyers from a medical malpractice case for pressuring a plaintiff's expert witness to cancel plans to testify.

"The evidence is overwhelming" stated the judge who went on to say "These attorneys have sought to intimidate and have chilled the witness".

Events

ICAEW

As ever we will continue working in co-operation with other organisations. The Register of Accredited Accountant Expert Witness which we run on behalf of the ICAEW is developing well and is just one such example. As part of our work with the ICAEW we will be running two workshops at their Forensic Group Conference on 23rd October.

Lighthouse Club

TAE is a supporting organisation of the "Collaboration and Cooperation in Contracts for Hong Kong's Expanding Infrastructure" which is being organised by the Lighthouse Club on 17th September 2012.

www.lighthouseclub.com.hk

Society of Construction Law Hong Kong

TAE is again supporting the SCLHK conference in Hong Kong on 26th October. As a supporting organisation TAE members are entitled to a discounted rate.

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.

The early-bird rate of £87.50+vat is valid until 14th September and places are already selling fast so book early to secure your place.



September

- Monday 10 Gray's Inn Hall reopens
- Wednesday 12 Executive Committee
- Wednesday 12 Evening Meeting
- Friday 14 Into Court
- Monday 17 Lighthouse Club - **Hong Kong**
- Wednesday - 19- Foundation Course
- Thursday 20

October

- Tuesday - 2-3 Law & Procedure
- Wednesday
- Wednesday 10 Meetings of Experts ^{NEW}
- Wednesday 10 TAE AGM
- Tuesday - 16- Foundation Course - **Belfast**
- Wednesday 17
- Thursday - 18- Into Court - **Belfast**
- Friday 19
- Tuesday 23 ICAEW Conference
- Friday 26 SCLHK - **Hong Kong**
- Monday - 29- Commercial Mediation
- Tuesday 30 Training - Module 1
- Wednesday 31 Commercial Mediation Training - Module 2

November

- Monday - 5-6 Foundation Course
- Tuesday
- Wednesday 7 Council
- Wednesday 7 President's Dinner
- Wednesday 14 The Single Joint Expert ^{NEW}
- Monday 19 Commercial Mediation Training - Module 3
- Tuesday 20 Role & Responsibilities - **Hong Kong**
- Wednesday 21 Commercial Mediation Training - Module 4
- Wednesday 21 The Expert's Report - **Hong Kong**

Key to events:

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

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