

UK Register of Expert Witnesses
Expert Witness
Year Book
2018

Dr Chris Pamplin, Editor
UK Register of Expert Witnesses



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**Expert Witness
Year Book
2018**

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UK Register of Expert Witnesses



Professional Indemnity Insurance

- From £250 for £1 million cover
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- 6 year run-off cover option
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A high-angle, top-down photograph of a person standing on a wet, cobblestone street. The person is holding a large, white umbrella. The ground is dark and reflective, suggesting rain. The scene is dimly lit, with a soft glow around the person and umbrella.

**Rainy Day
Cover
Exclusive**

Details overleaf

In light of the *Jones -v- Kaney* ruling, it is clear that adequate **professional indemnity insurance** cover is now more or less essential for expert witnesses. Together with the litigious nature of today's society, the ruling seems very likely to see expert witnesses the subject of more claims – whether real or vexatious.

Working with **Lockton**, we have developed the ***UK Register of Expert Witnesses Professional Indemnity Insurance scheme***, underwritten by Mapledown. It has been created specifically to offer insurance for the expert witness work you do. It can be taken out to provide **additional cover** if you already have insurance in place for your non-forensic work, or to offer **new cover** if your work is entirely forensic. Alternatively, if you wished to obtain **cover for all your work**, forensic and otherwise, this can be considered too.

Having insurance means that the insurer will be able to manage any claims on your behalf, and in the worst case settle the claim should that become necessary. In other words, any claim against you no longer needs to deflect you from productive work, or keep you awake at night!

This scheme is **exclusive** to members of the *UK Register of Expert Witnesses* and provides cover from £500,000. To keep things simple, there is a streamlined application process to apply for cover up to £2,000,000 if your fee income is less than £200,000. As an indication of the likely cost for cover, £1,000,000 of cover for an expert witness fee income below £200,000 would normally be £250 (excluding insurance premium tax and a maximum £40 administration fee; prices correct at time of publication).

If you have a higher fee income you can still take cover under the scheme, but, instead of the streamlined application process, Lockton will negotiate tailored competitive cover terms. Equally, if you wish to cover all your work, not just your forensic work, Lockton can help too.

NB While J S Publications has worked with Lockton to develop the scheme, we are not permitted to be involved in the highly regulated business of selling insurance. So, when taking out cover under the scheme, you must deal direct with Lockton.

Visit www.jspubs.com/experts/pii for further details

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Rules in Civil Litigation

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Civil Procedure Rules Part 1 – Overriding objective

The following is taken from the 93rd update of the CPR dated November 2017. Source: www.justice.gov.uk

1.1 The overriding objective

- (1) These Rules are a new procedural code with the overriding objective of enabling the court to deal with cases justly and at proportionate cost.
- (2) Dealing with a case justly and at proportionate cost includes, so far as is practicable –
 - (a) ensuring that the parties are on an equal footing;
 - (b) saving expense;
 - (c) dealing with the case in ways which are proportionate –
 - (i) to the amount of money involved;
 - (ii) to the importance of the case;
 - (iii) to the complexity of the issues; and
 - (iv) to the financial position of each party;
 - (d) ensuring that it is dealt with expeditiously and fairly;
 - (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases; and
 - (f) enforcing compliance with rules, practice directions and orders.

1.2 Application by the court of the overriding objective

The court must seek to give effect to the overriding objective when it –

- (a) exercises any power given to it by the Rules; or
- (b) interprets any rule subject to rules 76.2, 79.2 and 80.2, 82.2 and 88.2.

1.3 Duty of the parties

The parties are required to help the court to further the overriding objective.

1.4 Court's duty to manage cases

- (1) The court must further the overriding objective by actively managing cases.
- (2) Active case management includes –
 - (a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
 - (b) identifying the issues at an early stage;
 - (c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;

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Criminal Procedure Rules Part 1 – The overriding objective

The following is taken from the update to the Criminal Procedure Rules 2015 dated October 2015 as amended up to November 2016.

Source: www.justice.gov.uk

1.1 The overriding objective

- (1) The overriding objective of this procedural code is that criminal cases be dealt with justly.
- (2) Dealing with a criminal case justly includes –
 - (a) acquitting the innocent and convicting the guilty;
 - (b) dealing with the prosecution and the defence fairly;
 - (c) recognising the rights of a defendant, particularly those under Article 6 of the European Convention on Human Rights;
 - (d) respecting the interests of witnesses, victims and jurors and keeping them informed of the progress of the case;
 - (e) dealing with the case efficiently and expeditiously;
 - (f) ensuring that appropriate information is available to the court when bail and sentence are considered; and
 - (g) dealing with the case in ways that take into account –
 - (i) the gravity of the offence alleged,
 - (ii) the complexity of what is in issue,
 - (iii) the severity of the consequences for the defendant and others affected, and
 - (iv) the needs of other cases.

1.2 The duty of the participants in a criminal case

- (1) Each participant, in the conduct of each case, must –
 - (a) prepare and conduct the case in accordance with the overriding objective;
 - (b) comply with these Rules, practice directions and directions made by the court; and
 - (c) at once inform the court and all parties of any significant failure (whether or not that participant is responsible for that failure) to take any procedural step required by these Rules, any practice direction or any direction of the court. A failure is significant if it might hinder the court in furthering the overriding objective.
- (2) Anyone involved in any way with a criminal case is a participant in its conduct for the purposes of this rule.

1.3 The application by the court of the overriding objective

The court must further the overriding objective in particular when –

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Rules in Family Litigation

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Control of expert evidence in children proceedings

Children and Families Act 2014 Part 2 Section 13

Source: www.legislation.gov.uk

- (1) A person may not without the permission of the court instruct a person to provide expert evidence for use in children proceedings.
- (2) Where in contravention of subsection (1) a person is instructed to provide expert evidence, evidence resulting from the instructions is inadmissible in children proceedings unless the court rules that it is admissible.
- (3) A person may not without the permission of the court cause a child to be medically or psychiatrically examined or otherwise assessed for the purposes of the provision of expert evidence in children proceedings.
- (4) Where in contravention of subsection (3) a child is medically or psychiatrically examined or otherwise assessed, evidence resulting from the examination or other assessment is inadmissible in children proceedings unless the court rules that it is admissible.
- (5) In children proceedings, a person may not without the permission of the court put expert evidence (in any form) before the court.
- (6) The court may give permission as mentioned in subsection (1), (3) or (5) only if the court is of the opinion that the expert evidence is necessary to assist the court to resolve the proceedings justly.
- (7) When deciding whether to give permission as mentioned in subsection (1), (3) or (5) the court is to have regard in particular to –
 - (a) any impact which giving permission would be likely to have on the welfare of the children concerned, including in the case of permission as mentioned in subsection (3) any impact which any examination or other assessment would be likely to have on the welfare of the child who would be examined or otherwise assessed
 - (b) the issues to which the expert evidence would relate
 - (c) the questions which the court would require the expert to answer
 - (d) what other expert evidence is available (whether obtained before or after the start of proceedings)
 - (e) whether evidence could be given by another person on the matters on which the expert would give evidence
 - (f) the impact which giving permission would be likely to have on the timetable for, and duration and conduct of, the proceedings
 - (g) the cost of the expert evidence and
 - (h) any matters prescribed by Family Procedure Rules.
- (8) References in this section to providing expert evidence, or to putting expert evidence before a court, do not include references to –

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Court Rules – General

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Statements of truth

Source: www.justice.gov.uk

Civil

Reports written for cases covered by the Civil Procedure Rules

Date introduced: 1 October 2009 (CPR Update 50)

Relevant rules: CPR 35 PD3.2.9, CPR 35 PD3.3

All that the CPR require is a statement embodying the declarations in CPR PD3.2.9 and the mandatory wording of the Statement of Truth in CPR PD3.3. The following two paragraphs achieve this.

I understand that my overriding duty is to the court and I have complied with that duty. I am aware of the requirements of CPR Part 35, its practice direction and the Protocol for the Instruction of Experts to give Evidence in Civil Claims.

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

CPR Part 22 deals with statements of truth. CPR 32.14 sets out the consequences of verifying a document containing a false statement without an honest belief in its truth.

Family

Reports written for cases covered by the Family Procedure Rules

Date introduced: 1 April 2011

Relevant rules: PD25A 3.3

The Family Practice Direction requires four declarations (PD3.3(h) and PD3.3(i)) and the mandatory wording of a Statement of Truth 9.1(j). The following two paragraphs achieve this.

I understand that my overriding duty is to the court and I have complied with, and will continue to comply with, that duty. I am aware of the requirements of FRP Part 25 and its Practice Direction. I have no conflict of interest of any kind.

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

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GMC guidelines: Acting as a witness in legal proceedings (2013)

Source: www.gmc-uk.org

- 1 In *Good Medical Practice*¹ we say:
 - 11. You must be familiar with guidelines and developments that affect your work.
 - 12. You must keep up to date with, and follow, the law, our guidance and other regulations relevant to your work.
 - 14. You must recognise and work within the limits of your competence.
 - 72. You must be honest and trustworthy when giving evidence to courts or tribunals. You must make sure that any evidence you give or documents you write or sign are not false or misleading.
 - (a) You must take reasonable steps to check the information.
 - (b) You must not deliberately leave out relevant information.
 - 73. You must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidance in *Confidentiality*.
 - 74. You must make clear the limits of your competence and knowledge when giving evidence or acting as a witness.
- 2 In this guidance, we explain how doctors can put these principles into practice when acting as a professional witness or as an expert witness. If you give evidence as a witness of fact in a non-professional capacity (for example, as a witness to a traffic accident) you must follow the guidance in paragraph 72 of *Good Medical Practice*. Serious or persistent failure to follow this guidance will put your registration at risk.

Duties of all witnesses

- 3 Doctors play an important role in the justice system by contributing evidence both as expert witnesses and as witnesses of fact.
- 4 Whether you are acting as a witness of fact or an expert witness, you have a duty to the court² and this overrides any obligation to the person who is instructing or paying you.³

¹ General Medical Council [2013] *Good Medical Practice*. GMC, London, UK.

² Also tribunals and other public inquiries such as coroners' inquests.

³ *Civil Procedure Rules*, Rule 35.3, *Criminal Procedure Rules*, Rule 19.2, *Family Procedure Rules*, Rule 25.3, *Children's Hearings (Scotland) Rules 1996*, *Act of Adjournment (Criminal Procedure Rules) 1996*, *Criminal Justice (Evidence) (Northern Ireland) Order 2004*.

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Addresses

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Courts in England & Wales

Source: courtribunalfinder.service.gov.uk

Aberystwyth Justice Centre, Y Lanfa, Trefechan, Aberystwyth, SY23 1AS
DX 99560 Aberystwyth 2
Enquiries: 01970 621250

Administrative Court, Royal Courts of Justice, Strand, London, WC2A 2LL
DX 44457 Strand
Enquiries: 020 7947 6655

Admiralty & Commercial Court, Rolls Building, 7 Rolls Buildings, Fetter Lane, London, EC4A 1NL
DX 160040 Strand 4
Enquiries: 020 7947 6112

Aldershot Justice Centre, The Court House, Civic Centre, Wellington Avenue, Aldershot, GU11 1NY
DX 98530 Aldershot 2
Enquiries: 01252 796800

Amersham Law Courts, King George V Road, Amersham, HP6 5AJ
Enquiries: 01296 434401

Avon & Somerset Central Accounts Department, HMCTS, PO Box 480, Weston-Super-Mare, BS23 9BE
Enquiries: 01633 645112

Aylesbury Crown Court, County Hall, Market Square, Aylesbury, HP20 1XD
DX 157430 Aylesbury 11
Enquiries: 01296 434401

Banbury County Court, The Court House, Warwick Road, Banbury, OX16 2AW
DX 701967 Banbury 2
Enquiries: 01295 452090

Banbury Magistrates' Court
Visiting: The Court House, Warwick Road, Banbury, OX16 2AW
Postal: c/o Oxford Magistrates' Court, Speedwell Street, Oxford, OX1 1RZ
Enquiries: 01865 448020

Bankruptcy Court (Central London), Thomas More Building, Royal Courts of Justice, Strand, London, WC2A 2LL
DX 44450 Strand
Enquiries: 020 7947 6839

Bankruptcy Court (High Court), Rolls Building, 7 Rolls Buildings, Fetter Lane, London, EC4A 1NL
DX 160040 Strand 4
Enquiries: 020 7947 6294

Barkingside Magistrates' Court, 850 Cranbrook Road, Barkingside, Ilford, IG6 1HW
DX 156842 Ilford 9
Enquiries: 0300 303 0645

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Year-to-view

January 2018						
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February 2018						
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March 2018						
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July 2018						
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October 2018						
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November 2018						
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December 2018						
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