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[What's New](#)
[Press Releases](#)
[Publications](#)
[Your Views](#)
[Future Work](#)
[Useful Links](#)

[Home](#)

Experts Forum II: Accreditation

3rd – 5th March 2005 Summary

The Civil Justice Council held the Experts Forum II – Accreditation on 3rd-5th March 2005 at Wokefield Park, Reading. This was a follow up to the November Forum which had concentrated on Medical Reports in Road Traffic Accidents under £10,000 and had touched briefly on accreditation. The Forum was chaired by Mr Justice David Bean and delegates included representatives from the LSC, Expert Witness bodies, Royal Colleges, the BMA and several professional bodies including the GMC, the Bar Council and the Law Society.

Background

The Forum was prepared following the views expressed in November where those present decided that the subject of accreditation needed to be discussed fully. The Experts Committee of the Civil Justice Council had earmarked accreditation as a subject which should be investigated in their two year plan. A broad range of practitioners were contacted in order that the forum would have the widest possible representation. These included several organisations that the Civil Justice Council had not previously worked with. The British Medical Association were particularly keen that doctors have an opportunity to comment on any future accreditation plans.

At the November forum the Legal Services Commission had launched their consultation paper on the Use of Experts. In their paper they explored the possibility of accreditation and its implementation by the Council for the Registration for Forensic Practitioners. Both the LSC and CRFP were invited to put their views to the delegates. They were keen themselves to discuss the proposals fully and receive feedback on the ideas contained in the paper.

The Forum

The Experts Forum II – Accreditation was conducted under Chatham House Rules. However, the LSC and CRFP have agreed to have their comments attributed to them. Below is a summary of comments and presentations made throughout the event.

A number of organisations outlined the schemes they currently run to accredit their members. These varied widely throughout industry with some areas regulated by the law.

In discussion in the first session the majority of people felt that a new system was not required but that the existing systems in place could be tightened. There was concern that the cost of such schemes would prevent them from being value for money. Appeals Panels would have to be set up as would a complaints procedure. In addition a number of delegates voiced concern that the additional steps needed for an expert to be accredited would reduce the number of experts available with few wishing to go through another bureaucratic hurdle. However, systems such as the code of conduct for members of the Royal Institute of Chartered Surveyors impressed many participants.

The second session looked at the criteria and standards that should be in place amongst experts and who should enforce them. There was support for peer appraisals and for individual organisations to be in charge of their own standards. There was strong support for revalidation of qualifications as well. Once again there was concern about the costs of the schemes proposed. A number of participants felt that the court system was also responsible for ensuring that experts had the necessary qualifications. Although again there was more enthusiasm for organisations having their own schemes, the difficulties surrounding experts who were not members of those organisations were highlighted.

The final session allowed delegates to ask the Legal Services Commission about the proposals in their paper on the Use of Experts. The Legal Services Commission stated that they had no desire for compulsory accreditation and were not seeking to use accreditation to cut costs. The Commission was particularly keen that standards be raised in the field of expert witnesses and felt that quality assurance was important. In addition the work of the Legal Services Commission could help solicitors identify suitable experts. The delegates felt that a number of solicitors already had lists of suitable experts and that the measures were designed to be a cost cutting exercise. However, participants were prepared to look at different ideas designed to ensure consistency across the field of experts and agreed that a set of principles that organisations could sign up to may be a good way forward.

The Civil Justice Council Experts Committee was also asked to look at the issue of listing and make representation to HMCS to ensure that where possible experts are called on a specific day so that they are not required to wait or rearrange business at short notice.

Conclusions

It was clear that almost everyone present was against the idea of

compulsory accreditation. This was accepted by all parties. The view of those delegates present was that it was neither possible nor desirable to have one expert body overseeing accreditation. It was felt that it would be better if professional organisations and expert bodies could work together to implement high standards and follow principles of accreditation on which a broad consensus was reached.

Twelve principles were put forward by the CRFP for discussion:

1. Any scheme should be as simple as is commensurate with providing a reliable indication of current competence in forensic or expert witness work, wherever possible avoiding duplication with other assessment and appraisal processes in which the practitioner may be participating.
2. It should be generous enough to allow entry to anyone shown to be practising safely and competently within the speciality; and rigorous enough to exclude those who are unable to demonstrate current competence.
3. It should define clearly the specialities and any sub-speciality groups it covers, so that users have a clear indication of what they can expect of the practitioners who are listed.
4. It should be based on a direct assessment of the current competence of individual practitioners.
5. It should include scrutiny of actual casework done recently by the practitioner, covering not only reports submitted in connection with judicial proceedings but sufficient supporting material to enable an assessor to scrutinise how the practitioner went about the task.
6. Applicants for accreditation should not select the casework to be scrutinised, nor should they choose their own assessor.
7. Assessors should themselves be competent and accredited in the speciality they are assessing.
8. Scrutiny of casework should be against specific criteria of competence agreed and published by the professional body running the scheme.
9. There should be a mechanism for appeal against a refusal to grant registration; and all applicants should receive feedback on what the assessment has shown.
10. Accredited practitioners should be required to subscribe to a common Code of Conduct setting out standards of professional conduct and ethics for forensic practitioners and expert witnesses.

11. Accreditation should be time-limited with a maximum of five years, with practitioners actively revalidated before a further period is granted.

12. The scheme should be subject to external verification by a body independent of the professions concerned.

The Civil Justice Council Experts Committee will look at these in further detail and consider whether to recommend that they be taken further.