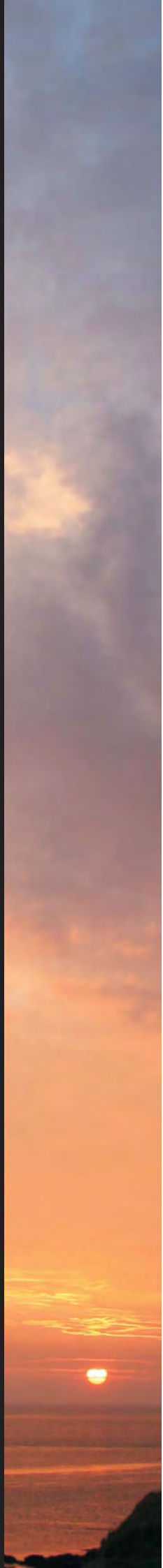


UK Register of Expert Witnesses
Expert Witness
Year Book
2012

Dr Chris Pamplin, Editor
UK Register of Expert Witnesses



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Expert Witness

Year Book

2012

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UK Register of Expert Witnesses
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Civil Procedure Rules Part 1 – Overriding objective

*The following is taken from the 57th update of the CPR dated October 2011.
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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Criminal Procedure Rules Part 1 – The overriding objective

The following is taken from the update of the Criminal Procedure Rules 2011 dated October 2011. 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

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Family Procedure Rules Part 1 – Overriding Objective

The following is taken from the first update of the FPR dated June 2011.

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, having regard to any welfare issues involved.
- 2 Dealing with a case justly includes, so far as is practicable –
 - (a) ensuring that it is dealt with expeditiously and fairly;
 - (b) dealing with the case in ways which are proportionate to the nature, importance and complexity of the issues;
 - (c) ensuring that the parties are on an equal footing;
 - (d) saving expense; 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

- 1 The court must seek to give effect to the overriding objective when it –
 - (a) exercises any power given to it by these rules; or
 - (b) interprets any rule.

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 at an early stage –
 - (i) the issues; and
 - (ii) who should be a party to the proceedings;
 - (c) deciding promptly –
 - (i) which issues need full investigation and hearing and which do not; and
 - (ii) the procedure to be followed in the case;
 - (d) deciding the order in which issues are to be resolved;

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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 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 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: PD 25A 3.3

The Family Practice Direction requires four declarations (PD 3.3(h) and PD 3.3(i)) 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 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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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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Courts in England and Wales

Source: www.justice.gov.uk

Aberdare Magistrates' Court

Court address: The Court House, Cwmbach Road, Aberdare, Glamorgan, CF44 0NW

Postal address: The Law Courts, Glebeland Place, Merthyr Tydfil, CF47 8BH
DX 99582 Merthyr Tydfil 2

Tel: 01685 727600

Fax: 01685 727703

Abergavenny Magistrates' Court

Court address: Tudor Street, Abergavenny, Monmouthshire, NP7 5DL

Postal address: HMCTS Gwent, PO Box 83, Cwmbran, Torfaen, NP44 1ZW
DX 43665 Cwmbran

Tel: 01633 645000

Fax: 01633 645177

Aberystwyth County Court, Edleston House, Queens Road, Aberystwyth,

Ceredigion, SY23 2HP

DX 99560 Aberystwyth 2

Tel: 01970 636370

Fax: 01970 625985

Aberystwyth Magistrates' Court

Court address: Swyddfa'r Sir, Marine Terrace, Aberystwyth, Ceredigion, SY23 2DE

Postal address: Aberaeron Magistrates' Court Office, 21 Alban Square, Aberaeron,
Cardiganshire, SA46 0DB

Tel: 01545 570886

Fax: 01545 570295

Accrington County Court, Bradshawgate House, 1 Oak Street, Accrington,

Lancashire, BB5 1EQ

DX 702645 Accrington 2

Tel: 01254 237490

Fax: 01254 393869

Accrington Magistrates' Court

Court address: The Law Courts, Manchester Road, Accrington, Lancashire, BB5 2BH

Postal address: The Court House, Northgate, Blackburn, Lancashire, BB2 1AA
DX 742020 Blackburn 10

Tel: 01254 687500

Fax: 01254 687524

Administrative Court, Administrative Court Office, The Royal Courts of Justice,

Strand, London, WC2A 2LL

DX 44450 RCJ/Strand

Tel: 020 7947 6000

Fax: 020 7947 6802

Admiralty Court, Rolls Building, 7 Rolls Buildings, Fetter Lane, London, EC4A 1NL

DX 160040 Strand 4

Tel: 020 7947 6112

Fax: 020 7947 6245

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Year-to-view

January 2012						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
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May 2012						
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July 2012						
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August 2012						
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September 2012						
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November 2012						
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December 2012						
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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!

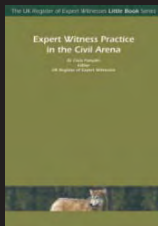
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