



Axeman to expert witness; is it possible?

*Article for Australian ArborAge*

BTC/23/2006





## Axeman to Expert Witness; is it possible?

Ever wondered if there is life beyond being an arborist or where worn out tree surgeons go to die? Climbing is for the young and the transition towards a less physically demanding retirement can be a bumpy ride. Jeremy Barrell reflects on how he did just that in the UK and provides some pointers for Aussies who may have similar aspirations.



A cornerstone of best practice is to work in a professional way but does that mean you belong to a profession? The answer is simply "No"; like it or not, working on a craft level in the industry (arborists) and working on a management level in the profession (arboriculturists) are quite different, but often confused. The arboricultural industry is the physical doing bit; arborists cut, prune and plant trees – comparable to brickies and chippies in the building industry. That is very different from the arboricultural profession, where arboriculturists provide advice and make management decisions. Using the building analogy, arboriculturists are on the same level as architects who design the buildings and advise on their use, rather than the craftsmen who construct them.

So, does this mean that those within the industry cannot work in a professional way and strive for professional standards? Of course not; being professional is about attitude to work and performing to high standards, a worthy objective for all proud people wherever they fit in the overall work structure. And does it mean that those within the industry cannot work within the profession as well? Again, of course not; it is quite possible to be an arborist within the industry and a consultant within the profession at the same time, as long as the two roles are not mixed up. But there is a conflict of interest between providing the advice and then carrying out the work, so understanding the differing requirements is essential to avoid this dilemma. In principle, keeping the two completely separate is the only way; not quite so easy to achieve in practice for those doing contracting and consultancy at the same time.

On a practical level, arboriculture is a fabulous industry to be in if you are fit, strong and love being

outdoors. There is nothing quite like climbing around in what are wonders of the natural world. The sense of security being surrounded by rock solid branches and almost beyond the bustle of the busy life below is a feeling to be envied by arborists' ground based colleagues. Fine when you are 20 or 30 but when you get to 40, the edges become a bit frayed when the practicalities of aching joints and slower recovery times start to take their toll! For the die-hards, climbing will always be their passion and being buried in their harness, their sole objective! However, for those less devoted, with a mid-life career crisis looming, 'is there another way?' is probably a more pressing question!



**For some, being an arborist is a job for life: Jim Crawford (72) still works in the woods five days a week and goes poleclimbing at weekends!**





## Axeman to Expert Witness; is it possible?



Jim Crawford in action

Whilst old age is obviously a pretty good reason to consider making the transition from industry to profession, there are other incentives equally as strong. A recent analysis in the UK revealed that one good consultant could generate the same turnover as a three man contracting team but made twice as much profit! Although a simplistic comparison and rather specific, on a man for man basis, consultancy could be up to six times more profitable than contracting, which is something to think about! For the less mercenary, the improved status and recognition that comes as a trapping of consultancy may be more motivational. Whatever your reasons, such a dramatic work change is never going to be easy, it is not for everyone and it requires a high level of resolve. However, it is possible and the rewards can be substantial if you succeed.

Daunting as it may be, the principles of being professional are the same for whatever level you work at. If you already neat and tidy, well organised, thorough and well presented as a contractor, then to apply those fundamentals to consultancy is just a matter of belief. Moreover, the benefit of actually having done what you are advising about is a quality that cannot be learnt from a correspondence course or bought from a college!

My experience is that working arborists are ideal candidates to become the best consultants for this reason. The modern plague of land-based professions is the so-called expert that does not have a clue about practicalities - and arboriculture is no exception.



Victoria arborist, Mark Bryden, is the perfect professional; dedicated, focused, innovational - and a winner. He is also the fastest man ever to have climbed a 24.5m pole (Auckland, 2001, 9.61 seconds!).

So, with a heap of practical experience under your belt, how do you set about making the progression? Well obviously, qualifications are a key factor and should be part of every motivated arborist's game plan. But there is a more subtle skill that you must learn to have any hope of success. Being able to communicate concepts, ideas and solutions is a fundamental requirement of effective consultancy and writing reports is an important way of achieving that in the professional arena. A common drawback is that arborists are generally practically inclined; physically doing things outside is what comes naturally rather than sitting in an office where academic priorities are the norm. Against this background, it is not surprising that their instinctive reaction is to shy away from writing anything other than the absolute necessities. Writing actual reports is the stuff of nightmares and only the most dedicated ever enter, let alone remain in, that domain!



## Axeman to Expert Witness; is it possible?

But written reports are an unavoidable part of a life in the profession, so this understandable aversion to writing has serious implications. Horrifying as it may sound, if an arborist is to progress up the professional ladder, this demon has to be faced. On the bright side, the good news is writing effective reports is not just a matter of natural ability, it is a skill that can be learnt and developed by anyone with the motivation to do so. Knowing a few simple rules and understanding the background psychology can help us all improve the way we write. More specifically, the number one issue in modern report writing is visual appeal; how a report is structured and looks is often the difference between success and failure. Writing effective reports is all about good communication and professional presentation, exactly the same principles that every successful arborist applies to their daily practical work. Instead of turning up in a tidy truck and cutting stumps level, you are presenting crisp and well laid out reports. Instead of talking directly to the client, you are writing it down – a conversation on paper. Identical principles, different medium and workplace!

So you think you can be an expert; but what are essential qualities, what are the worst pitfalls and where is the greatest care needed? Perhaps one of the most difficult concepts to get a grip on is the difference between facts and opinions, and the importance of keeping them separate. Facts are items that are agreed as being correct; the species of tree, the length of a bit of rope, a compass bearing, the weather at a particular time, the weight of a bit of wood, etc. Opinions are the experts' assessment/interpretation/ appraisal based on the facts they have in the light their experience. In an adversarial scenario, there are often several opinions and the role of the judge/inspector/adjudicator is focused on how much weight should be assigned to each opinion rather than whether one expert is right and the other is wrong. The experts' experience is a critical factor in assigning weight to an opinion. For example, if an opinion were needed on a tree climbing accident, it would be natural to assign more weight to the opinion of an expert who had actually climbed trees for 20 years than to that of an expert who had spent the same time behind a desk watching other people climb! Again, depth of experience is an essential ingredient of effective consultancy.

More difficult to resolve, but common in both the industry and the profession, are the conflicts of interest that arise relating to money. Reputation is a cornerstone of business success but so is making a profit; where do you draw the line on what is acceptable behaviour when these two priorities come into direct conflict. A typical contracting

scenario would be a tree owner who demands their tree be topped and is willing to pay a huge fee for it even though it goes against every principle of good tree management. An easy decision to make when money is not short but when that job becomes the difference between survival and bankruptcy, the boundaries become a bit blurred. In the same way, consultants can be put under immense pressure to come up with an opinion contrary to all available wisdom. The inducements can be substantial and finely balanced decisions can often hinge on the consultants opinion. Just exactly where do you draw the line on how far is reasonable? There is no simple answer and I am sure we can all come up with examples where individuals have strayed over that line. For my part, I have always found a useful rule of thumb is to imagine that you are in court with the world's leading consultant as the judge and you have to justify your opinion. If you can feel morally and psychologically comfortable that your opinion could withstand that test, then you have not crossed the line.



**Graeme McMahon, another outstanding professional out of Melbourne, has achieved the highest standards as a contractor and has used that experience to become a fantastic international ambassador for Aussie innovation in arboriculture.**





## Axeman to Expert Witness; is it possible?

During the last five years in the UK, the conduct of all expert witnesses has come under intense scrutiny from the judiciary, which has resulted in a mandatory protocol setting out the standards required in civil claims ([www.ewi.org.uk/files/ExpertsProtocol.pdf](http://www.ewi.org.uk/files/ExpertsProtocol.pdf)). Whilst it only strictly applies to civil actions in the UK, its basic principles are of international relevance and worth reviewing. Of most interest is that one of its fundamental principles is contrary to the assumed protocols of business life. As a consultant being paid by a client to do a specific job, the expectation of the client is naturally that you will do your best to represent their interests. But this is not the case for expert witnesses, whose responsibility is now clearly identified as to the court, and not to who is paying for their services. On the quite reasonable basis that all written reports may end up in court, it flows from this that the underlying principle of impartiality should apply to all consultancy work. This is easier said than done unless you have the strength of character to resist the inevitable

pressures from valued and influential clients. In the UK, the ultimate consultant is the Single Joint Expert, an expert who is jointly appointed by both sides of a dispute. An invaluable asset in properly dispensing the immense responsibility of the task is a thorough practical background on the subject. Yet another good reason why ex-arborists are often good candidates for this role.

So, contrary to the common perception that consultancy is the realm of academics, I believe the reality is that a practical foundation is essential and being an arborist is a fine place to start. There can be no doubt that it is a daunting transition and special qualities are required. But it is not beyond doing if you have the will and you can see the way. I know there is a way and that tomorrow's top consultants are out there climbing around in trees today!

### Who is Jeremy Barrell?

Twenty five years ago, Jeremy Barrell was a graduate fresh out of university trying to start a business and chopping logs to make ends meet. Today, he is a world authority on tree management with a unique reputation as an innovator that delivers the goods. Here are a few of his achievements, which might provide clues on how he did it:-

- **1957:** Born in the New Forest in Southern England to a country childhood surrounded by trees and animals.
- **1970s:** Part time work as a tree surgeon learning the ropes felling big elms after the ravages of Dutch Elm Disease.
- **1978:** Graduated from Bangor University with a degree in Forestry.
- **1980:** Started his own contracting business selling firewood for the first few years to stay afloat.
- **1983:** Conceived and developed the safe useful life expectancy (SULE) method of assessing trees.
- **1985:** Completed the largest tree surgery contract of its time on trees planted by the Queen Mother's family at Ilex Way in Worthing.
- **1988:** Organised the first Shigo workshop in the UK.
- **1995:** Sold his contracting business and started the fledgling Barrell Tree Consultancy, that evolved to his present consultancy practice.
- **1995:** World Intermediate Speed Climbing Champion, USA.
- **1996:** Conceived and delivered the first UK report writing workshop for arboriculturists.



## Axeman to Expert Witness; is it possible?

- **1997–2002:** Four times World Poleclimbing Champion.
- **2000:** Guinness World Record Holder for the fastest 24.5m poleclimb (10.75 seconds), subsequently beaten by Australia's Mark Bryden from Melbourne!
- **2000:** Conceived and developed the TreeAZ method of assessing trees.
- **2001:** Honoured by the Arboricultural Association Award for services to arboriculture.
- **1993–2005:** Authored 23 technical papers and articles on tree management.

His rise to the top of the professional tree is a classic 'rags to riches' story that should serve to motivate all aspiring arborists. As for advice for those at the beginning of their careers, Jeremy draws on his practical background: 'The only way to competently advise at the highest level is to have done what you are talking about. Money can't buy the dirty and tough practical experience – you have to do it!'



JB joined the ranks of Shigo, Mattheck, Lonsdale and Biddle in 2001 with the coveted AA Award





## Axeman to Expert Witness; is it possible?

### Arboriculture in the UK

In the UK, the tree industry has developed rapidly over the last 30 years into a sophisticated and well organised industrial operation employing thousands of people in the practicalities of tree care. In contrast, the profession (the organisers, administrators and innovators) has had less success in comparison with the older more established professions such as surveyors, architects and lawyers. Historically, tree officers and consultants were few and far between, commanding relatively poor salaries and being held in low esteem by the other professionals they interacted with. This fledgling profession was poorly organised with no leadership or coordination and the prospect of a career in arboriculture comparable to other professions was quite dismal. Ten years ago, the future for the Arboricultural profession in the UK was not bright at all!

But remarkably, fortunes have taken a dramatic turn for the better for a number of complex reasons. Perhaps, most importantly, the UK has the benefit of a national legislative structure that acknowledges the importance of trees and affords powerful protection where necessary. In the past, although there always were pockets of very effective use of the legislation, its application varied widely and there was little national uniformity. However, with the advent of vastly improved communication through the internet, those who are applying it effectively are acting as beacons for others, who are starting to catch on. Better and more widespread interpretation of the law has created a huge demand

for arboricultural expertise to develop systems and procedures to properly consider and protect trees. The complexities of delivering this protection requires intelligent and qualified people, which has fuelled the meteoric evolution of tree consultancy in the UK. Unlike the past, tree professionals can now earn salaries on a par with other similarly qualified professionals. At last, there is a career path from the bottom to the top, an essential aspect that was absent from those early years.

For the first time in our history, the value of trees is being fully recognised on a national level with appropriate resources being allocated to their care. It is inevitable that this will result in a more sophisticated and effective profession, which has to be an improvement on the uncoordinated and leaderless floundering of the past.

### See JB in Australia in 2006

For those of you interested in hearing more about Jeremy's philosophies on trees and life, in association with ENSPEC Pty Ltd, he will be presenting a series of two-day workshops throughout Australia in May 2006. The second day will focus on the rigors of consultancy through getting to grips with report writing. It is specifically designed for those working in the tree sector but the principles apply to anyone wishing to improve their career prospects. Go to [www.enspec.com](http://www.enspec.com) or [www.barrelltreecare.co.uk](http://www.barrelltreecare.co.uk) for more information.