

## Call in an expert...? Expert witness training

Chris Piper, MICFor, January 2014



Whilst Benjamin Franklin's mantra, "To fail to prepare is to prepare to fail" can no doubt be applied to many aspects of life, arguably there can be few more appropriate professional ones than that of undertaking the role of an expert witness.

Since becoming a Chartered Forester in 1986, I have occasionally undertaken expert witness work, either within the civil courts on instructions from solicitors representing individual clients, or as a member of a team representing corporate clients at public inquiries. With potentially more of this type of work in the offing and conscious that I had neither received during the course of my forestry education, nor subsequently undertaken any formal training in this field, it occurred to me that I was not only putting

my professional credibility at risk, but also potentially running the risk of falling short of clients' expectations in what can very often be a highly pressurised environment.

Having decided to rectify this shortfall, I was fortunate to receive funding in January 2013 from the Forest Industries Education Fund to assist with the costs of attending a two-part expert witness training course, provided by the Academy of Experts (TAE), based in Grays Inn Square, London, in January and April 2013. Established in 1987, TAE is a professional body providing a range of training programmes to enable practising professionals to develop their skills in expert witness work and to establish and promote high objective standards.

A two-day 'foundation course' was followed by one day entitled 'into court' a couple of months later, both held within the hallowed confines of Grays Inn.

The first was an intensive study of both the theory and more practical aspects of being an expert witness, beginning with an introductory review of the legal framework (including the principal systems of law and the court system), but mainly concentrating on the role and responsibilities of the expert, the expert's report and a brief introduction into the Procedure Rules (civil and criminal), with preparation for going into court. All pretty straightforward stuff one might be tempted to think...?

... But perhaps not, particularly if undertaking expert witness work for the first time. For instance, before even considering the detailed roles and responsibilities, would we know the *definition*, *qualifications*, *different types* and *liabilities* of an expert witness? Or the *code of practice* and the *expert's declaration*? And all this before we even step into court or an inquiry.

The second part, delivered by a practising barrister, was more interactive to give participants the necessary knowledge and some practical experience of being in court. Bearing in mind that the courtroom can be a challenging and confrontational environment, being called to give evidence 'on the stand' requires the expert witness to be confident of their courtroom skills, including how and when to prepare for court, how to introduce yourself and your expertise, how and where to sit, or stand, and in which direction to face (when giving evidence and being cross-examined), awareness of

barristers' techniques and how to survive cross-examination! The interactive sessions provided an opportunity to practise these skills – intimidating, but invaluable. Overall, I found the courses, along with a cohort of other professionals from a range of disciplines - including surgery, general medicine, surveying and accountancy, to name but a few - both intellectually and psychologically challenging.

I was left in no doubt as to how important it is to recognise, regardless of the age and stage of one's professional career, that experience alone is not necessarily an adequate substitute for proper, accredited training in such a specialist field, where the rewards can be high (professionally and financially), but so too are the stakes for, and the expectations of, both one's client and the court. Indeed, of all the detailed information and guidance provided, probably a key mantra that TAE expects its trainees to take away is that 'as an expert you will be judged on the quality of your evidence - not just the quality of your opinion'.

A health warning: the price of poor performance can also be high in terms of professional reputation and self-esteem. Being an expert witness is almost inevitably stressful, but again, this can be managed with a sound knowledge of one's role and responsibilities. At about £1000 (excluding travel and accommodation) for the two courses, the training was excellent value for money and I would have no hesitation in recommending it, or other similarly accredited courses, to colleagues who might either be considering expert witness work for the first time, or looking to hone or refresh their existing skills.

As a sole practitioner based in northeast Scotland, the funding awarded made the training significantly more accessible, for which I am most grateful.

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