

Volume 18 - Issue 3

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

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From the Chairman



Hot-tubbing

Over 70 members and guests attended the most recent Evening Meeting when Lord Justice Jackson gave us an enlightening and entertaining talk on "hot-tubbing" of experts.

Not as exciting as it might sound, this new (to this country) suggestion is more formally known as 'concurrent expert evidence', and is one of the recommendations in Rupert Jackson's report on cutting costs in civil litigation.

The idea of hot-tubbing is that the experts appear in the witness box together, and are questioned by the judge on their opinions, and that a seminar-like discussion ensues. This - it is claimed - is a more efficient way of examining and benefiting from expert evidence than the traditional adversarial approach in cross-examination.

The idea has particularly taken hold in Australia, where it is said both to have reduced court time, and therefore cost, dramatically, as well as providing judges with a better understanding of the expert

issues. Lord Justice Jackson obviously shares their enthusiasm, and the audience provided many examples from recent experience - mostly in arbitration - of its efficacy. One or two doubts were raised, however, with in particular some fears that if not carefully handled the process might encourage experts to act as advocates.

The evening was a resounding success. We are extremely grateful to Olswang solicitors, who kindly provided us with their facilities to accommodate twice as many as attendees as our own meeting room can hold. The meeting ended with drinks on their roof terrace (*pictured below*), with spectacular views of London - and it didn't rain! We may well ask to be invited again

The meeting, whether it was the subject or the speaker who can tell, also attracted a remarkable number of long-standing

OLSWANG

cont page 2...



From the Chairman continued

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members whom we haven't seen for some time, including several past members of Council. It would take too much space to list them all here, but I was delighted to meet them again, and know that they still support our activities, and remember that we are here.

Costs

The subject did however introduce - yet again - an attempt to hold experts responsible for the costs of litigation. The Ministry of Justice (MoJ) continues its work on reducing the costs of experts in publicly funded cases, and the Chief Executive and I recently attended the first meeting at the MoJ of the working group on this subject.

The ministry proposed a further data gathering exercise to increase the MoJ understanding of the type of work undertaken and current rates paid for expert evidence - this exercise is now underway. We will be watching closely, and will do all that we can to protect the interests of experts at large.

Immunity

At the same time, we find ourselves

possibly fighting on yet another front. The Supreme Court has granted leave to appeal the decision in Jones v Kaney.

The question at issue is experts' immunity from civil suit following on their work as expert witnesses.

Those of you who attended the recent evening meeting on the subject will have heard Colin Passmore give an informative summary of the development of the current position. There now seem to be several indications that experts' immunity may be removed - depending, of course, on the Supreme Court's decision.

Council spent a considerable part of its last meeting debating what should be The Academy's policy, and whether we should seek to intervene in the Supreme Court hearing. If we do so properly it will be expensive, so we are also looking at ways to fund the intervention.

In the meantime we need to know what **your** views on the subject are. We will be publishing a very short questionnaire online in the very near future. I would be very grateful if as many as possible of you could

complete your answers within the week of publication - it will greatly assist in deciding our policy.

Finally

In the meantime, summer is here and The Academy has two social events in its calendar this July - The Gray's Inn Treasurer's Reception and the trip to the site of the London Olympic Village. Both are sold out, and I'm sure those members who have booked places will enjoy both.

Let's hope the warm weather and sunshine last for both! My best wishes to all our members for the summer.

Phillippa Rowe
Chairman
June 2010

Notice of AGM

Notice is hereby given of the Annual General Meeting.

Date: 13th October

Time 1.00pm

Venue: The Academy of Experts

Gray's Inn Square

London, WC1R 5AH.

ADR Corner

Government & ADR Now...

Newly appointed Minister Jonathan Djanogly MP has hinted that use of courts and the civil justice system may well be heading for a sea-change when he spoke earlier this month.

"Not all disputes need to be resolved in court. I want to explore whether more people can resolve their disputes in a way that leads to faster and more satisfactory solutions...I want to explore ways we can harness technology more effectively so people don't necessarily have to physically attend court when they give evidence..."

We should not think about access to justice as simply a question of length of the journey to the nearest court. In the future, we need to look at whether through the more effective use of video and telephone links and

other technology including online services, we can improve the public's experience of the justice system."

Perhaps this is also a hint that there may be an increase in the use of Mediation and other 'alternative' methods of Dispute Resolution.

& Then...

A report monitoring the effectiveness of the then government's commitment to using alternative dispute resolution across government departments and agencies was published on 2nd March. The report also gives examples of the type of cases in which the government has used ADR processes.

On 23 March 2001, the Lord Chancellor published a formal pledge committing government departments and agencies to settle legal cases by alternative dispute resolution techniques in all suitable cases whenever the other side agreed to it.



These annual reports summarise the effectiveness of that pledge.

During 2008/09, alternative dispute resolution was used in 314 cases, with 259 leading to settlement, saving costs estimated at £90.2 million. It is interesting to note that whilst there has been a decrease in the number of cases from 2007/08 where ADR was attempted in 374 cases the settlement rate has actually increased,

The Report can be found at:

www.justice.gov.uk/publications/docs/alternative-dispute-resolution-08-09.pdf

Fees Survey 2010

The latest Fees Survey completion date has now been passed and the data is now starting to be compiled. Over 500 experts, both members and non-members, completed the Survey.

The next issue of TEDR will contain a proper analysis of the results of the survey. For now though we present a small 'taster' of the initial results.

It can clearly be seen that the results of the financial crisis has been reflected in the survey as the average number of instructions received in Civil Cases alone has nearly halved from 62 to 33.

Charging Rates

The majority of Experts charge the same rate for their Expert Witness work as for their normal professional work.

There is some discrepancy between those acting in civil/family/criminal work which is probably explained by the differing levels of public funding in the three branches.

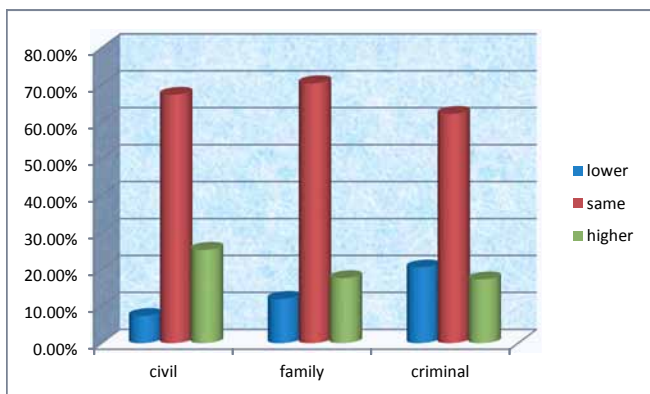
Number of Instructions

Whilst the same number of Experts are receiving instructions, compared to 2008-9 the number of instructions received is down by about 50%.

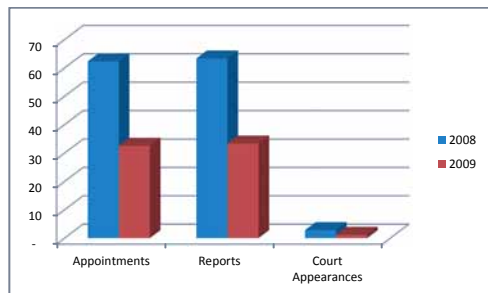
The Typical Expert 2009

The typical expert is male, self-employed in his mid fifties.

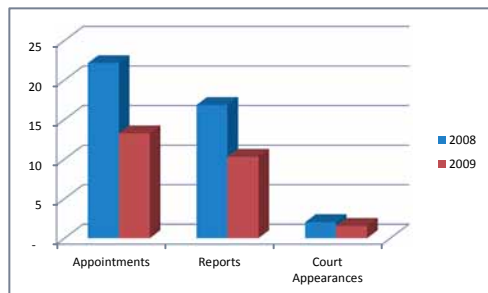
In the year: he received 33 appointments, wrote 33 reports, made one court appearance and charged £175 an hour.



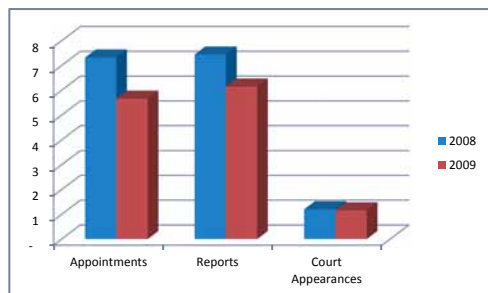
Civil Cases



Family Cases



Criminal Cases



500 is not enough

With major work being undertaken on Expert's Fees we need as much information and from as many people as possible. If you or any of your colleagues have not yet participated please do so now.

There is a link to the survey on The Academy's website:

www.academy-experts.org

Remember - we are trying to help **you** protect **your** income.

NEWS & ANNOUNCEMENTS

Fees

As previously reported the Ministry of Justice and the Legal Services Commission are proposing further consultations with regard to experts' fees.



As part of this process they are asking civil and criminal legal solicitors to assist in a data collection exercise which will form part of the research project which is entitled "Analysis of expert witness fees paid in legal work".

It is hoped that the information gathering will improve the "understanding of the use of experts and to obtain further information on costs paid to experts in publicly funded work." It should be noted that the review will not cover the costs of instructing interpreters. Further information can be found at:

Links:

www.justice.gov.uk/latest-updates/legal-aid-funding-reforms.htm

www.legalservicesboard.org.uk/news_publications/latest_news/2010/170510.htm

'Developments'

Wembley costs are facing scrutiny again. Multiplex and Mott MacDonald have been urged to go to mediation to avoid a costly trial in relation to the development of the Wembley Stadium. Mr Justice Coulson of the Technology and Construction Court stated "In the 25 years that I have been involved in construction cases I have never seen cost figures at such a level". It is currently anticipated that the legal costs are likely to be in excess of £74m by the end of the sub trial. At the moment Multiplex's pre-action protocol costs come to £8.5m leading the Judge to state that he is unable to see how they could be described as "reasonable or proportionate". This case is likely to put experts' fees in the spotlight as apparently included in the £8.5m spent was £5m on experts' fees.



Mr Justice Geoffrey Ma

Hon Mr Justice Geoffrey Ma who last year gave a Lecture for The Academy in Hong Kong has just been nominated as the next Chief Justice of Hong Kong. His appointment will take effect from 1st September 2010.

Mr Justice Ma has been responsible for the introduction of the Civil Justice Reforms in Hong Kong and recently was addressing a conference on the subject. He stated that judges had a statutory duty to ensure cases are efficiently resolved and made it clear that he would like judges to be tougher on lawyers who flout court procedures which have been designed for efficient case management as he wanted to see the end of the tactical games which lawyers have sometimes employed.

Overseas Events

Hong Kong International Arbitration Centre 25th Anniversary Conference

The Academy has become a Supporting Organisation for the HKIAC 25th Anniversary Conference – "Rethinking International Arbitration". The conference takes place in Hong Kong on 18th-19th November. Further details will be available shortly.

Fees Survey 2010

Thank you to all those members who completed the Fees Survey.

The number of responses was up this year by nearly 10% giving us better data than before although until every member completes the survey we will still strive for more.

We have just taken the decision to reopen the survey for a short period - see inside for further details.

A short overview has been published in this issue of 'update' - more detailed results will again be published in TEDR.

Diary Dates

July		
Monday - Tuesday	5-6	Foundation Course (2 Days)
Friday	9	Into Court
Monday	12	Olympic Visit
Friday	16	Deadline for submitting articles for TEDR
Friday	23	Gray's Inn Reception
Friday	30	Gray's Inn Hall closes for luncheon
August		
Monday	30	Bank Holiday
September		
Monday	6	Gray's Inn Hall reopens for luncheon
Monday - Tuesday	13-14	Foundation Course
Wednesday	15	Evening Meeting
Tuesday	21	Into Court
Wednesday - Thursday	22-23	Mediation Training - Module 1
October		
Tuesday - Wednesday	5-6	Law & Procedure - new course
Friday	8	ICAEW Forensic Conference
Monday	11	Mediation Training - Module 2
Tuesday	12	Mediation Training - Module 3
Wednesday	13	Annual General Meeting
Wednesday	13	Evening Meeting
Thursday - Friday	14-15	Expert Determination Course - (2 Days)
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