



The British
Psychological Society

Promoting excellence in psychology



Psychologists as
Expert Witnesses:
*Guidelines and
Procedure*
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Background to the Advisory Group on Expert Witnesses

This report has been prepared by an Advisory Group of the Professional Practice Board and Research Board. The group was first convened as a Working Party at the request of the Professional Practice Board of the British Psychological Society and has been supported by the Research Board. The report is part of a quinquennial review cycle and supersedes the following individual report: *Psychologists as Expert Witnesses: Guidelines and Procedure for England, Wales and Northern Ireland* (2010/2015). The Advisory Group comprised representation from across the discipline and has attempted to capture issues of relevance for both civil, criminal and family proceedings. The document also has application to tribunals and oral hearings.

This document is a mid-term review ahead of a full review in 2020.

Membership of Expert Witness Advisory Group

2015 members

Professor David Crighton (Chair) – Chartered psychologist, Durham University

Mr Dee Anand – Chartered psychologist, University of Portsmouth

Dr Jackie Bates-Gaston – Chartered psychologist, Northern Ireland Prison Service

Professor Graham Davies – Chartered psychologist, University of Leicester

Dr Judi Ellis – Chartered psychologist, University of Reading

Professor (Emeritus) Gisli Gudjonsson – Chartered psychologist, Institute of Psychiatry, Psychology & Neuroscience, London

Dr Jane Hood – Chartered psychologist, University College London

Dr Hugh Koch – Chartered psychologist, HCPC registered (Clinical), Independent Practice

Mr Robin Lomas – Chartered psychologist, Independent Practice (Educational)

Professor Frank McPherson – Chartered psychologist, Salus Occupational Health & Safety

Dr Adrian Skinner – Chartered psychologist, formerly of NHS & University of Hull & York Medical School

2017 members

Professor Leam Craig (Chair) – Chartered psychologist, HCPC registered (Clinical & Forensic), Forensic Psychology Practice Ltd, University of Birmingham, Birmingham City University

Sharon Beattie – Chartered psychologist, HCPC Registered (Occupational), Independent Practice

Dr Louise Bowers – Chartered psychologist, HCPC Registered (Forensic), Director of the Forensic psychologist Service

Dr Alice Campbell Reay – Chartered psychologist, HCPC registered (Clinical and Forensic). Director Developing Minds Psychology Services.

Professor (Emeritus) Robert J. Edelmann – Chartered psychologist; HCPC Registered (Clinical, Forensic and Health), University of Roehampton, psychologist in Independent Practice.

Professor (Emeritus) Gisli Gudjonsson – Chartered psychologist, Institute of Psychiatry, Psychology & Neuroscience, London

Dr Hugh Koch – Chartered psychologist, HCPC registered (Clinical), Independent Practice

Dr Sarah Krahenbuhl – Chartered psychologist, Staffordshire University, OPEM Psychology Services

Dr Gary Macpherson – Chartered psychologist, HCPC Registered, (Clinical, Forensic), The State Hospital, Scotland and Independent Practice

Professor Frank McPherson – Chartered psychologist, Salus Occupational Health & Safety

Dr Brendan O'Mahony – Chartered psychologist, HCPC registered (Forensic), Independent Practice.

David Pike – Chartered psychologist, HCPC Registered (Clinical, Health), Educare Partners independent practice

Annabel Poate-Joyner – Chartered psychologist, HCPC Registered (Clinical), Psychologist in Independent Practice, Director APJ Psychological Consulting

Dr Adrian Skinner – Chartered psychologist, formerly of NHS & University of Hull & York Medical School

Dr Sue Whitcombe – Chartered psychologist, HCPC Registered (Counselling), Director and Principal psychologist Family Psychology Solutions CIC

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1. What is an expert?

- 1.1 An expert is a person who, through special training, study or experience, is able to furnish the Court, tribunal or oral hearing with scientific or technical information and opinion based on this which is likely to be outside the experience and knowledge of a Judge, magistrate, convenor or jury. There is no definitive legal definition of an expert. It is a matter for the court to rule upon in each case. However, the Legal Guidance (prepared by the Crown Prosecution Service for England and Wales) defines an expert as: *‘a person whose evidence is intended to be tendered before a court and who has relevant skill or knowledge achieved through research, experience or professional application within a specific field sufficient to entitle them to give evidence of their opinion and upon which the court may require independent, impartial assistance’* (Crown Prosecution Service, 2010, para. 36.2).
- 1.2 Expert evidence should be independent and uninfluenced by the pressures of litigation. The expert’s role is to assist the Court or other Quasi-Judicial body^{1,2}. It is not to act as an advocate for any party. The implementation of the revised Civil Procedure Rules in April 2010 in England and Wales extended the concept of ‘expert witness’ to include ‘expert teams’. This was a reflection of the potential for teams of professionals within some services (e.g. National Health Services) to be serving as experts, producing agreed reports as a team. This was an additional role and does not replace the individual ‘expert witness’ role. The Civil Procedure Rules (CPR, 2017), Criminal Procedure Rules (CrimPR, 2017), and Family Procedure Rules (FPR, 2016) for England and Wales and their related practice directions were updated in 2017 and made a number of amendments relevant to the role of an expert witness. For further detail on the role of an expert witness in civil proceedings in England and Wales, see Practice Direction 35. (This is currently available at www.justice.gov.uk/courts/procedure-rules/civil). For further detail on the role of an expert in Scotland see [2009] HCJAC 58 Opinion of the court in the referral by the Scottish Criminal Cases Review Commission in the case of Brian Wilson and Iain Murray against Her Majesty’s Advocate. (This is currently available at www.scotcourts.gov.uk/search-judgments/judgment?id=3f3c86a6-8980-69d2-b500-ff0000d74aa7)
- 1.3 The main difference between an expert witness and ordinary witness (i.e. a witness to fact), is that the former are able to give an opinion, whereas ordinary witnesses can only give factual evidence. There is also a form of witness referred to as ‘professional witnesses’. These witnesses remit can also cross the boundary of both fact and opinion. Professional witnesses are generally formal employees of one party. For example a psychologist employed by a specific hospital or Trust who gives evidence about treatment progress, regarding a patient under the care of that hospital or Trust during a Mental Health Review Tribunal. Another example might be a psychologist employed by HM Prison Service/the Northern Ireland Prison Service/Scottish Prison Service, giving evidence on an inmate detained in custody by their employing service, at an oral hearing of the Parole Board. Professional witnesses are responsible to the Court in the same way that an independent expert witnesses is.
- 1.4 Although expert witnesses can be instructed within both civil and criminal proceedings, it is useful to understand the core distinction between these proceedings from the outset (see also the Appendices for further detail and resources on procedure in family, criminal and civil proceedings). In civil proceedings decisions are generally made on the ‘balance of probability’

¹ There is currently no single formal set of rules or guidelines for Quasi-Judicial bodies. It is therefore recommended that the rules and procedures documented here are used as guidelines for good practice and that psychologists familiarise themselves with the relevant rules and guidelines for specific types of hearing as necessary. It is also important to note that many Quasi-Judicial hearings are often presided over by Judges or Lawyers with experience in civil and criminal court.

² Unless otherwise stated the term Court should be taken to include Courts and other Quasi-Judicial Bodies.

by a single decision-maker, namely the presiding judge, who considers all of the evidence presented by each party. There is no jury. In criminal Crown Court proceedings there is normally a presiding judge and jury, or sheriff and jury in Scotland, except in 'fitness to plead' hearings where a judge or sheriff will sit without a jury. The judge has the remit of ensuring a fair trial. The decision-making here, in terms of verdict, is by the jury. In criminal proceedings a decision is made on the basis of being 'beyond reasonable doubt', a higher level of proof than the 'balance of probability' used in civil cases. Usually the balance of probability test is interpreted as a probability of greater than 50 per cent, although expert and professional witnesses may be invited to estimate the probability more precisely.

- 1.5 Psychologists may also be called as experts in proceedings in the Magistrates' Courts. Such Courts may be presided over by a stipendiary judge or by lay magistrates sitting in groups of three. The Magistrates' Court operates without a jury and decisions are made on the basis of being 'beyond reasonable doubt'. Quasi-judicial bodies vary in practice but are typically presided over by a judge or chairperson sitting with psychological, medical and/or lay members.
- 1.6 In undertaking work as an expert or professional witness psychologists should conduct themselves in a manner that does not bring the profession of psychology into disrepute. They have a duty of courtesy towards and cooperation with colleagues.
- 1.7 For expert evidence to be allowed in legal proceedings it has to be both relevant and admissible. Relevance is determined by the probative value of the evidence in a given case.
- 1.8 When lawyers seek to introduce expert psychological evidence, it is the judge in the case who decides whether an individual has the requisite expertise to give evidence with the potential to be relevant to the case. The judge also decides whether, what the expert asserts, is relevant and therefore admissible in law. There will be instances where the judge accepts the expert as such, but ultimately excludes the expert's evidence in part or in full.
- 1.9 Submissions and legal arguments concerning requisite expertise and admissibility of evidence are heard by the judge. Typically this may happen at the outset of the trial (criminal) or hearing (civil) but may occur at any time during the trial/hearing process. This process is termed 'voir dire' within criminal proceedings. In civil family proceedings the situation will be laid out in the initiating letter of instruction supplied by the lead solicitor. In civil litigation these matters may be resolved or at least aired at case management conferences before a judge.
- 1.10 Psychologists are not normally permitted to give evidence about how an ordinary person is likely to react to stressful situations. Expert evidence about matters directly related to the likely reliability of witnesses or defendants (criminal proceedings) or applicants, claimants and respondents (civil proceedings) is allowed, but best undertaken only when the question has specifically been explored, and often using best practice tests of effort and malingering. Experts may be asked to comment on the reliability of witnesses when presented with, for example, surveillance evidence that contradicts or supports evidence from interviews or to offer a psychological opinion on the reliability of child testimony.

2. Academic and professional competence

- 2.1 Psychologists are responsible for ensuring they are sufficiently competent and expert in offering an opinion. Indications of competence in respect of the knowledge required by the Court, and expertise within a specialised field, may include:
- Qualifications and/or degree(s) in the areas(s) in question;
 - A number of years of post-doctoral/post-qualification experience;
 - Academic, professional and scientific publications in relevant areas;
 - Demonstrations of professional practice, competence, specialist knowledge and expertise with a bearing upon the issues in the case; and
 - Current experience in applying psychology in the area of claimed expertise. Examples here may include evidence of expertise in risk assessment, treatment, neuropsychology, assessment of memory and so on.
- 2.2 Qualifications are usually summarised somewhere in a written report, but an expert witness may be asked to outline their competence in brief during oral testimony.
- 2.3 In order to provide services as expert witnesses psychologists should ensure that they have appropriate indemnity insurance and where appropriate that they meet any necessary safeguarding standards that apply within the jurisdiction they are working within. They should also ensure that they are qualified not only in content but also qualified in process. Process refers to the act of giving evidence in a legal forum, either orally or in written form. Expert witnesses are not expected to be lawyers but they are expected to understand the legal processes and how expert and professional witnesses sit within these. They are expected to be skilled in the delivery of evidence. Thus curricula vitae provided as part of Court instruction should reflect on experience both in terms of content and process. Evidence of the latter may include number of previous Court appearances as witnesses (including as professional witnesses or witnesses of fact). Psychologists who lack experience in report preparation and giving evidence should not be intimidated by this. The Courts recognise that all experts have to start somewhere and gain experience through training, supervision and cumulatively through practice.
- 2.4 If a psychologist is not experienced in preparing evidence for legal purposes then he or she is responsible for obtaining the appropriate advice and supervision or mentoring in the preparation of the report for legal purposes. It is partly in this way that expertise is gathered. In any event it is incumbent upon the psychologist being called to secure appropriate support and training as necessary in relation to the legal process in order to meet professional standards.
- 2.5 Psychologists need to remain aware that many legal proceedings are protected with regards to disclosure (particularly family proceedings) and thus supervision should be obtained in legal *process* and *how* opinion can be stated and not on psychological opinion per se. Experts are not expected to require supervision in their opinion and if you believe that you need this, you should question whether you are yet ready for expert or professional witness work.
- 2.6 Psychologists need to be aware of the importance of performing appropriately in a Court. Excellent work on the case, a faultless written report and substantial preparation prior to trial can be spoiled by poor Court performance. Poor Court performance subsumes lack of awareness concerning procedures and etiquette, inappropriate behaviour when giving evidence in chief and, most particularly, when being cross-examined.
- 2.7 Psychologists who are appearing for the first time as witnesses should take advantage of available training materials and training events that can assist them in preparing for Court appearance.

The Society and a number of other organisations produce materials, such as training events and other learning materials. The Family Justice Council, for example, offers a ‘mini-pupillage’ scheme to new expert witnesses that includes shadowing barristers and judges during the conduct of a case www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/fjc/mini-pupillage-scheme. Supervision, mentoring and advice may be another useful means of gathering expertise for court appearances.

- 2.8 Psychologists should ensure that they understand the distinctions in process between different Legal Systems, Courts and Quasi-Judicial bodies, as this could influence the evidence they give. For example, the act of finding that someone probably committed an act of violence in a civil case based on a ‘Finding of Fact’ hearing does not equate to a conviction or even a caution. Ensuring that you know the basis on which a fact has been established is important, particularly if you are completing assessments that require a conviction or charge to have been proven.
- 2.9 Psychologists should not offer opinions outside their area(s) of expertise. If the area(s) in question lies outside their expertise, they should make this clear and should where appropriate refer on to a suitably qualified and experienced colleague and/or to the Society’s *Directory of Expert Witnesses*, *List of Chartered psychologists* or other sources. This duty applies both to the provision of written reports, to oral evidence in Court and to the provision of opinion at any stage of the legal process (e.g. during pre-trial hearings, during professional meetings or counsel conferences in civil proceedings).
- 2.10 In citing references in any report psychologists are expected to ensure that any sources and references are correctly reported and should be familiar with them. It is not acceptable professional practice to rely on second-hand or ‘cited-in’ research evidence. Psychologists should be prepared to provide full details of any cited references at short notice.
- 2.11 Psychologists need to be particularly aware of the danger of straying from their areas of expertise under cross-examination. They should always be prepared to decline to give an opinion when this is appropriate.
- 2.12 Psychologists are responsible for ensuring that the expert evidence they give is of the proper quality and based on the appropriate research and applied evidence. They should anticipate, be aware of, and prepare for potential conflicts in expert or professional witness opinions when preparing their evidence. The simplest approach is to identify counter-positions or counter-arguments and to seek to accommodate these in their evidence. The Civil Procedure Rules encourage experts to consider a range of reasonable professional opinion in their conclusions, and to explain to a Court why such a range may arise in addition to giving their own view.
- 2.13 A useful way of preparing for giving oral testimony in Court and ensuring competence, can be via a process known as ‘reducing your evidence’: Instead of simply reading your report you will find the most useful preparation is one where you go through the report identifying what issues are likely to arise, the established facts and your stated psychological opinion. This ensures that you are well prepared and assists with competence in oral testimony.
- 2.14 The academic quality of expert or professional evidence must be such that it is informed by current evidence in the field. This includes the use of relevant assessments and tests, based on accepted academic and clinical opinion. Basing an ‘expert’ opinion on dated or inappropriate assessment evidence may lead to a formal complaint being made in relation to the conduct of the psychological expert or professional witness.

- 2.15 Where uses of a test or assessment differs from commonly accepted standards, then psychologists should explain and justify this adequately, to clients and in the report. There are criteria in existence which can prove of value when determining if a 'test' or 'assessment' will provide scientific or specialised knowledge. Use of psychometric assessments are widely expected to meet specific criteria. If this is not the case the value of the assessment must be justified. A set of criteria arising from the United States are of value in considering this and are referred to as the Daubert criteria (see *Daubert vs. Merrell Dow Pharmaceuticals Inc* case 1983: See also Rogers, Salekin and Sewell, 1999). In essence these refer to the standards evidence is expected to reach to be admissible expert testimony. They require that a theory or technique should be open to falsification, has been peer reviewed, is generally accepted by the scientific community, has a known error rate, with existing standards of use. The extent of subjective interpretation must also be explicit.
- 2.16 Psychologists should not change the substantive content of the report, nor their opinion, without appropriate grounds, based on newly submitted evidence. Discussions with colleagues or other experts or professionals may constitute such new information. Psychologists can legitimately modify their opinion on this basis, any request for removal of detail, should generally be refused, except where the report has gone beyond the relevant instructions or there is a good basis for the removal of material. Psychologists should be aware that they are required by the Court to provide an independent opinion. If new evidence is provided to a psychologist which causes the expert to alter their opinion, then this should be communicated, normally in writing, to the instructing party as soon as possible. Minor errors in a report such as typographical errors, spelling of names, incorrect dates and so on should though be corrected as early as possible and a corrected copy of the report provided. In entering into discussions with colleagues or other experts, psychologists are expected to recognise the fundamental purpose of expert and professional witness meetings and discussions. They are expected to balance the requirement of entering into such a process with an open mind, whilst also not allowing themselves to be pressured into surrendering their opinions in the absence of good evidence.
- 2.17 Alterations in opinion are not unusual in light of new evidence and psychologists should be prepared to alter their opinion where they feel it is appropriate to do so. Caution is expressed, however, in relation to changing opinion. It is the duty of a psychologist acting as an expert or professional witness to communicate alterations in opinion and where appropriate the need for reassessment to those instructing them at the earliest opportunity.
- 2.18 Psychologists acting as expert or professional witnesses should be fully familiar with the British Psychological Society's Code of Ethics and Conduct and also where appropriate the Health and Care Professions Council (HCPC) Standards of Conduct, Performance and Ethics for Practitioner Psychologists. The importance of adhering to the requirements of statutory regulation and to the Society's codes during working as an expert or professional witnesses should be clear. Failure to do so can result in disciplinary proceedings and professional sanctions. Expert witnesses will find themselves working in sensitive areas as part of their role and the need to protect clients from unsafe practice from psychological expert and professional witnesses is paramount.
- 2.19 Failing to submit a report on time can be grounds for a formal complaint. If a psychologist is unable to submit a report within an agreed timeframe then they have a responsibility to inform those instructing them at the earliest opportunity. A late report submission, depending on how central it is to the case, can result in proceedings being delayed at great expense and inconvenience. This can also have professional implications for the psychologist, particularly if they are thought to have not informed parties of any difficulties at the earliest opportunity.
- 2.20 Gaining informed consent for any assessments is a requirement and psychologists acting as expert and professional witnesses may wish to consider the use of a standard information sheet/

guide with which to aid obtaining such consent. Information provided should make clear the differences from normal clinical consent. Specifically it should be made explicit that the results of any assessment may be used for legal purposes. It should also be made explicit that any assessment is conducted on an independent professional basis and may be favorable or unfavorable to the person being assessed. Psychologists should be prepared for possibly being questioned on the process of consent if there are any concerns raised. Psychologists should be mindful in particular of the likely pressures on individuals to engage in assessments if instructed by a Court to do so.

- 2.21 Following the case of *Jones v Kaney* [2011] UKSC 13, a decision was made by the Supreme Court of the United Kingdom on whether expert witnesses retained by a party in litigation can be sued for professional negligence, or whether they have the benefit of immunity from suit. The case involved a psychologist instructed as an expert witness in a personal injury claim, who was said to have negligently signed a statement of matters agreed with the expert instructed by the opposing side, in which they made a number of concessions that weakened the claim considerably. As a result, according to the injured claimant, they had to settle the claim for much less than he would have obtained had his expert not acted in this manner. To succeed in the claim, they had to overturn an earlier Court of Appeal decision that had decided that preparation of a joint statement with the other side's expert was covered by immunity from suit. Following this case expert witnesses no longer have immunity.
- 2.22 The criminal and civil legal systems in Scotland are separate and different from those that apply in the other nations of the UK. Psychologists acting as an expert or professional witness in Scotland have a duty to familiarise themselves with the relevant principles, structures, procedures and terminology. It is recommended that advice about specific cases and the applicable rules and processes should always be sought from the relevant solicitor or Procurator Fiscal.
- 2.23 Psychologists should be aware that in Scotland, in normal circumstances, expert and professional evidence is given only by oral testimony. Experts in Scotland are instructed to produce written reports and these are normally lodged with the Court as productions. However, these reports are regarded only as precognitions, to give notice of what the evidence of the expert is likely to be. They become evidence only when they are spoken to by the expert in oral evidence. Expert reports are rarely seen by the jury in Scotland and those parts of the expert report which are not spoken to in Court will generally not be referred to by the prosecution and defence advocates, and will not be referred to in the 'charge' to the jury by the judge/sheriff³. Although, prior to the Court proceedings, expert reports will normally have been disclosed and may have been evaluated in writing by the 'opposing' expert, only what each expert says in Court is normally used as evidence.
- 2.24 Another feature of the judicial system in Scotland of particular relevance to psychologists is that, in criminal proceedings for alleged sexual offences, it is open to the Crown to lead expert evidence relating to any behaviour or statement of a 'Complainer', subsequent to an alleged offence, to rebut any inferences adverse to his/her credibility or reliability which might otherwise be drawn. The expert's evidence is intended to give information about the 'generality' of victim behaviour (i.e. what victims often do after an offence has been committed). Frequent examples include 'delayed disclosure' that is to say, the delays which can occur before victims disclose or report their allegations and the demeanour of the Complainer after the alleged offence. The intention is to enable members of the jury better to understand any behaviour by the complainer which might have seemed to them to be counterintuitive and which might have led them to discredit the complainer's evidence. The expert does not of course offer an opinion about the truth of the allegations.

³ A useful introduction to the Scottish Legal System is given in Thomson, L. & Cherry, J. (2012) *Mental Health and Scots Law in Practice*. Edinburgh: W.Green.

- 2.25 The judicial system in Northern Ireland is separate and different from those that apply in the other nations of the UK. Psychologists acting as an expert or professional witness in Northern Ireland have a duty to familiarise themselves with the relevant principles, structures, procedures and terminology. It is recommended that advice about specific cases and the applicable rules and processes should always be sought from the relevant solicitor or Public Prosecution Service.
- 2.26 Psychologists acting as experts or professional witnesses owe a primary duty to the Court. Psychologists have a duty to give their opinion honestly and accurately to the Court, both in their report and when questioned, whether that opinion agrees or disagrees with that of another expert psychologist. Psychologists should present their own opinion and to do so in a professional and professionally competent manner, informed clearly by the evidence base.
- 2.27 Psychologists should avoid personal attacks on colleagues or other behaviours which serve to bring the profession into disrepute.
- 2.28 In cases where a psychologist thinks a psychologist expert witness has acted inappropriately towards them, psychologists are advised to raise this with the individual concerned in the first instance. In the event the matter is unresolved, the psychologist should consider approaching the HCPC, if the psychologist is registered or a professional body if they are a member.
- 2.29 Psychologists acting as expert or professional witnesses are not expected to comment on some questions of fact under consideration by the judge or the jury. This lies within the remit of the appointed decision makers. For example, in criminal proceedings experts cannot reflect on the likely guilt of a defendant since this is the remit of the jury. The risk for prejudicing a trial by commenting on likely guilt is clear. If experts are asked to comment on such issues in the instruction letter then this should be discussed with the instructing party at the earliest opportunity. Psychologists should identify clearly any questions of fact under consideration that fall outside the role of their role as an expert or professional witness.

3. Receiving instructions

- 3.1 Receiving instructions is the term which describes an explicit request to assist in a case by fulfilling the expert witnesses role. The identity of the instructing body may differ and could include parties such as a firm of defending solicitors, the Procurator Fiscal or Crown Prosecution Service managing the prosecution of the accused, a Local Authority legal department, insurance company, claimant solicitors, a litigant in person, or the Court itself.
- 3.2 In civil proceedings there can be an emphasis on the notion of ‘single joint expert’ where legal representatives will agree on a single expert, to provide an opinion. One solicitor will typically be appointed as the ‘lead solicitor’. In cases where a party wishes to instruct another expert then this needs to be agreed separately by the judge on the basis of a clear rationale. There are moves to utilise the same ‘single joint expert’ system in criminal proceedings.
- 3.3 In cases where there is a lead solicitor, all correspondence and discussion should be via them. If a solicitor who is not the lead contacts an expert then they should request that they communicate via the lead solicitor. If this is not possible or practical then details of the correspondence should immediately be forwarded to the lead solicitor. If there is no lead solicitor (but psychologists are still nonetheless instructed as a single joint expert) then all correspondence should be copied to both solicitors, unless formally agreed in writing otherwise. This is designed simply to protect the impartiality of the psychologist as an independent expert. In criminal cases correspondence should only be via the instructing solicitor.
- 3.4 It is increasingly common in Family Proceedings for one or more parties to be a Litigant in Person, representing themselves with no, or minimal, input from a legal professional. Psychologists instructed as experts will need to be mindful in such cases where knowledge of the law and the process of litigation, including instruction of an Expert, may be slight.
- 3.5 The solicitor or instructing body will generally find it helpful to have an itemised breakdown of any estimate for expert witness work. This should ideally include upper and lower estimates. As a minimum this should take account of:
- Background material, for example, reading material;
 - The assessment;
 - Analysis, scoring tests;
 - Writing the report;
 - Travel time and costs (e.g. hours travelling and mileage/fares, etc.).
 - Depending on who has instructed and the type of court involved, psychologists may also have to estimate the likely costs associated with a potential court appearance. Most simply, this can refer to full-day and half-day rates, including preparation time. Experts can also note a fee for late cancellation for attendance at Court in their terms and conditions (see also section 8). In some instances, experts will need to seek acceptance of their fee and expenses for court appearance directly with the court itself, rather than with the instructing party.
- 3.6 Psychologists should be clear what is being requested by any instructing party. The phrase a ‘Psychologist’s Report’ does not carry a sufficient degree of specificity. Psychologists should clarify the requirements and ask for more detail where necessary. In particular there is a need to know in which way psychology might relate to the particular case. Psychologist should clarify any specific legal issues and obtain a summary of the case, in addition to clarification of documentation, such as solicitors’ *Brief to Counsel*, the schedule and any details on ‘Finding of Facts’ hearings (civil proceedings). *Psychologists should be clear what is being asked for, and what are the established facts of the case to date.*

- 3.7 Where there is *Advice from Counsel* psychologists acting as expert witnesses are entitled to see this before agreeing to take on the case. This will enable the psychologist to determine that they are in fact able to offer expert opinion and comment within their competence.
- 3.8 Psychologists should seek to obtain any materials that they believe are relevant and necessary. If the psychologist thinks that they require certain documentation then this should be requested in writing. If a solicitor forwards only excerpts from records or reports these should be request in full. If requested material is not supplied psychologists should be prepared to indicate this clearly in their report and note where you have been unable to provide an opinion, because relevant documentation was not available or forwarded. Psychologists should also state where an opinion is provisional due to missing information. Psychologists should generally list any information that they feel is relevant but has not been seen (e.g. health or educational records) particularly where these have been requested but not disclosed.

4. Responding to instructions

- 4.1 Psychologists should engage in a dialogue to determine terms of engagement with the instructing party wherever necessary.
- 4.2 Psychologists should normally clarify the time frame for work to be undertaken. This should be agreed at the same time as agreeing fees where appropriate. At this stage it is good practice to clarify any terms and conditions to the instructing party. This should include, where appropriate, a time frame for Court appearances. Any time frame should be an agreed and realistic one for submission of reports. Courts will generally take an adverse view of psychologists acting as expert or professional witnesses whose reports arrive late and consequently cause delay to the Court.
- 4.3 In responding to any instructions psychologists may wish to clarify:
- Is the case *listed for trial* or hearing?
 - If so, can the tasks the psychologist is being asked to do be completed satisfactorily in the time available?
 - What are the critical deadlines? and
 - Is the psychologist available to give evidence in Court?

Where psychologists are not able to keep within the Court timetable, including attendance at Court, then they should not accept instructions. By accepting instructions you are indicating that you are able to comply with the Court timetable.

- 4.4 Psychologists should clarify whether the role which they are being asked to undertake is as:
- (a) a professional witness employed by an organisation and as part of their contract of employment; and
 - (b) a single or jointly instructed expert witnesses.
- 4.5 In Family Proceedings involving children in England and Wales it is commonplace to be instructed as a Single Joint Expert. Instructions are usually communicated through, and agreed with, the lead solicitor, generally the solicitor representing the child through their Guardian, where the child is party to proceedings. Ongoing communication is usually conducted through the lead solicitor. In some cases, where all parties are Litigants in Person, there will be no lead solicitor. Psychologists need to be mindful of an enhanced need in such cases to ensure clarity of instruction and ongoing communication.
- 4.6. Psychologists instructed as experts need to ensure that they can provide an independent and impartial opinion and that their independence is clear to all. Any potential conflicts of interest should be made explicit and should be reported as soon as they arise. Requests to complete an expert assessment of someone employed as a colleague or someone known to you should be declined. Requests to complete an assessment of an individual who has connections with your current employer should also be declined.
- 4.7 This can also extend to being asked to provide an expert report on someone you are providing with treatment as an 'Applicant', 'Claimant' or 'Complainer'. This would involve a dual relationship and is not an acceptable conflict. Psychologists working in such a capacity should be mindful that it is not appropriate to act as an expert witness. In such cases it may be appropriate to act as a professional witness. Witnesses acting independently will generally be required to sign a statement declaring their independence. There is no such requirement in Scotland although expert witnesses may choose to indicate that they act in accordance with the code of conduct for experts of their discipline.

- 4.8 The specific wording may be outlined in the instruction letter. In civil cases experts acting as independent witnesses must submit a report that is structurally compliant with Part 35 of the Practice Directions (or it may be inadmissible in Court) and are asked to sign a statement of compliance and a statement of truth outlined at the end of their report. Specific forms of wording may vary between jurisdictions and change over time and psychologists have a duty to check the correct form of statement.
- 4.9 On 28 March 2017, The Lord Chief Justice handed down the fourth amendment to the Criminal Practice Directions 2015 [2016] EWCA Crim 1714[1] in England and Wales, which came into force on 3 April 2017 and provided further direction to expert witnesses in relation to Statements of Understanding and Declarations of Truth which are to be included in expert witness reports.
- 4.10 The Criminal Procedure Rules, Part 19B, makes it clear that the code of practice or conduct to be followed by experts when signing a declaration on a report made available for the court, should be the code of practice or conduct relevant to that individual expert. For psychologists this would be The HCPC Standards of Conduct, Performance and Ethics; The HCPC Standards of Proficiency for practitioner psychologists; the *BPS Code of Ethics and Conduct* and the *BPS Guidelines and Procedures for psychologist acting as expert witnesses*. Psychologists could quote all or any of these as relevant.
- 4.11 In England, Wales and Northern Ireland Expert Witnesses are expected to make a declaration, an example of an expert witness declaration is given in Appendix 2. In Northern Ireland, experts should make contact with their instructing solicitor who can advise on the appropriate declaration to use. In Scotland, it is helpful for experts to reference the HCPC and BPS membership and adherence to guidance but a declaration is not compulsory.
- 4.12 Psychologists acting as expert or professional witnesses should be aware of their power to write to the Court to ask for clarification of any points raised during the process of instruction. There is clear provision within practice directions for experts to contact the Court directly, although it is usually advised that the Court is contacted only when clarification from those instructing you has not been forthcoming and/or has been unsatisfactory. If you do choose to contact the Court direct, you should notify the parties of the nature of the guidance sought.
- 4.13 Often, in an attempt to narrow issues and identify areas of agreement and disagreement, a Court will direct discussions between experts, leading to a joint statement. Such discussions may be helped by the provision of an agenda. It is expected that psychologists would fully comply with such directions.
- 4.14 At any stage in the proceedings the Court may direct that some or all of the experts from like disciplines shall give their evidence concurrently. This has arisen from the Jackson Reforms, and is sometimes referred to as 'hot-tubbing'. It is expected that psychologists would fully comply with such directions.

5. Confidentiality

- 5.1 No information relating to an assessment or report should be disclosed outside the relevant proceedings without agreement. Psychologists should normally seek permission to disclose any information to another health care professional with the instructing party. Any information contained in evidence in a report can potentially be disclosed. Psychologists acting as expert or professional witnesses have a duty to disclose all of the evidence used to reach their opinion where directed by the Court to do so. This would normally include the sharing of details of any tests and assessments administered with professional colleagues. In reporting the results of assessment psychologists should act in accordance with the current Society Statement on the Conduct of Psychologists providing Expert Psychometric Evidence to Courts and Lawyers.
- 5.2 Any more peripheral discussion (for example, with colleagues concerning finer points of cases) should only take place in circumstances where confidentiality can be ensured.
- 5.3 Discussion with other 'experts' concerning the specifics of the case, and particularly with colleagues instructed by other parties, should only take place with the consent of the instructing party. Other experts witnesses may not necessarily be psychologists but may include physicians, social workers and other professions.
- 5.4 There are accepted forums of discussion between experts. These include 'experts meetings', 'professional meetings' or 'counsel conferences'. All of these are sanctioned by the Courts. Expert meetings are used when there is a range of differing opinion and it is hoped that a meeting between experts can clarify: opinions, areas of agreement and areas of disagreement.
- 5.5 Experts meetings should not have legal representatives present and are a meeting between experts only undertaken on a 'without prejudice' basis. This means that anything discussed at the meeting by either party is without prejudice to their respective legal positions. Such discussions are entered into with the hope of resolving or minimising any potential disputes between the parties. The parties will not be able to refer to such proceedings in any subsequent court or tribunal proceedings relating to the disputed matters. Psychologists should restate the point at the meeting.
- 5.6 Professional meetings and counsel conferences are generally found in civil and family proceedings and are those where the legal representative and other professionals involved (including experts) meet. Each party provides an update on the case progress, and questions can be put to experts in attendance. Legal representatives keep minutes which are then agreed by all attendees. The minutes are bound by the same level of confidentiality as other Court documents and are submitted to Court as evidence.
- 5.7 There may sometimes be last minute discussions ordered by the Court, these can mean that agreed statements between experts may be submitted to Court as hand written documents. Psychologists should ensure that they obtain a copy of anything submitted to Court for their records.
- 5.8 Where a psychologist has been instructed directly by the Court, the Crown Prosecution Service, Procurator Fiscal, Public Prosecution Service or solicitor, the psychologist is required to report or comment on any or all aspects of the case that appear to the psychologist as an expert in a field to be relevant or pertinent. In such circumstances, the psychologist is not in a position to offer confidentiality to any person, and should make this position clear to any party with whom they have contact during psychological investigations or assessment.

- 5.9 Where Court bundles and other materials are received in electronic format, psychologists should ensure that these are stored in a secure password protected format. This may require the addition of additional security to documents that arrive in an unsecured form.
- 5.10 Where psychologists submit reports in an electronic format they should ensure that these are in a secure password protected format.
- 5.11 While protecting individual's confidentiality, their safety and the safety of the interviewer must also be protected. This may be achieved by drawing up an agreement with a client during the first meeting. Further information regarding confidentiality and agreements can be found in the British Psychological Society Practice Guidelines.

6. Conflict of interests

- 6.1 Psychologists should spell out their independent or professional position and should not accept being pressured (explicitly or implicitly) into producing a biased or compromised report or evidence by any party.
- 6.2 Psychologists should resist any pressure to change their evidence in a way that may mislead the court or compromise their integrity (e.g. deleting relevant but unfavourable findings from their report).
- 6.3 Psychologists should be clear that they are acting as an independent expert or an independent professional and not as an advocate for a particular party. With regards to cases involving children, this may be particularly apposite. Experts in such cases are not acting for the parents, or for the children, but for the Court, who are acting in the best interests of the child.
- 6.4 Psychologists should negotiate a change to an instruction if it is ethically appropriate to do so. For example, where the psychologist becomes aware of a dual relationship or other conflict of interest (e.g. providing expert testimony against a current employer). This may involve ending the contract and renegotiating or reducing payment.
- 6.5 Psychologists should be clear about their relationships, roles and responsibilities, including full consideration of relevant professional ethical issues. In this they need to remain mindful that although their core responsibility as an expert or professional witness is to the Court, they also have overarching professional responsibilities to any individual(s) they engage with as a psychologist, as set out in the HCPC Standards and the Society's *Code of Ethics and Conduct*.

7. Appearance at Court

- 7.1 Psychologists should always act in such a way as to maintain the repute of the profession when working as an expert or professional witness. This includes being punctual and arranging to arrive at the Court in good time, being appropriately dressed and conducting themselves appropriately towards the Court, colleagues and all other participants. It is the case that expert and professional witnesses are generally permitted to sit in Court whilst other experts are giving evidence, both in the process of *voir dire* and in the trial or hearing itself. Psychologists should, wherever possible, sit in the Court to listen to what is being said and to prepare themselves further to give evidence and to prepare for cross-examination on issues raised by preceding witnesses, this should be done with the permission of the court.
- 7.2 In Family Proceedings it is increasingly likely that expert witnesses will be cross examined by Litigants in Person. In these circumstances, heightened emotions may be a feature. Psychologists will need to exercise appropriate care in responding to any such cross examination. Awareness of a perceived hierarchy of power and the potential vulnerability of litigants, who may also be the subjects of the report before the Court, would be beneficial.
- 7.3 Psychologists acting as expert or professional witnesses may be asked to attend Court on a 'just in case' basis, i.e. well ahead of the expected time that the expert actually gives evidence. It is also not unusual for *ad-hoc* professional meetings or meetings between counsel to be arranged immediately prior to the delivery of evidence, or for new documentation to be submitted for consideration. Arriving early may assist with this. The fundamental issue is your role in assisting the Court. Psychologists should where possible be accommodating and helpful to the Court.
- 7.4 Psychologists are always expected to provide truthful testimony. Where relevant psychologists should decide in advance if they will take an oath or affirmation.
- 7.5 In Court proceedings the Court Clerk keeps a note of the progress of the trial, logging the time each witness goes into and leaves the witness box. Only the Court Clerk is able to endorse a later explanation by an expert that an extended period of waiting to give evidence was incurred by, say, an unanticipated prolongation of *voir dire* submissions or evidence by a preceding witness taking up much more time in cross-examination and re-examination. It is important that psychologists make a point of liaising with the Court Clerk to ensure that the clerk will be in a position to provide the necessary evidence to justify a claim for a prolonged period of waiting.
- 7.6 Psychologists should make reasonable efforts to plan ahead concerning Court attendance. Where appropriate witness summons may be issued with a broad time frame covering multiple dates. The instructing party should be asked on what day exactly it is anticipated the psychologist will start giving evidence and how long it is likely to take. Often a psychologist will be asked about availability in advance and requested to reserve dates in the diary. Courts can be very accommodating to experts and will often build a witnesses timetable around the expert's availability.
- 7.7 Psychologists are expected to preparing adequately for a Court appearance and the provision of oral evidence.

8. Practical and financial considerations

- 8.1 Where appropriate psychologists are advised to negotiate fees in advance with the instructing party and obtain a formal contract or letter of instruction. It can be useful to provide a schedule of fees and also an outline of the expert's terms and conditions (e.g. what will be provided and when; when payment is expected and so on).
- 8.2 Psychologists should be sure that they understand the terms of the negotiated payment and where appropriate the processes of Legal Aid. Any negotiated fee may also be affected by taxation. Taxation here refers to a system of controlling costs operated in some Courts, whereby agreed fees that are felt to be excessive may be reduced by the Court. The Legal Services Commission of the Ministry of Justice publish schedules of fees and normal time requirements for a range of legally aided work. This is currently available at www.gov.uk/guidance/expert-witnesses-in-legal-aid-cases. Scottish Legal Aid Board are responsible for legally aided work in Scotland, and The Legal Services Agency are responsible for legal aid work in Northern Ireland www.justice-ni.gov.uk/topics/legal-aid
- 8.3 Direct payment by the client (individual or group) should be considered to be part of the contract. However, in civil cases there is an increasing practice for invoices to be shared by the parties involved. This may result in partial payments being received. This can cause the expert difficulty in gaining payment. There are two solutions to this; either the lead solicitor agrees to obtain the funds from all parties, or, experts submit apportioned invoices to each party.
- 8.4 Psychologists should clarify who is resourcing their time. This includes time writing the report but also covers materials, staff costs, giving evidence and waiting time. In cases where an expert is jointly instructed, the administration of costs is completed by the lead solicitor, although fees may be equally split between the parties.
- 8.5 If the cost of the work is likely to increase beyond the original estimate then the psychologist should inform those instructing them as early as possible. Specifically they should advise the instructing party or the lead solicitor in joint cases. This should be done *prior* to conducting the work. Costs can only be agreed at the outset of the case and not at its conclusion. Civil proceedings in particular are managed under very strict case management processes and thus it will not assist the Court if you have been unclear on your fees. In such cases psychologists may not be reimbursed.
- 8.6 Psychologists should make themselves familiar with any financial or cost limits and keep copies of all receipts with a bearing on attendance at Court. They should also be aware that the application of Court Service rules for remuneration of expert witnesses' claims varies greatly from Court to Court. It is particularly important to note that some Courts apply strict upper limits on accommodation costs and reimbursement of travelling time. To avoid being left out of pocket in respect of this expenditure, guidance should be sought from the Court on this matter before booking accommodation.
- 8.7 In those instances where reimbursement of travelling time is refused or reduced, psychologists should insist on remuneration at least commensurate with that given to the Forensic Science Service or when appearing on instructions from the Crown Prosecution Service (CPS).
- 8.8 Legal Aid cannot be granted if applied for retrospectively with regard to psychological services other than for the giving of evidence at Court.

- 8.9 If counsel is adamant about being in attendance well in advance of giving evidence psychologists should ask the solicitor for details of the firm's position concerning the settlement of experts' costs for attendance at Court. It is essential for the psychologist to demonstrate awareness and clarity at this stage otherwise there is a distinct risk of the psychologist, or his or her employer, being faced with a protracted period of absence from the psychologist's usual base and associated costs involved with little prospect of recovering these for the discounted days.
- 8.10 Where a psychologist is unable to commit to an unspecified or extended period of time at Court, some solicitors will consult with counsel and subsequently amend the period which the psychologist is requested to attend. Others will continue with the requested attendance dates but indicate they will cover the entire sum incurred. If the solicitor does not indicate this, the firm should be reminded that the Court Service does not remunerate excessive waiting periods. The firm should be:
- Asked to give an undertaking that the solicitor will settle the total invoice immediately in respect of attendance at Court; and
 - Informed that the psychologist will make a claim in due course to the Court and any sums awarded by the Court will be forwarded to the solicitor.
- 8.11 Psychologists should normally invoice for any work undertaken promptly. This is particularly important in some civil proceedings where the timetable for solicitors to regain costs spent is tightly controlled. If an invoice is submitted after the final records have been submitted by the instructing party then there is a risk of non-payment. In cases where court attendance is to be paid for by the instructing party, or where there is a sequence of other work extending beyond submission of a report, psychologists should liaise with the instructing solicitor or other party, particularly if court attendance is scheduled soon after a report is submitted, or supplementary work is anticipated.
- 8.12 Following appearances in Court the Clerk to the Court may provide a claim form for all fees and expenses incurred on the day.
- 8.13 Psychologists should be aware that payment for work as an expert may be significantly delayed and may involve deferment of fees until settlement of the case. Waiting six months or longer for payment is not unusual. Psychologists can request in advance that payment is settled within a fixed period of receipt of their report and also indicate that standard interest will be added onto the invoice for each day that it is overdue. This should be agreed in writing to the instructing party as part of your terms and conditions when accepting instructions. If payment is not forthcoming after a time considered unreasonable (e.g. after a final hearing in a civil hearing) then speaking to the partner of the solicitor firm and advising them of the steps you will have to take to obtain payment can be helpful.
- 8.14 Guidelines for managing safety considerations should be considered for each setting, depending on specific risks and/or constraints. Some settings may have their own policies or guidelines to which the psychologist should adhere.

9. References and bibliography

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10. Further useful websites

British Psychological Society: www.bps.org.uk

Ministry of Justice: www.justice.gov.uk

The Scottish Courts: www.scotcourts.gov.uk

Crown Prosecution Service for England & Wales: www.cps.gov.uk/legal

Crown Office and Procurator Fiscal: www.copfs.gov.uk

Courts Service of Northern Ireland: www.courtsni.gov.uk/en-GB/pages/default.aspx

European Court of Human Rights: www.echr.coe.int

The Supreme Court: www.supremecourt.uk

BPS CPD approved events: www.bps.org.uk/events

The Academy of Expert Witnesses: www.academyofexperts.org

The Expert Witness Institute: www.ewi.org.uk

The Law Society: www.lawsociety.org.uk

The Legal Services Agency: www.justice-ni.gov.uk/topics/legal-aid

The Law Society of Northern Ireland: www.lawsoc-ni.org

The Law Society of Scotland: www.lawscot.org.uk

The Public Prosecution Service for Northern Ireland: www.ppsni.gov.uk

British and Irish Legal Information Institute (BAILII): www.bailii.org

Health & Care Professions Council: www.hcpc-uk.co.uk

Appendix 1: Procedure rules

Civil procedure rules and their application to the expert role

In April 1999 a new set of rules were set in place to control the process by which civil disputes were managed and run. The Woolf Reforms, as they were known, have far reaching consequences for the work of psychologists as expert witnesses. These Procedure Rules providing practice directions for expert witnesses and have undergone a number of updates and amendments; The Family Procedure (Amended) Rules (FPR) were updated in November 2016; The Criminal Procedure (Amended) Rules (CrimPR) were updated in April 2017; and The Civil Procedure (Amended) Rules (CPR) were laid before parliament in February 2017. The over-riding objective of the new rules is to enable the Court to deal with cases justly by ensuring that parties are on an equal footing, that expenses are saved, and that cases are dealt with proportionately, fairly and expeditiously.

It has been instrumental in the notion of the 'single joint expert' and in avoiding 'trials by ambush'. It focuses on all parties having equal footings in proceedings in terms of being able to instruct the same expert and having access to all submitted evidence.

The Woolf Reforms and the updated Procedure Rules say quite precisely what is to be expected of expert witnesses, particularly in terms of their duty to the Court. It is the purpose of this section to summarise the rules of civil procedure as they apply to expert witnesses with comments and interpretation as appropriate.

The application of many aspects of CPR Part 35 Experts and Assessors, Practice Direction 35 to criminal proceedings has now also been achieved. Criminal Courts have adopted the majority of the rules relevant to experts in civil proceedings. The Criminal Procedure Rules Practice Directions are referred to as Part 19, Expert Evidence. Similarly, the Family Procedure Rules are referred to as Part 25, Practice Directions 25, Experts and Assessors (Practice Directions 25A to 25F).

The rules have been modified on a number of occasions subsequently, but the latest versions may be found on the Ministry of Justice website: www.justice.gov.uk/courts/procedure-rules

The most relevant section for the psychological expert will be CPR Part 35, the section encompassing the role of experts.

The rules seem, and are, complex and sometimes difficult to comprehend. Thankfully, most of the legal legwork will be undertaken by the solicitors instructing the expert. However, psychologists should read the Procedure Rules and Practice Directions relevant to the Court within which they are working (CPR, CrimPR or FPR) carefully, paying particular attention to:

- Expert evidence, general requirements (CPR; Practice Directions 35);
- The expert's declaration (CrimPR, Part 19B);
- Expert's duty to the court (CrimPR; Part 19 Expert Evidence, para 19.2);
- Content of expert's report (CrimPR; Part 19 Expert Evidence, para 19.4) Duties of an expert (FPR; Practice Directions 25B);
- Use of single joint experts (FPR; Practice Directions 25C);
- Discussions between experts in family proceedings (FPR; Practice Directions 25E, Rule 25.16); and
- Written questions to experts (FPR; Practice Directions 25E, Rule 25.10).

Appendix 2: The declaration

This is correct at the time of writing and is given only for illustrative purposes. Psychologists should delete sections as appropriate to the court setting – Criminal (CrimPR); Family (FPR) or Civil (CPR) or amend as appropriate to their own situation.

I (Insert Full Name) DECLARE THAT:

1. I understand that my duty is to help the court to achieve the overriding objective by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing reports and giving oral evidence. I understand that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied with and will continue to comply with that duty.
2. I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.
3. I know of no conflict of interest of any kind, other than any which I have disclosed in my report.
4. I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.
5. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect my answers to points 3 and 4 above.
6. I have shown the sources of all information I have used.
7. I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.
8. I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.
9. I have not, without forming an independent view, included or excluded anything which has been suggested to me by others including my instructing lawyers.
10. I will notify those instructing me immediately and confirm in writing if for any reason my existing report requires any correction or qualification.
11. I understand that:
 - a) my report will form the evidence to be given under oath or affirmation;
 - b) questions may be put to me in writing for the purposes of clarifying my report and that my answers shall be treated as part of my report and covered by my statement of truth;
 - c) the court may at any stage direct a discussion to take place between experts for the purpose of identifying and discussing the expert issues in the proceedings, where possible reaching an agreed opinion on those issues and identifying what action, if any, may be taken to resolve any of the outstanding issues between the parties (CPR; FPR);
 - d) the court may direct that following a discussion between the experts that a statement should be prepared showing those issues which are agreed, and those issues which are not agreed, together with a summary of the reasons for disagreeing (CPR; FPR);
 - e) I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert.
 - f) I am likely to be the subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.

I have read Part 19 of the Criminal Procedure [Part 35 of the Civil Procedure Rules; or Part 25 of the Family Procedure Rules] and I have complied with its requirements.

I confirm that I have acted in accordance with the code of practice or conduct for experts of my discipline, namely: The *HCPC standards of conduct, performance and ethics*; The *HCPC standards of proficiency for practitioner psychologists*; the *BPS Code of Ethics and Conduct* and *BPS guidelines and procedures for psychologist acting as expert witnesses (4th edn, April 2015)*.

[For Experts instructed by the Prosecution only] I confirm that I have read guidance contained in a booklet known as Disclosure: Experts' Evidence and Unused Material which details my role and documents my responsibilities, in relation to disclosure as an expert witness. I have followed the guidance and recognise the continuing nature of my responsibilities of revelation. In accordance with my duties of disclosure, as documented in the guidance booklet, I confirm that:

I have complied with my duties to record, retain and reveal material in accordance with the Criminal Procedure and Investigations Act 1996, as amended;

- a) I have compiled an Index of all material. I will ensure that the Index is updated in the event I am provided with or generate additional material;
- b) In the event my opinion changes on any material issue, I will inform the investigating officer, as soon as reasonably practicable and give reasons.

Statement of compliance

'I understand that my duty as an expert witness is to the Court. I have complied with that duty and will continue to comply with it. I am aware of the requirements of [CPR Part 35; CrimPR Part 19; FPR Part 25, amend as required] and practice directions, this protocol and the practice direction on pre-action conduct. This report includes all matters relevant to the issues on which my expert evidence is given. Included in this report are those matters which might affect the validity of my conclusions. I understand that this report will form the evidence to be given under oath and that I may be cross examined on its contents. I confirm that I have not entered into any arrangement whereby the amount or payment of my fees is dependent upon the outcome of this case. This report is addressed to the Court.'

Statement of truth

'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.'

Appendix 3: The practice direction for experts in family proceedings relating to children

Readers should be aware that this guidance does not cover Northern Ireland. Further guidance is available from the Ministry of Justice website and psychologists undertaking work in relation to family proceedings have a professional duty to make themselves aware of current guidance.

In particular psychologists acting as experts in Family Proceedings are required to be aware of Family Procedure Rule 25 relating to Experts and Assessors, alongside the associated guidance in Practice Directions 25A-25F (as at April 2017). Family Procedure Rules and Practice Directions can be accessed on the Ministry of Justice website www.justice.gov.uk/courts/procedure-rules/family/rules_pd_menu

Family Procedure Rules can be subject to frequent amendments. The Ministry of Justice publishes a record of amendments on its website www.justice.gov.uk/courts/procedure-rules/family.

The BPS and the Family Justice Council (2016) have published a guidance document *Psychologists as expert witnesses in the Family Courts in England and Wales: Standards, competencies and expectations*, designed to serve as a companion to this publication. This guidance focuses specifically on the role of psychologists in Family Proceedings, outlining the relevant regulations and code of conduct with which members are expected to comply. It further defines issues related to competence, and the Court's expectations of psychologists acting as expert witnesses in this particular setting. This document can be accessed on the BPS website www.bps.org.uk/news-and-policy/guidance-use-psychologists-expert-witnesses-family-courts-england-and-wales

The British Psychological Society

St Andrews House, 48 Princess Road East, Leicester LE1 7DR, UK

Tel: 0116 254 9568 Fax: 0116 227 1314 E-mail: mail@bps.org.uk Website: www.bps.org.uk