

Accreditation -v- Continuing Professional Development

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Accreditation

Most of you will recall our historic discussions and debate on accreditation, a subject which revealed a diverse range of thoughts and ideas. The American ACTAR and English ITAI systems of accreditation were discussed at length, as was what sort of program ought to be considered for the diverse range of professions and regions of ASPACI members. In the end of course, there was no ground swell of support for any particular accreditation program and the whole subject simply melted away.

Arguably, the primary purpose of the accreditation debate was to produce a system that would endorse an individual's professional competencies and standing in the eyes of the legal community, and ultimately support the acceptance of the accredited person as an expert witness.

However when one fully considers the numerous disciplines within the field of collision investigation together with the continuous advancements in technology, one can clearly see the dilemma facing a credible accreditation system:

- Which disciplines and sub-disciplines should be subject to accreditation?
- What principles and measures should be adopted?
- Who will be responsible for accreditation and periodical review of accreditation?
- What are the legal and professional consequences of accreditation?
- What are the consequences of non-accreditation?

If you consider the above issues closely, one may be forgiven for cringing at the very thought of structuring any such accreditation system that would be acceptable to the diverse field in which we work.

But setting our dilemma aside for the moment, lets consider some judicial wisdom on expert witness accreditation. In a 2000 paper written by Justice G N Williams on *Accreditation and Accountability of Experts*, he wrote in part:

"Any suggestion that more weight was being given to the opinion of an accredited expert over that of a highly qualified but non-accredited witness would undermine confidence in the litigation process."

"Courts could not restrict expert evidence to those who had received accreditation from a professional body;"

"The bright young specialist with new ideas should not have to carry the burden of want of accreditation when entering the witness box."

Justice Williams also quoted from *Lord Woolf's Access to Justice Report* on his consideration of accreditation, which read in part,

"...I do not recommend an exclusive system of accreditation. Such a system could exclude potentially competent experts who choose for good reason not to take it up. It might, in fact, narrow rather than widen the pool of available experts. It could foster an uncompetitive monopoly and might encourage the development of "professional experts" who were out of touch with current practice in their field of experience."

Justice ABADEE, the founding chairman of the *Expert Witness Institute of Australia (EWIA)*, spoke of expert accreditation in his paper *The Expert Witness in the New Millennium*. He believes that Courts cannot and should not restrict expert evidence to those who receive a form of "accreditation" from a professional body.

Notably however, Justice ABADEE spoke of the clear differentiation between accreditation by professional bodies, which found little favour in the Justice system, to that of professional standards development associated with training. He concluded that when a person has received specialist training and met a set of standards set by a professional body, such specialist training might strengthen proof of qualification and specialised knowledge, and impact upon the weight of their evidence.

And so we see a clear message of what Courts really desire in an expert witness - a specialist who is up to speed in current practice and who attests to a professional set of standards.

Continuing Professional Development (CPD)

CPD is a system of training for individuals which has been widely adopted by a multitude of professional associations and industry around the world.

Individuals who participate in approved training activities, research and development, or other approved programs earn a certain amount of Continuing Education Units (CEUs) for each activity. Certain activities have pre-approved CEU values, such as conferences, courses, private study, workshops and meetings, while CEU can also be earned for research and writing, teaching, learning, chairing etc. Generally, 1 CEU is awarded for 1 hour of CPD.

Both ACTAR and ITAI have CPD programs in place. ACTAR requires that accredited members attain a minimum of 80 CEUs every 5 years, or about 16-20 hours of formal education per year. ITAI require a minimum of 18 hours per year.

In the legal industry, the New South Wales Bar Association requires Barristers to attain 10 units per year, based upon 1 unit per hour covering four strands of activity including: Ethics and Regulation, Practice Management, Practice and Procedure, and other Professional Skills.

For Certified Practicing Engineers, the Institution of Engineers, Australia requires 150 CEU's over a three year rolling period. CEU's gained are based on weighted hours of professional development activity. Weighting is a multiplier between one and ten times the number of hours depending on the type of activity. The Engineer's system covers a wider range of professional development activity types. Presentations and published papers have the highest weighting, while informal activities such as on-the-job learning or reading of journals have a low rating. Engineers keep their own records of CPD on a self assessment basis. Records must be kept and each year a declaration is made that sufficient CPD has been carried out. An Engineer's compliance is subject to random audit.

ASPACI has, to date, focused on networking which has worked well over the years. In addition to ASPACI's bi-ennial conference, the NSW Region in particular have maintained a structured approach to meetings, training and research with bi-monthly meetings and week-end seminars.

Whilst ASPACI does not currently have a CPD policy or program in place, the majority of our members do in fact practice CPD, and all that is lacking is formal recognition.

In light of the acceleration of law reform surrounding expert witnesses, it is now an opportune time to get the ball rolling, and give some positive direction to our members and the collision investigation industry overall.

CPD Panel

A CPD Assessment Panel consisting of perhaps four members represented by say, a police investigator, engineer, lawyer, civil investigator and chair person, could be elected to produce and implement a CPD policy.

A list of approved courses or activities could then be identified within activity strands and assigned CEU credits consistent with time value.

Practicing and Ordinary Members

This system could be in the form of self assessment where members keep records of their CPD activity and the associated CEU. This would be subject to random audit by the CPD Assessment Panel with a suitable percentage of members audited each year.

Those members wishing to be classified as "Practicing" members would be required to meet the required amount of CPD and make a declaration of such, each year as part of the membership renewal process. Members that choose not to participate in the CPD scheme or who fail an audit would be classified as "Ordinary" or "Associate" members – otherwise having the full rights and responsibilities of ASPACI membership. Consideration could also be given to issuing "Practicing" members with a membership card and/or an identifying seal each year.



A closing thought

Inherently, people involved in collision investigation usually end up in some sort of Tribunal to present their evidence, in a lot of cases as experts in the eyes of the law. For those of you who read my last editorial on law reform and article by John Jamieson in the September 2003 issue of Momentum, it is not difficult to envisage the future expectation of Courts when assessing the quality of professional evidence.

With the emerging profile of the EWIA, whose primary objective is to support the administration of Justice, ASPACI will no doubt be expected to take on a significant role in the future law reform program. Change, in my view, is imminent.

It is my belief that, if ASPACI is to maintain embracement by its members, it will need to move with the times and provide tangible benefits to both members of the profession and to the administration of Justice.

A CPD Program is an inexpensive and globally recognised training system that will find favour with the legal profession and allow members of ASPACI to meet a set of professional standards, conducive to their particular field of expertise and region.

The State Director of NSW, Andrew Brown has prepared a draft proposal for CPD based on his experience with CPD for Certified Practicing Engineers. The draft is offered as a starting point for consideration by members.

I would ask all members to consider this article together with Andrew Brown's draft proposal for a CPD program, as it is my intention to move such a proposal at the ASPACI 2004 Biennial meeting next March in Auckland, New Zealand. I would also invite members for and against such proposal to email me with your thoughts and/or comments.
