Section 3: Providing expert written evidence

Overview

3.1 In this section of our guidance, we set out what we expect from you when you produce a written report for us. We explain how we usually instruct and communicate with you.

3.2 We usually ask for a report to help the Case Examiners decide whether to refer a case to a hearing. Sometimes we request a report after a case has been referred to a hearing. This guidance still applies to those cases but timescales may be different.

3.3 The MPTS have published a protocol for the instruction of experts on their website, which gives guidance on what MPTS expect of experts giving evidence to medical practitioners triunal hearings. You should be familiar with this protocol and comply with it where we have asked you to prepare a report.

Our request for an expert report

3.4 When we contact you regarding an expert report, we will usually communicate in two stages:

- initial contact
- letter of instruction.

Initial Contact

3.5 We will contact you, usually by email, to ask if you can prepare a report by our deadline. We will provide you with a summary of the case and the allegation, the names of the parties involved and an idea of how much paperwork there is.

3.6 We work to strict deadlines when obtaining expert reports to ensure fairness to the doctor under investigation. An expert report is often the last piece of the jigsaw before we make a decision on whether to refer a matter to a hearing. Delays can therefore have a significant impact on the whole investigation.
3.7 We will ask you to confirm whether you are able to prepare the report and whether or not there is a conflict of interest (see Section 2 for further information on this).

Instructions, case information and fees

3.8 We will send you a letter of instruction with accompanying case information.

3.9 You will need to contact us within five days to confirm:

- receipt of the information
- provide a cost estimate for your work.

3.10 You should begin work only once we have agreed your cost estimate; otherwise we may not pay the full amount of your invoice.

3.11 You should let us know as soon as possible if you need any additional information to complete the report, or there is missing information. Please explain:

- the specific information you need, eg further records, x rays or scans
- the reason you need it
- whether you need it before you can begin your report.

We will then try to get the information you need as quickly as possible. Please do not try to obtain the information yourself.

3.12 Please also contact us as soon as possible if:

- you cannot answer our questions in the letter of instruction
- you think we need a report from another specialty to inform your opinion.

Your written report

3.13 You will find our example expert report template annexed to this chapter of our guidance, which illustrates how we prefer you to format your report, and present the content. Please read the below guidance with reference to our example expert report template.

Guidelines relevant to your report

3.14 If there is reference to any guidelines in the documents we provide to you about the case, you should consider these and refer to any relevant parts in your report.
3.15 You should also refer to any guidelines in your report which are relevant to the issues in the case and are generally available to practitioners in the field. Please ensure you are only referring to guidelines which were available at the time of the treatment.

3.16 You should also refer in your report to any relevant parts of Good Medical Practice and our additional ethical guidance. Please make sure you are referring to the version of our guidance in force at the time of the treatment.

Format

3.17 You should present your report in accordance with our standard format, as illustrated in our example expert report template. This helps us to clearly understand your opinion and use it to inform our decisions.

3.18 Our standard format is suitable for the majority of reports. If you feel another format would be more appropriate for a specific case please then discuss this with us.

3.19 Our standard format consists of six parts:

- Part 1 – Introduction
- Part 2 – Background
- Part 3 – Opinion
- Part 4 – Conclusion
- Part 5 – Statement of truth
- Part 6 – Documents appended to your report.

Content

3.20 Each sub-heading at paragraphs 3.21 to 3.26 is hyperlinked to the corresponding section of our example expert report template for your ease of reference.

3.21 Please do not include your contact details or any other sensitive personal data in your report. We will need to disclose your final report to the doctor under investigation and their representatives (see Section 6). For information security reasons, we would not disclose your contact details or any other sensitive personal data (see Section 5).
3.22 Part 1 – Introduction

3.22.1 Summary of instructions – You should start your report with a summary of our instructions to you. This summary should include:

- the date you received our letter of instruction
- a copy/summary of the ‘Issues to address’ section from our instruction letter.

3.22.2 List of documents received from the GMC – List all documents provided or referred to in the GMC letter of instruction, stating:

- documents provided
- documents reviewed electronically (e.g., via our Secure File Transfer System)
- documents provided since you received our letter of instruction.

You can copy this list from the letter of instruction, making sure that you also list any additional items.

We will need you to review all items listed. If you are not able to access electronic items, please raise this with us before you finalise your report. If you have not reviewed any particular items, please explain why.

3.22.3 Conflict of interest – you should confirm in your report that you do not have a conflict of interest (see Section 2 for further information), but you must also set out the detail of any association, contact or knowledge you have of any parties.

3.23 Part 2 – Background

3.23.1 Summary of facts – please set out a summary of the facts, making clear whether your summary is based on the background provided in our letter of instruction or from your own reading

3.23.2 Chronology – Please set this out using the following format:

‘[01/01/2012] – Patient A GP records – Consultation – [detail what is noted from this consultation]’

In your chronology, you should distinguish between quotations, your summary of records and your commentary on what is recorded. Please also explain any abbreviations.
You should highlight any disputed facts, inconsistencies or conflict in the accounts, and reference the source of each account.

3.24 Part 3 - Opinion

3.24.1 Overview – In order to put your opinion in context, please give a brief overview of your expertise and any experience/limitations you have in the relevant field of medicine.

3.24.2 Issues to address – You should provide your opinion in line with each separate question set out in our letter of instruction.

If we have asked you to answer each issue for multiple patients/instances of treatment, you should clearly separate your answer for each.

3.24.3 Disputed or differing facts – Where your opinion is based on disputed or differing facts, or omissions in evidence, you should:

- include any alternative opinions and separate each opinion clearly
- provide alternate opinions for each version of events
- remain objective and impartial, making no assumptions as to which version of events is more likely to be correct
- point out if there are entries in the medical records which could help to determine the facts.

Please do not:

- comment on the credibility or performance of the GMC, NHS or other healthcare provider
- make derogatory remarks about the complainant, patient or patient’s family.

3.24.4 Below or seriously below – we do not define this. We expect you to be able to form an expert opinion on whether the care was below the standard of a reasonably competent practitioner of the same grade and specialty, and if so whether it was seriously below.

For every question, we need you to tell us whether, in your opinion, the doctor fell below the standard, and if so whether they fell seriously below. You should make clear the specific acts or omissions which led you to your opinion and explain the reasons for your conclusions.

It may help you to consider for each question:
What would a reasonably competent doctor working at the same grade in the same specialty have done?

If there would have been a range of acceptable treatment options, it may help if you describe them and explain what most doctors would have done.

Did the doctor’s actions fall below the standard of what most doctors would have done?

If so, what did the doctor fail to do? How serious were these errors/omissions?

3.25 Part 4 – Conclusion

3.25.1 Here you should bring together the opinion expressed in Part 3 – Opinion.

3.26 Part 5 – Statement of truth

3.26.1 You must verify your report with a declaration in our standard format.

3.26.2 We provide a copy of this statement with our letter of instruction. You will also find the statement set out in our example expert report template.

3.27 Part 6 – Documents to append to your report

3.27.1 You should attach the following documents to your final report:

- your current CV

- copies of all further material you have relied on in your report eg any articles or guidelines to which you have referred.

3.27.2 If at a later stage we need you to give oral evidence to a tribunal, you will need to bring all notes and materials you used to prepare your report. The tribunal may ask to see these materials when they are considering your evidence. Please therefore keep all papers related to your report until we confirm that the case has closed. Please see Section 9 of this guidance for more information about providing oral evidence to tribunals.
Submitting your report

3.28 Proof-reading

3.28.1 You need to ensure your report is accurate and of high quality before you submit your draft. You should check the report for:

- content, including that you have answered all of our questions, provided explanations, and drawn conclusions consistent with your answers
- spelling and grammar
- typographical errors.

3.29 Draft Report

3.29.1 We work to strict deadlines when obtaining expert reports, to ensure fairness to the doctor under investigation. You will need to return your draft report to us by the agreed deadline – ideally by email and in Microsoft Word format so that we can directly add comments and suggested amendments directly if necessary.

3.29.2 We will review the draft report and may suggest corrections or clarification. If we do, we will need you to address these points and return the final report to us within three working days.

3.29.3 We will store your draft report on our computerised case management system so that colleagues can access it as necessary.

3.30 Final Report

3.30.1 We will ask you to sign and date a copy of your final report and return it to us. We prefer that you email your final report as a PDF document with an electronic signature. You should only send a hard copy by post (letting us know when you do) if you cannot send an electronic PDF version.

3.30.2 We will store your final report on our computerised case management system so that colleagues can access it as necessary.

3.30.3 For details on invoicing and payment please see section 10.

Supplementary written evidence

3.31 We may ask you to provide a supplementary written report. This is usually when something happens which could possibly affect your opinion, including:
- further documents becoming available
- our receiving comments from the doctor/patient
- our request for your clarification or further comment
- you have seen the written reports of other experts in the matter. In these instances we will ask you to identify the areas on which you agree and disagree.

3.32 You will need to be available to accommodate our request as our appointed expert in the case.

3.33 We will follow the same procedure for supplementary reports as outlined above.