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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

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

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'update'

POSSIBLE TRAP FOR UNWARY EXPERTS

On Monday 1st April 2019 the Financial Conduct Authority takes over the regulation of Claims Management Companies and introduce with effect from then a new regulatory regime. At an initial reading this would not appear to affect expert witnesses (Experts). However, depending upon how you operate, more information and definitions, it is generally thought it could affect you. Essentially the Rules will apply to those who:

1. provide advice in relation to a claim or potential claim
2. are investigating or commissioning the investigation of the circumstances, merits or foundation of a claim with a view to using the results in pursuing the claim
3. represent, in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made with regard to 'advising, investigating or representing in relation to a financial services or financial products claim'.

The applicability is to anyone who assists a claimant with a 'financial services' claim for any form of remuneration must be registered with the Financial Conduct Authority (FCA) for this type of work (even if you are already registered with the FCA for, say, investment advice.

As expected there are various exceptions including when instructed by a legal practitioner.

The wording is 'activity carried on by or through a legal practitioner, or by a natural person who carries on that activity at the direction of, and under the supervision of, a legal practitioner, provided that the legal practitioner carries on that activity in the ordinary course of legal practice pursuant to the professional rules to which that legal practitioner is subject (article 89N)'

From this we might reasonably conclude that where Experts are under instructions from a solicitor there is no problem. There undoubtedly are potential problems when instructed by a Litigant in Person.

Not all types of work are covered by the new Regime. Essentially it is where 'people' are concerned, for example personal injury. However, it further appears that if the Expert stays within the totally theoretical or 'pure' concept of the expert witness giving Opinion and never giving 'advice', nor making 'representations' and is instructed by lawyers they are probably outside the remit of the FCA.

Further information can be found on:

www.fca.org.uk/firms/claims-management-regulation

We hope to be able to issue a Fact Sheet or similar in due course. In the meantime, examine 'who' you are, how you operate and the nature of your clientele. If in doubt we commend you to seek competent legal advice.



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Changes to CrimPR

Last month we sent members an email alerting you to the upcoming changes to the Criminal Procedure Rules (CrimPR).

On 1st April 2019 the new Rule changes come into force in England & Wales.

The new Rules clarify and set standards for Best Practice for all Experts irrespective of discipline and court. For those in the criminal arena it is more than Best Practice – it is mandatory and therefore compliance is not optional.

In simple terms, Experts will be required to disclose anything which may be capable of:

- Undermining the reliability of the Expert's opinion
- Detracting from the credibility or impartiality of the Expert

www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu-2015

Consultation on Fixed Recoverable Costs

On 28th March the Ministry of Justice launched a consultation on extending fixed recoverable costs (FRC) in civil cases worth up to £100,000.

The consultation is taking responses until 6th June 2019, with a response paper scheduled for three months after the consultation closes.

The civil justice system in England and Wales has a 'loser pays' model, whereby the unsuccessful party covers the costs of the successful party. This can lead to high costs for the unsuccessful party. FRC give both parties certainty as to the maximum amount they may have to pay if unsuccessful and can ensure that the costs of cases are proportionate to the sum in issue.

FRC currently operate in most low value personal injury cases. The government and senior judiciary announced their support for extending FRC in 2016, and Sir Rupert Jackson was commissioned by the senior judiciary to develop proposals.

consult.justice.gov.uk/digital-communications/fixed-recoverable-costs-consultation/

President's Dinner

Pewterers' Hall - Wednesday 12th 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.

Catch Up with Evening Meetings Online

Marketing Your Mediation Practice
Meeting Held On: Wednesday, 7 December, 2016

Online Dispute Resolution
Meeting Held On: Wednesday, 13 July, 2016

Forensic Science Regulator
Meeting Held On: Wednesday, 13 March, 2019

The role of the Forensic Science... to ensure that the provision of fore... in the Criminal Justice System is appropriate regime of quality sta...

NEW VIDEOS AVAILABLE

The March Evening Meeting with Dr Gillian Tully, the Forensic Regulator, is now available online

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



New AI Advisory Group

To make sure the Judiciary of England and Wales is fully informed about developments in artificial intelligence (AI), the Lord Chief Justice, Lord Burnett of Maldon, has set up a new advisory body.

The purpose of the Lord Chief Justice's AI Advisory Group is to offer guidance to him and to the senior Judiciary on:



Lord Burnett of Maldon
Lord Chief Justice

- ❑ the likely impact of developments in AI on the Judiciary and the court system;
- ❑ ways of ensuring that judges are sufficiently trained on AI and its impact;
- ❑ the most pressing legal, ethical, policy, cultural and economic effects of AI.

Lord Burnett has appointed Professor Richard Susskind to chair the 10-person team, made up of senior judges (including Lord Neuberger, past President of the UK Supreme Court; Sir Geoffrey Vos, Chancellor of the High Court; and Lady Justice Sharp, Vice-President of the Queen's Bench Division) alongside leading experts on AI and law (including Kay Firth-Butterfield, the Head of Artificial Intelligence and Machine Learning at the World Economic Forum; and Professor Katie Atkinson, past president of the International Association for AI and Law).

Lord Burnett said:

"It is vital that a modern Judiciary gives systematic thought to the long-term. AI is clearly one of the most important technologies of our day. So far, however, here and around the world, insufficient attention has been paid by judges to its impact on the work of the courts. Our new group should remedy this gap. I am grateful to them for bringing their considerable combined knowledge to the task."

Prof Susskind said:

"As our machines become increasingly capable, profound new possibilities and issues arise for courts, judges, and society generally. I look forward to tackling some of these, working with such a distinguished group."

There is little doubt that automation already plays an essential role for the legal profession, for example, in large disclosure exercises. Legal technology is a big area for potential growth.

As the use of AI becomes more commonplace in the courtroom, it will be important for the Judiciary to be conversant with developments in the sector, in order to understand how and why the technology was used in a particular case, and to assess the risks and shortcomings associated with the very nature of automation.

The only way to understand the complexities of such issues is to be confident in the way the technology works.

New Practice Direction for Northern Ireland



Royal Courts of Justice - Belfast

On 29 April 2019 Practice Direction 01 of 2019 comes into force and will affect all cases, old and new, in the Commercial Hub.

This Practice Direction (PD) is an important step forward and alongside its five appendices gives a valuable guide to the process of litigating. In addition, ADR is to be encouraged and "any unreasonable refusal to consider ADR may result in the imposition of a costs sanction." Judges may also be provided for Early Neutral Evaluation.

Although detail may not be identical in England & Wales, for example, the principles are the same and we believe reading it will of value to all Experts not just NI practitioners.

The PD was issued by Mr Justice Horner, Judge to the Commercial Court and a member of The Academy's Judicial Committee.

In practical terms the position for Experts will still be governed by PD 1 of 2015 which is reproduced as Appendix D (of 01 of 2019).

A probable effect of 01 of 2019 is that there is likely to be tighter controls and time scales will be applied, for example Early Directions Hearings which may issue "directions concerning the early meeting of experts, and the filing of the minutes of their discussion in court."

Those Members who came to the Meeting last year when the Judge explained his views and intentions regarding Experts, can have little doubt that they will be expected to comply and this message is echoed in the new PD, for example "failure to comply may result in the imposition of sanctions. These can include: (i) costs orders againstexpert witness".

judiciaryni.uk/judicial-decisions/practice-direction-0119

DIARY, NEWS & ANNOUNCEMENTS



Evening Meetings

2nd May

How to become an expert witness - opportunities for investment consultants

Grahame Goodyer & Phillippa Rowe

This seminar is being held jointly with the CFA Society and will act as an introduction to the opportunities and pitfalls for investment consultants to become expert witnesses in the courts and arbitration. This is an ideal opportunity to introduce potential members in this sector to the work of the Academy.

8th May

Privilege - Joint Meeting with East Anglia Branch of CI Arb

Colin Passmore

This meeting is being held jointly with the East Anglia Branch of the CI Arb and will consider privilege and how it affects Experts. At the time of going to press the meeting is already full with a wait list. If you would like to attend but do not yet have a place reserved please do let us know so we can reassign any spaces that become available.

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).

Diary Dates

April		
Monday	1	New CrimPR Rules take effect
Thursday	18	Gray's Inn Hall closes for lunch
Monday	29	Gray's Inn Hall reopens for lunch
May		
Thursday	2	➤ Joint Meeting CFA Society
Monday	6	➤ Bank Holiday
Wednesday	8	➤ Joint Evening Meeting East Anglia Branch, CI Arb
Wednesday	15	➤ Advanced Report Writing Course
Friday	17	➤ Expert Witness Update
Friday	24	Gray's Inn Hall closes for lunch
Monday	27	Bank Holiday
June		
Monday	3	Gray's Inn Hall reopens for lunch
Wednesday	12	➤ Council Meeting
Wednesday	12	➤ President's Dinner
Tuesday -	18-	➤ Foundation Course (2 days)
Wednesday	19	
July		
Thursday	4	➤ Law & Procedure
Tuesday	9	➤ Into Court
Friday	26	➤ Gray's Inn Treasurer's Reception

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

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



JOIN THE PRESIDENT FOR DINNER

12th June 2019