



Breaking down barriers

As part of our coverage of the ACL's 40th anniversary, *Matthew Harman* – who served for 22 years on Council, as chairman and as honorary president – offers a personal reflection on the landmark

I am not actually sure when I first became involved in the ALCD, as it then was, but it must have been in the late 1980s. My then-employer was dead set against the ALCD and discouraged us from joining. Like many others, he viewed it as a London closed shop and could not see any advantage in becoming a member. I took a somewhat different view and joined on the basis that the best way to deal with any closed shop is to break into it.

This led on to me joining the Council for around 10 years and acting as chairman for a further four. I was then given the great privilege of becoming the first Costs Lawyer to be made Honorary President, a post I held for a further eight years.

Recognition won

In those early days, the main thrust was to get some form of recognition, not only from the powers-that-be but also from other costs draftsmen.

At least part of the problem was that we saw the need for some form of examination process in order to try to raise the standards. There were many costs draftsmen making a very good living without the need to sit exams "at their age". This prevented some very good people from joining and held back the development of the ALCD.

While we were not representing the majority, it was very difficult to impose ourselves on the legal world. This has been a recurring theme and remains a live issue even today, albeit in a different guise.

There is no question that the rest of the legal profession did not take us seriously either as an organisation or indeed as a standalone profession. A significant part of our effort was to gain some recognition while raising the standards of our members.

This was not easy. The prevailing attitude was very much that we were of very limited importance. This was exemplified by the ALCD not being invited to comment on the Woolf reforms. There were a few supportive members of the judiciary to whom we should all be grateful, but these were few and far between.

Slowly but surely, the recognition grew and, through the efforts of a succession of Council members, the ALCD grew up and became what it is today. The events of 2007, when we were granted authorised body status, were the culmination of many years' work.

There is no question that the issues surrounding costs are becoming ever more complicated. In my view, this is a direct result of the short-sighted abolition of legal aid for civil cases, especially for personal injury cases, the consequent introduction of conditional fee agreements leading to the costs wars, and then directly on to the Jackson reforms. This has meant many good years.

Conflicting roles

The annual conference has always been an enjoyable part of being a member, meeting up with old friends and learning a bit at the same time. Early conferences were difficult to plan given the lack of topics. There was little relevant case law in those days. I recall a conference somewhere around 1993 that took place shortly after the decision in *Brush v Bower Cotton and Bower*, in which the whole two days focused on that one decision. Now, of course, there is so much to talk about that there is a danger that you go away on holiday and come back to find things have moved on apace.

There has always been a slight conflict within the Association as to its purpose, particularly before achieving authorised body status. Were we a regulatory body or were we a trade union for our members? The reality is that we tried to be both but were neither. As a regulator, we had no teeth because membership was not compulsory.

The CLSB has taken away the regulatory responsibility, albeit that it is wholly owned by the ACL. In my view, this gives rise to a conflict, because if the ACL is not a regulator then, apart from providing education, it has no role save to represent the interests of its members as a trade union.

Whither or wither the ACL? There are clearly very significant challenges ahead. The last few years have been challenging for the costs industry and we can be under no illusions that there will be a drop in the number of practising Costs Lawyers. This will have a clear impact on the finances of the ACL.

This is exacerbated by the drop in numbers of students and hence the receipt of tuition fees. I could not in all honesty encourage a young person to embark on a career as a Costs Lawyer unless the intention is to use it as a conduit to another area of law.

As a parting shot, the highlight of my involvement with the ALCD/ACL has to be sitting in a committee room in the Houses of Parliament among a group of bored MPs when the legislation was passed to grant us authorised body status. Who would have thought it? ■