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## Members Information

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

This includes:

- Guidance
- Publications
- Reports
- Model Terms of Engagement

This and past editions of 'update' are available from:  
[www.academyofexperts.org](http://www.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



Following a very enjoyable Chairmen's Lunch at the RAF Club I have the honour of following on from Sue Bayram in the role of Chairman for the Academy. This is a prestigious position and I look forward to working with the team at Gray's Inn along with the Executive and the Council to develop the role of the Academy in supporting its members in the future.

The Academy provides a useful resource to its members and forms a major focal point for expert issues in the legal arena. Maintaining and improving the presence of the Academy will be a priority for the coming year. Also important will be recruitment of new members, at all levels. Could any members who are aware of potential candidates please provide their details to Nicola so we can follow up.

It is now thirty years since The Academy came into being and since its inception the Academy has provided and continues to provide, support for experts of all disciplines. This support includes the rigorous vetting for Academy membership, formal and informal training as well as opportunities for networking with the members of the legal profession and other experts.

### Evening Meetings

For our first informal training in 2018 Lord Justice Hickinbottom provided a presentation discussing the roles of the Judge and Expert at

the evening meeting in February. This talk, which was both interesting and informative, was an excellent start to the program for the year. At our next meeting, on 14 March, a US attorney, Robert Cosgrove, compared the differences between expert roles in the US and UK. This is particularly useful for those who practice in the US from time to time.



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### Fees

An issue that routinely comes to the fore is expert fees. Reducing fee levels for legally funded work, combined with a restriction on the number of hours, have made it impractical for more highly experienced practitioners to take on cases funded by the Legal Aid Agency. Providing a CPR compliant report on what may be highly technical matters within these restrictions is more than simply a challenge. This situation raises concerns over 'equality of arms' when providing a report for the defendant, however, it should not be for the Expert to effectively subsidise the case by making very significant fee reductions.

*continued inside...*



Spring comes to Gray's Inn!

## From the Chairman continued

Problems with downward pressure on fees has also been an issue raised by the Forensic Science Regulator in the latest report, issued in January 2018. Lower fees are highlighted as causing problems with taking time for maintaining suitable CPD as well as keeping up to date with scientific developments. For those of us who require more technical back up, such as laboratory services, where accreditation such as by UKAS (the United Kingdom Accreditation Service) is recommended as best practice, the reduced fee levels make it even more difficult to cover the cost of third party auditing.

This situation has now gone a step further with requests to provide reports within the £750 plus VAT limit allowed by the court for small claims (see PD27 7.3 (2)). Whilst it is understood that the sums of money involved in the claim may be relatively small that does not mean that the expert can spend any less care in preparing a report which they may have to answer to in Court. It may be possible that in very straightforward situations a very brief report may suffice. However, for a technical failure which may require a site visit, possibly with several hours of travelling each way, plus laboratory examination and testing of samples, this

is simply a non-starter. It is unclear where the solution lies, however, if an expert is to be instructed it must be on a sound commercial basis.

### Accreditation

Academy accreditation is known and respected around the world and has been for thirty years. By providing a source of accredited individuals, the legal profession and members of the public can have confidence that an 'Academy Expert' has the proper knowledge of rules, professional expertise and experience as an expert witness. There now seems to be an increasing push by other organisations, both academic and commercial to provide additional 'accreditation'. This seems to be a rather intellectual exercise which adds to an Expert's costs making it even more difficult for situations such as Legal Aid work with already restricted fees.

### The question arises as to exactly what is being accredited - the person or the opinion?

For litigation it is the professional opinion of the expert (thereby turning an 'expert' into an 'expert witness') which is crucial as this is what helps a court determine the issues. Accreditation of opinion is an issue that was raised years ago when

UKAS took over auditing the laboratories for third party accreditation. It was clear then, and remains so now, that although it is possible to accredit a laboratory for testing to a particular standard, or test criteria, it is not possible to accredit an opinion on what these results may signify. This point is clearly stated on reports to differentiate between the factual results and the independent expert's opinion based on those results.

The court when considering an Expert's opinion evidence will look at, amongst other things, relevant experience and appropriate qualifications which include membership of relevant professional bodies. It is therefore unclear what additional weight will be gained by a plethora of 'accreditations' in addition to that as a Member of The Academy of Experts.

In practice most experts, as well as being members of TAE, are members of various professional institutes who have strict criteria for CPD requirements and this is far more relevant to maintaining professional standards.

**Eur Ing Simon Clarke**  
Chairman  
March 2018

## President's Dinner

### Pewterers' Hall - Wednesday 13th June

This year we return, again, to Pewterers' Hall.

Returning to the traditional summer slot means that, weather permitting, we will be starting with an outside reception in the Gardens at 7.30pm before moving to the stunning Livery Hall for dinner.

Following the end of the formal part of the evening Members and their guests are invited to mingle with Lord Saville and The Academy's Guests for a post-dinner 'nightcap'.

If you would like to be a part of the evening call Dominic or David to book a place.

**TICKETS FOR THIS  
UNIQUE EVENING  
ARE JUST £99+VAT  
CALL US NOW  
020 7430 0333**



## Civil Justice Review & Accreditation in Northern Ireland

There is currently a Review of Civil and Family Justice being undertaken in Northern Ireland. Effectively this is similar to the move to CPR that occurred in England & Wales in the 90's and much of the recommendations are based on CPR. Inevitably where rules are taken up in other jurisdictions refinements are made and sometimes these can be reflected back in the original rules upon which they are based.

Practice Direction PD 1 of 2015 in Northern Ireland introduced a requirement for all Experts giving Evidence in Northern Ireland to undertake appropriate training and seek accreditation. Three years on and the courts are becoming more and more insistent on seeing the evidence of this - going so far as to exclude evidence presented by Expert Witnesses who do not comply.

When the review is finalised later this year it is expected to again reinforce this requirement - currently it is recommending that:

*"Only those experts who can prove that they have been properly trained and thus achieved an acceptable accreditation to be given permission to offer expert testimony."*

No matter how experienced an expert may be these are specific requirements that must be complied with by all those who wish to give evidence.

If, as is expected, the rules do require that experts undergo a form of compulsory training or accreditation it may only be a matter of time before a similar approach is adopted in England & Wales.

At the beginning of March The Academy of Experts team went to Belfast to run two training courses aimed at helping local experts to achieve compliance - the Expert Witness Foundation Course and a Report Writing Masterclass.

As well as the training courses we were delighted to have Rt Hon Mr Justice Horner address a packed court room (Nisi Prius in the Royal Courts of Justice, Belfast), explaining to experts what the proposed changes are likely to be and the reasons that they are needed. As the Commercial Court Judge in Northern Ireland Sir Mark is determined to improve the quality of experts and the evidence which they present to him.



# DIARY, NEWS & ANNOUNCEMENTS



## New Mediation Act goes live in Ireland

Michael D Higgins, President of Ireland, signed the Mediation Bill as amended by Seanad Éireann on 2 October 2017. The Act provides a statutory basis for the delivery of mediation services and gives the court power to impose sanctions on a party unreasonably refusing to mediate. The Department of Justice has described mediation as a viable, effective and efficient alternative to court proceedings.

You can access a full copy of the Act and Explanatory Memorandum at:

[bit.ly/IrelandMediationAct](http://bit.ly/IrelandMediationAct)

## Income Tax Relief

Members in the UK are able to offset subscriptions against tax.

The Academy of Experts has been approved as a Learned Society by the Board of Inland Revenue under Section 201 Income and Corporation Taxes Act 1988 (subsequently Section 344 of the Income Tax (Earnings & Pensions) Act 2003), with effect from 6th April, 1992 and is published by them known as "List 3".

### How to claim

In order to claim tax relief, you will need to use your invoice for your membership payment, which you can then submit to the tax office with your tax return form. Please quote The Academy of Experts (formerly 'British Academy of Experts') along with our tax reference number SAPP/T/1644/43/1922.

If you don't complete a tax return, you can make a claim by writing or phoning your local tax office (your employer will be able to give you the address and reference).

## Evening Meetings

### Life or Death listening

Richard Mullender

#### London - 9th May

Richard Mullender, a former hostage negotiator, will cut through the noise so that you leave this session knowing exactly how to understand and influence your audiences quickly. With modern technology changing how we interact, Richard will reignite your passion for fundamental communication skills.

D i a r y D a t e s

<b>March</b>			
Wednesday	14	➤	Evening Meeting
Wednesday	28		Gray's Inn Hall closes
Friday	30		Good Friday Bank Holiday
<b>April</b>			
Sunday	1		Easter Sunday
Monday	2		Easter Monday Bank Holiday
Monday	9		Gray's Inn Hall reopens
Tuesday	17	➤	Law & Procedure
Wednesday	18	➤	Into Court
<b>May</b>			
Wednesday	2	➤	Report Writing Masterclass
Wednesday	9	➤	Evening Meeting
Friday	11		President's Dinner Early Bird Ends
Tuesday -	15-	➤	Expert Determination
Wednesday	16		(2 days)
Thursday -	17-	➤	Foundation Course
Friday	18		(2 days)
Monday	28		Bank Holiday
<b>June</b>			
Wednesday	13	➤	Council Meeting
Wednesday	13	➤	President's Dinner
Tuesday	19	➤	Law & Procedure
Wednesday	20	➤	Into Court
<b>July</b>			
Wednesday -	4-5	➤	Foundation Course
Thursday			(2 days)

Unless otherwise shown all courses/meetings will be held in London  
TAE dates are published in the **Events Calendar** - [www.academyofexperts.org](http://www.academyofexperts.org)

**Key to events:**  
➤ Academy Courses  
➤ Academy Events & Meetings  
➤ External/Joint/Supported Events



**JOIN THE PRESIDENT FOR DINNER!**  
[www.academyofexperts.org/pdin18](http://www.academyofexperts.org/pdin18)