

UK Register of Expert Witnesses
**Expert Witness
Year Book
2010**

Dr Chris Pamplin, Editor
UK Register of Expert Witnesses



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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 50th update of the CPR dated October 2009. 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.
- (2) Dealing with a case justly 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; and
 - (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.

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 and 79.2.

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;
 - (d) deciding the order in which issues are to be resolved;
 - (e) encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure;
 - (f) helping the parties to settle the whole or part of the case;

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Rules in Criminal Litigation

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Criminal Procedure Rules Part 1 – The overriding objective

The following is taken from the 8th update of the Rules dated October 2009. Source: www.justice.gov.uk

1.1 The overriding objective

- (1) The overriding objective of this new 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

Practice Direction – Experts in Family Proceedings relating to Children	84
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Practice Direction – Experts in Family Proceedings relating to Children

The following is taken from the final text dated 14 Jan 2008.

Source: www.hmcourts-service.gov.uk

The Practice Direction below is made by the President of the Family Division under the powers delegated to him by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and is approved by the Lord Chancellor.

1. Introduction

1.1 This Practice Direction deals with the use of expert evidence and the instruction of experts in family proceedings relating to children, and comes into force on 1 April 2008. The guidance supersedes, for such proceedings, that contained in Appendix C (the Code of Guidance for Expert Witnesses in Family Proceedings) to the Protocol of June 2003 (Judicial Case Management in Public Law Children Act Cases) and in the Practice Direction to Part 17 (Experts) of the Family Procedure (Adoption) Rules 2005 ('FP(AR) 2005') with effect on and from 1 April 2008.

Where the guidance refers to 'an expert' or 'the expert', this includes a reference to an expert team.

1.2 For the purposes of this guidance, the phrase 'family proceedings relating to children' is a convenient description. It is not a legal term of art and has no statutory force. In this guidance it means:

- placement and adoption proceedings, or
- family proceedings held in private which:
 - relate to the exercise of the inherent jurisdiction of the High Court with respect to children,
 - are brought under the Children Act 1989 in any family court, or
 - are brought in the High Court and county courts and 'otherwise relate wholly or mainly to the maintenance or upbringing of a minor'.

Aims of the guidance

- 1.3 The guidance aims to provide the court in family proceedings relating to children with early information to determine whether an expert or expert evidence will assist the court to:
- identify, narrow and where possible agree the issues between the parties;
 - provide an opinion about a question that is not within the skill and experience of the court;

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Court Rules – General

Statements of Truth	104
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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 PD 3.2.9, CPR 35 PD 3.3

All that the CPR require is a statement embodying the declarations in CPR PD 3.2.9 and the mandatory wording of the Statement of Truth in CPR PD 3.3. 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 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.

Family

Reports written for cases covered by the Practice Direction for Experts in Family Proceedings Relating to Children

Date introduced: 1 April 2008

Relevant rules: PD 3.11–13

The Family Practice Direction requires four declarations (PD 3.11 and PD 3.12) and the mandatory wording of a Statement of Truth. 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 have no conflict of interest of any kind.

I confirm that insofar as the facts stated in my report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.

Obviously, if you do have a conflict of interest you need to consider the further guidance in PD 3.12 and modify the second sentence of this declaration accordingly.

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Miscellaneous

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GMC guidelines: Acting as an expert witness

Source: www.gmc-uk.org

- 1 Our core guidance *Good Medical Practice* sets out the principles which underpin good care. When doctors act as expert witnesses, they take on a different role from that of a doctor providing treatment or advice to patients. The principles set out in *Good Medical Practice* also apply to doctors working as expert witnesses.
- 2 In paragraphs 63-67 of *Good Medical Practice* we say
 - You must be honest and trustworthy when writing reports and when completing or signing forms, reports and other documents.
 - You must always be honest about your experience, qualifications and position, particularly when applying for posts.
 - You must do your best to make sure that any documents you write or sign are not false or misleading. This means that you must take reasonable steps to verify the information in the documents, and that you must not deliberately leave out relevant information.
 - If you have agreed to prepare a report, complete or sign a document or provide evidence, you must do so without unreasonable delay.
 - If you are asked to give evidence or act as a witness in litigation or formal inquiries, you must be honest in all your spoken and written statements. You must make clear the limits of your knowledge or competence.
- 3 This guidance explains how the principles set out in *Good Medical Practice* apply to the work of the medical expert witness. It also lists other sources of information and advice. If you have concerns arising from an appointment as a medical expert witness, you should consider seeking advice from the GMC, your medical defence body or professional association.
- 4 Serious or persistent failure to follow this guidance will put your registration at risk.

The role of the expert witness

- 5 The role of an expert witness is to assist the court on specialist or technical matters within their expertise¹. The expert's duty to the court overrides any obligation to the person who is instructing or paying them². This means that you have a duty to act independently and not be influenced by the party who retains you.

1 Doctors are not necessarily expert witnesses. They may also be witnesses of fact (testifying about events that they themselves have observed) or professional witnesses (giving evidence regarding a particular patient that they have treated).

2 Civil Procedure Rules Part 35.3, Criminal Justice Procedure Rules Part 33.2, Rule 156 of the draft Family Procedure Rules.

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Addresses

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Courts in England and Wales

Source: www.hmcourts-service.gov.uk

Aberdare County Court, The Court House, Cwmbach Road, Aberdare, Glamorgan, Wales, CF44 0JE

DX 99600 Aberdare 2

Switchboard: 01685 888575, General Fax: 01685 883413

Aberdare Magistrates' Court, The Court House, Cwmbach Road, Aberdare, Glamorgan, Wales, CF44 0NW

Switchboard: 01685 727600 - Administration done at Merthyr Tydfil, General Fax: 01685 727703

Abergavenny Magistrates' Court, Tudor Street, Abergavenny, Monmouthshire, Wales, NP7 5DL

DX 43665 Cwmbran

Switchboard: 01633 645000, General Fax: 01633 645177

Abertillery Magistrates' Court, Spring Bank, Abertillery, Blaenau, Gwent, Wales, NP13 1PB

Switchboard: 01633 645000, General Fax: 01633 645177

Aberystwyth County Court, Edleston House, Queens Road, Aberystwyth, Ceredigion, Wales, SY23 2HP

DX 99560 Aberystwyth 2

Switchboard: 01970 636370, General Fax: 01970 625985

Aberystwyth Magistrates' Court, Swyddfa'r Sir, Marine Terrace, Aberystwyth, Ceredigion, Wales, SY23 2DE

General Office: 01545 570886, General Fax: 01545 570295

Accrington County Court, Bradshawgate House, 1 Oak Street, Accrington, Lancashire, BB5 1EQ

DX 702645 Accrington 2

Switchboard: 01254 237490, General Fax: 01254 393869

Accrington Magistrates' Court, The Law Courts, Manchester Road, Accrington, Lancashire, BB5 2BH

Switchboard: 01254 687500, General Fax: 01254 687524

Acton Magistrates' Court, Winchester Street, Acton, London, W3 8PB

DX 5166 Ealing

Switchboard: 0845 601 3600, General Fax: 020 8993 9647

Administrative Court, Administrative Court Office, The Royal Courts of Justice, Strand, London, WC2A 2LL

DX 44450 RCJ/Strand

Switchboard: 020 7947 6000

Birmingham Administrative Court Regional Office: 0121 250 6319

Cardiff Administrative Court Regional Office: 02920 376400

Leeds Administrative Court Regional Office: 0113 306 2578

Manchester Administrative Court Regional Office: 0161 240 5313

Admiralty Court, The Royal Courts of Justice, Strand, London, WC2A 2LL

Tel: 020 7947 6112, Fax: 020 7947 6245

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Year-to-view

January 2010						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February 2010						
S	M	T	W	T	F	S
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

March 2010						
S	M	T	W	T	F	S
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21	22	23	24	25	26	27
28	29	30	31			

April 2010						
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4	5	6	7	8	9	10
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25	26	27	28	29	30	

May 2010						
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30	31					

June 2010						
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

July 2010						
S	M	T	W	T	F	S
		1	2	3		
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August 2010						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	8	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September 2010						
S	M	T	W	T	F	S
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 2010						
S	M	T	W	T	F	S
		1	2			
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 2010						
S	M	T	W	T	F	S
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December 2010						
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		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Month-to-view

January 2010						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1 Bank Holiday	2
3	4 Bank Holiday in Scotland	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
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The **Expert Witness Year Book** is designed as an annual ready-reference to information relevant to busy expert witnesses. With rules, guidance, addresses and much else beside, you can slip the **Expert Witness Year Book** into your bag and be the expert with the facts at your fingertips!

The Little Book Series

The *Little Book Series* distills the experience of two decades of working with thousands of expert witnesses into books designed to help expert witnesses fulfil their primary duty to the courts whilst making choices that protect their own interests. We have learnt the lessons from the mistakes of others, now you can learn them too!



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