Guidance for GMC experts

Section 1: Your responsibilities when acting as an expert for the GMC

Overview

1.1 You will need to provide an expert opinion on whether a doctor has fallen short of what could be expected of a reasonably competent practitioner. If so, you will need to explain in what ways and to what extent.

1.2 Decision makers at the GMC will use your written reports and oral evidence to make decisions about how a case should be dealt with. Depending on what stage a case gets to, the decision makers who will consider your reports will be:

- GMC medical and lay case examiners
- the Investigation Committee of the GMC
- fitness to practise panels of the Medical Practitioners Tribunal Service ('MPTS').

Eligibility

1.3 To receive medical expert instructions from us, you must be undertaking full time or significant part-time clinical practice or have done so within the last 12 months. An honorary contract with occasional or infrequent clinical sessions would not meet our requirement. We don't insist that experts work exclusively for the GMC.

1.4 You should only provide expert opinion to us on matters which occurred while you were in active and relevant clinical practice.

1.5 You should tell us if you:

- retire from substantive clinical practice
- retire from NHS practice
- stop practising in the independent sector.
Credibility and conflict of interest

1.6 You should tell us if there is anything that may affect your credibility or if you think there may be a conflict of interest. You can find more about credibility and conflicts of interests in Section 2.

Communication

1.7 We have tight deadlines for expert reports so that we can conclude each investigation as quickly as possible. Delays in our investigations can be unfair to the parties involved and can delay panel hearings. We need to be able to contact you easily, usually by email, and we need to always have a current email address for you.

1.8 You should:

- ensure that your email account is confidential to you (and anyone working for you, eg your secretary)
- monitor your nominated email account regularly
- respond to any report request from us within two working days, even if you are unable to provide a report
- acknowledge any request for amendments to your report within two working days
- set up an out of office automated reply when you are unable to access your emails
- advise us of any periods of unavailability around the deadline and the period immediately afterwards (where we may need to contact you concerning the report)
- provide your report by the agreed deadline or notify us as soon as possible of any potential delays. We need up-to-date contact details for all approved experts. Please inform us if any of your contact details change, especially if you are involved in ongoing cases.
Availability

1.9 After producing a report for us, we may need you to attend the hearing. If we do, we will tell you. Please see Section 9 for further guidance on attending hearings to give evidence.

1.10 You must remain available for further instructions until the case is closed. You may need to:

- provide a supplementary report
- answer queries from our legal team
- attend a pre-hearing meeting with the our barrister presenting a case
- answer questions from the doctor/their representatives
- answer questions from the Tribunal.

We might need you to be available to do this even after you have already given oral evidence at a hearing.

Staying up-to-date

1.11 You should follow our guidance when providing evidence on a specific case, specifically Section 3.

1.12 You need to be familiar with relevant and current information relating to providing expert evidence, including:

- legislation and case law
- policies and procedures
- codes of practice and guidelines.

1.13 We expect you to stay up-to-date with relevant trends and developments in your field of expertise. It is your responsibility to ensure you have access to all relevant journals, research and current and new techniques.

1.14 You need to meet the CPD requirements for your specialism. For more information on your specific CPD requirement please contact your Royal College or specialty Faculty/Society (if a medical expert) or your own regulator (if a non-medical expert).

1.15 You should be mindful of legislation and guidance in relation to equality and diversity, including:
- Equality Act 2010
- Disability Discrimination Act 2005
- Mental Health Act 2007
- Mental Capacity Act 2005
- any other guidance relevant to the case and your role.

**Medical experts**

1.16 In addition to the above, you should familiarise yourself with our guidance, including:

- Good Medical Practice. Previous versions of Good Medical Practice may also be relevant depending on the dates of the events in a case
- Acting as a witness in legal proceedings, which sets out additional responsibilities for doctors who are providing expert evidence
- our additional ethical guidance.

**Your CV**

1.17 You need to maintain a Curriculum Vitae (CV) specific to your field of expertise. You should annex a copy to each report you produce for us (see Section 3).

1.18 Your CV must be anonymised. It should not include any identifying details of previous cases where you provided an expert opinion, unless they are already in the public domain or you have the appropriate consent. For example, details of co-authors of a published article are fine because those details are in the public domain, whereas names of parties in previous cases where you have acted as an expert would not normally be in the public domain. If you are in any doubt about this, do not include these details in your CV.

1.19 Please notify us of any changes to your CV. This includes any change to your:

- job title or specialism (eg you cease performing a type of surgery)
- contact details
- employment status (eg salaried to part time)
- professional practice (eg NHS to private).
1.20 Your CV must be explicit about the nature of your current practice and your specialty.

**Duties of an expert**

1.21 You are an independent expert witness and your duty to assist the decision maker in a case overrides any obligations you have to the person instructing or paying you. The courts have given guidance on the role of an expert witness, which you should always comply with:

- Expert evidence should be, and should be seen to be the independent product of the expert uninfluenced by the exigencies of the investigation
- You should provide independent assistance by way of objective, unbiased opinion in relation to matters within your expertise
- You should make it clear if a particular question or issue falls outside your expertise
- You should state any facts or assumptions upon which your opinion is based
- Your opinion should be confined to relevant issues and take into account all relevant facts. You should not omit facts just because they detract from your opinion
- If there are different factual accounts, you should not make any assumption about which is correct. If your opinion would differ depending on which factual account is accepted, then you must give alternative opinions for each different factual account suggested
- If your opinion is incomplete because you consider that insufficient information is available, then you must say so. You must clearly say if your opinion is provisional or qualified and must say what the qualifications are and the reasons why
- If you change your view on an issue after considering further evidence or for any other reason, you must let us know without delay
- If your opinion refers to calculations, analyses or other documents, these must be provided with the report
Disclosure

1.22 You should make sure you are familiar with your responsibilities and our obligations under our disclosure rules. You also need to understand how we will disclose copies of any expert reports you provide. Please see Section 6 for further details.

Information security and data protection

1.23 Information security and data protection are essential. We deal with large quantities of confidential information and we must ensure any disclosure of such information is appropriate. You will receive sensitive personal data relating to the health of patients and also confidential information about our investigation into a practitioner.

1.24 You must treat this information as confidential. Confidential information includes any information provided to you which we might reasonably view as confidential.

1.25 We are subject to the Freedom of Information Act 2000 (FOIA). We may be subject to a FOIA request in respect to any of the services you provide to us.

1.26 When you accept instructions from us, you must meet the obligations set out in Section 5 and Section 6. You should be familiar with additional guidance on data protection legislation and the Freedom of Information Act 2000, such as guidance from the Information Commissioner.

1.27 By accepting Expert report instructions from us, you accept the terms set out in the Joint Data Controller schedule.