

Volume 18 - Issue 1

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This and past editions of 'update' are available from:
<http://members.academyofexperts.org/>

Member's Information

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

This includes:

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

members.academyofexperts.org

Further information about any-thing contained in this publica-tion may be obtained from The Academy of Experts

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From the Chairman



This is my first "From the Chairman" since I took office at the Chairmen's lunch at the end of January, and my first task is to thank Nigel Young, our outgoing Chairman for all the hard work he has put in over the last two years. I look forward to building on what The Academy has achieved during that time.

Chairmen's Lunch

The Chairmen's lunch was, again, superbly run and extremely enjoyable. The RAF club was as ever a stylish and welcoming venue, and our thanks must go to the team for all the hard work which – I know – goes into making events like this run smoothly. The lunch was sold out almost as soon as it was announced, and we had a "full house" of over 100 guests. Book early if you would like a place next year at what is an excellent networking and socialising opportunity.

Any mention of the day must of course include the morning seminar which traditionally precedes it, "That Was the Year That Was", presented again by Michael Cohen. Sitting through it I

was struck, not for the first time, at how much has happened to affect experts and mediators – legal decisions and other developments – in what had at the time seemed a quiet year! Our thanks to Michael for another illuminating presentation, and to our sponsors of the seminar, Wilkins Kennedy.

Congratulations

At lunch the President was delighted to present Colin Passmore with his certificate as a Companion of The Academy (CAE). Colin has given The Academy sterling service as head of the Member's vetting committee for ten years (and we hope will continue to do so!), and the honour is thoroughly deserved. Council actually voted to award Companionship to Colin some eighteen months ago, but it is an indication of how busy he has been that this is the first opportunity we have had to present it.

The year may hardly have begun, but there is already plenty for The Academy to do. The Jackson Report on civil litigation

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The new Chairman, (Phillippa Rowe), the President (Lord Saville) and the outgoing Chairman (Nigel Young)

From the Chairman continued

...cont from page 1

costs has been published, with some implications for experts, not all of them encouraging, and a possible boost for mediation. We are planning a meeting later in the year at which Rupert Jackson has agreed to talk to members about his proposals and the thinking behind them – details in due course.

Civil Mediation Council

This month's evening meeting saw Sir Henry Brooke and colleagues of the Civil Mediation Council addressing us on the CMC's requirements for mediator accreditation, and implications for the National Mediation Helpline.

Expert Determination

Our Expert Determination Register was formally launched last Autumn, together with publication of our Rules for Expert Determination. These Rules are, as far as we know, the only generic multi-profession rules of their kind and have been very well received. The first batch of Expert Determiners have already successfully completed our training and assessment, so the Register is now live, with its first qualified, accredited, Expert Determiners. They will be known as "QDR(ED)" and Mediators will henceforth be "QDR(M)". All those on the Register will be written to in due course.

Further training courses and assessment rounds are in the pipeline, so those interested in the qualification should let us know as soon as possible. Expert Determination is becoming increasingly widely adopted, and could be a logical and useful extension of the Expert's expertise.

In the meantime, the first training courses and assessments have already revealed some minor changes from which the Rules could benefit! So a second edition is planned for later in the year.

This is just what we know about for the year. When the Executive meets shortly to discuss forthcoming plans doubtless more will emerge. Watch this space for details as they develop.

In the meantime may I wish you all a happy and prosperous year, in which I look forward to meeting and talking to as many of you as possible, and finding out what you would like from your Academy

**Phillippa Rowe
Chairman
February 2010**

Corporate Manslaughter

An Academy member is currently doing a PhD and as part of this is looking at the Corporate Manslaughter and Corporate Homicide Act 2007.

His paper is entitled "Is disseminating information profitable" and the abstract states "The dissemination of very sensitive information can have significant ramifications. However, it can be just as significant if the information is not disseminated. There are many issues that surround Corporate Social Responsibilities especially with regards to morality and ethics. What is the balance between a company's basic requirement to make profit for its shareholders, and the need to share potentially damaging information? This requires even more thought and consideration, given the prospect of a criminal proceeding under the new Corporate Manslaughter and Corporate Homicide Act 2007 (c.19)."

The member, Paul Burrell MAE, would be pleased to hear from members who might be able to assist him. He can be contacted at:

email: burrell@paston.co.uk

Mediation Corner

CMC Conference

The Civil Mediation Council's annual conference is once again taking place in London at Plaisterer's Hall - this year the date is 11th May.



Amongst the speakers will be the Master of the Rolls, Lord Neuberger, Sir Rupert Jackson and Simon Madden of the Ministry of Justice.

A registration form is available from the CMC website:

Links:

www.civilmediation.org

Breakfast in Wales

The next breakfast meeting of the Mediation in Wales Group will take place on Tuesday 23rd March at 8.30am at the Cardiff & County Club.



The cost of attending is £6.50 which includes a full cooked breakfast.

For further details or to register your interest in attending please contact:

Wyn Owen
Pengaron Mediation Services Ltd,
dwo@pengaron.co.uk
020 3178 4786



CMC EGM

All CMC members are invited to attend the EGM on Wednesday 31st March 2010, 4.30pm to 6.30pm at:

London School of Economics & Political Science
Third Floor, Aldwych House
Houghton Street
London
WC2A 2AE

Review of Civil Litigation Costs

On 14th January Lord Justice Jackson published the final report on his year long review of civil litigation costs. His proposals are wide-ranging and are designed to bring costs under control, amongst key recommendations are the principle of proportionality in costs, fixed costs to be set for “fast track” cases and allowing lawyers to enter into contingency fee agreements.

The full report can be downloaded from:

http://www.judiciary.gov.uk/about_judiciary/cost-review/jan2010/final-report-140110.pdf

Chapter 36 deals with alternative dispute resolution and in particular mediation. Lord Justice Jackson states

“Alternative dispute resolution (“ADR”) (particularly mediation) has a vital role to play in reducing the costs of civil disputes, by fomenting the early settlement of cases. ADR is, however, under-used. Its potential benefits are not as widely known as they should be. I therefore recommend that:

- ❑ *There should be a serious campaign to ensure that all litigation lawyers and judges are properly informed of how ADR works, and the benefits that it can bring.*
- ❑ *The public and small businesses who become embroiled in disputes are also made aware of the benefits of ADR. An authoritative handbook for ADR should be prepared, explaining what ADR is and how it works, and listing reputable providers of ADR services. This handbook should be used as the standard work for the training of judges and lawyers.*

Nevertheless ADR should not be mandatory for all proceedings. The circumstances in which it should be used (and when it should be used) will vary from case to case, and much will come down to the judgment of experienced practitioners and the court.”



Are Juries Fair?

Juries in England and Wales have been found to be fair, effective and efficient in a study published by the Ministry of Justice on 17th February.

Are juries fair? by Cheryl Thomas, Professor at the Centre for Empirical Legal Studies at UCL, is a two-year long survey of more than 1,000 jurors at Crown Courts and a separate study of over 68,000 jury verdicts. It reveals that:

- ❑ all-white juries do not discriminate against defendants from black and minority ethnic (BME) backgrounds
- ❑ juries almost always reach a verdict and convict two-thirds of the time
- ❑ there are no courts where juries acquit more often than convict.

It also shows that:

- ❑ jurors want more information about how to do their job
- ❑ written instructions improve jurors’ legal understanding of cases
- ❑ some jurors use the internet to look for information about their case
- ❑ some jurors find media reports of their case difficult to ignore.

Links:

www.justice.gov.uk/publications/are-juries-fair.htm

Lord Justice Jackson deals with expert evidence in Chapter 38. His executive summary states:

“There is nothing fundamentally wrong with the manner in which evidence is currently adduced in civil litigation, by way of witness statements and expert reports. The only substantial complaint which is made is that in some cases the cost of litigation is unnecessarily increased because witness statements and expert reports are unduly long. I recommend two measures (in appropriate cases) for curbing litigants’ over enthusiasm for prolixity, being (i) case management measures to place controls on the content or length of statements; and (ii) cost sanctions.”

He does make a number of suggestions regarding areas where “judges and practitioners might make more effective use of powers conferred by the existing rules, in order to reduce the cost of witness statements and expert evidence.” His two recommendations are as follows:

“CPR Part 35 or its accompanying practice direction should be amended in order to require that a party seeking permission to adduce expert evidence do furnish an estimate of the costs of that evidence to the court.

(ii) The procedure developed in Australia, known as “concurrent evidence” should be piloted in cases where all parties consent. If the results of the pilot are positive, consideration should be given to amending CPR Part 35 to provide for use of that procedure in appropriate cases.”

The Academy would be very interested to hear from members who have experience of “concurrent evidence” or “hot tubbing” as it is also known as this will enable us to put together some guidance for the benefit of all members and the legal profession. Members should contact the Chief Executive, Nicola Cohen, at:

email: admin@academy-experts.org

NEWS & ANNOUNCEMENTS

Criminal Procedure Rules 2010 published

The Criminal Procedure Rule Committee has made the first consolidating edition of the Criminal Procedure Rules.

The Criminal Procedure Rules affect all criminal courts in England and Wales – magistrates' courts, the Crown Court and the Court of Appeal (Criminal Division).



The purpose of consolidation is to ensure that the rules can be found in one authoritative edition, ensuring that the public can obtain an up-to-date paper copy of the rules and have confidence that they can easily see what is required of the participants in a criminal trial in England and Wales.

The Statutory Instrument setting out these consolidating rules, the Criminal Procedure Rules 2010, was laid in Parliament on 29 January 2010. This instrument restates the Criminal Procedure Rules 2005 as currently in force, with fully updated footnotes; and where necessary introduces new rules, for example those required by recent changes in primary legislation such as the Coroners and Justice Act 2009.

The new rules will come into force on 5 April 2010, replacing the Criminal Procedure Rules 2005 and their eight amending statutory instruments.

Legal Aid Fund Reform

The Ministry of Justice (MoJ) has published its response to the proposals in the consultation paper relating to payments to solicitors and barristers for criminal legal aid work. It should be noted that it is their intention to respond separately to the proposal on changes to experts' fees – no indication has been given as to when this might be available. According to the MoJ excluding the responses that concerned experts' fees only, they received over 300 responses, mainly from solicitors and barristers undertaking publicly funded criminal defence work. Most of the respondents opposed the proposal to reduce payments for criminal defence work.

International Conference on Utility Management & Safety - Hong Kong

The Academy has accepted an invitation to become a supporting organisation of the "The Second International Conference on Utility Management and Safety (ICUMAS)" which will be held in Hong Kong in March 2011.

Professional Indemnity Insurance

It is that time of year again. Members who contribute to the group Professional Indemnity scheme are reminded that if they know of any circumstance that might give rise to a claim prior to submitting their renewal that they should notify Erin Feehan at The Academy's Brokers CBC UK Ltd on 020 7265 5600.

As ever the cover available is at a very competitive price.

- ❑ £500,000 - £105
- ❑ £1,000,000 - £110
- ❑ £2,000,000 - £125

Note:

It is a requirement of Academy Membership (see the Code of Practice) that Expert members carry a minimum of £500k PI Cover and Mediators a minimum of £1m PI Cover.

Fees Survey

The Fees Survey for Experts which was announced last month has already had a very good response. We would, however, like all Academy members to complete the Survey.

If you have not already done so please do complete the Survey today.

We are all seemingly bombarded with requests for our view on all manner of subjects these days but this really is a very important subject and the more data we can collect the better we will be able to help members.

www.surveymonkey.com/s/ewfs2009m

Diary Dates

February		
Tuesday & Wednesday	23-24	Foundation Course (2 Days)
Thursday	25	Procedure Rules
March		
Thursday	11	ILEX Conference
Tuesday - Wednesday	16-17	Mediation Training - Module 1
Wednesday	17	Role & Responsibilities - Hong Kong
Thursday	18	The Expert's Report - Hong Kong
Friday	19	Into Court
Monday	22	Going Into Court - Hong Kong
Wednesday	31	CMC EGM
April		
Friday	2	Good Friday
Monday	5	Easter Monday
Wednesday	14	Joint Evening Meeting with ARIAS
Tuesday	20	Mediation Training - Module 2
Wednesday	21	Mediation Training - Module 3
Friday	23	Law for Experts
Monday	26	Mediation Training - Module 4
Tuesday	27	Mediation Training - Module 5
Wednesday - Thursday	28-29	Foundation Course (2 Days)
May		
Monday	3	May Day Bank Holiday
Tuesday	11	CMC Conference
Tuesday - Wednesday	11-12	Mediation Training - Assessment

Key to events:

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

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