



General  
Osteopathic  
Council

## **General Osteopathic Council**

### **Investigating Committee, Professional Conduct Committee and Health Committee**

#### **Practice Note 2014/03**

#### **Requirements on expert witnesses in fitness to practise proceedings Effective from: 1 May 2014**

1. This Practice Note applies to the following statutory committees of the General Osteopathic Council: the Investigating Committee; the Professional Conduct Committee; and the Health Committee ('the fitness to practise committees').
2. The requirements of this Practice Note apply to experts when providing written and oral expert evidence.

#### *Primary duty of experts in fitness to practise proceedings*

3. The primary duty of any person giving written or oral evidence in the role of an expert in proceedings before a fitness to practise committee is to assist that Committee. This duty takes priority over any duty to the party by whom the expert has been engaged or by whom the expert is to be paid.
4. Experts must only provide an opinion about issues that are within their professional competence and about which they have relevant knowledge and expertise. Where a particular issue falls outside an expert's area of expertise, this must be made clear.
5. Experts are required to give an objective, unbiased opinion on the issues that they have been asked to address. Experts should alert the party instructing them and the Committee to any potential conflict of interest, as soon as possible.
6. Experts are required to state the facts or assumptions on which their opinion is based. Experts should ensure that they do not omit material facts which could detract from their concluded opinion.
7. Where there is a range of opinion on a particular issue, experts are required to summarise the range of opinion and explain the reasons for their opinion on that issue.

8. Where an expert is advancing a hypothesis to explain a given set of facts, he or she owes a very heavy duty to explain to the Committee that what is being advanced is a hypothesis, and to inform the Committee if this hypothesis is controversial.
9. If an expert changes his or her opinion as a result of having heard or read the evidence of other witnesses or the views of other experts in the case, the expert should tell the Committee and the parties of this, without delay.
10. If the opinion of an expert is qualified in any way, the expert must make this clear.
11. Where both parties have instructed experts in proceedings, the experts should endeavour to meet well in advance of any hearing in order to discuss their reports and opinions and to agree a joint statement setting out the areas that are agreed upon and those that remain in dispute.
12. Where the experts are unable to agree on a particular issue, there should be sufficient explanation of the areas of disagreement to assist the Committee's understanding of the reasons for such disagreement.
13. If an expert is asked to comment on the views of other experts, he or she should:
  - a. summarise the areas of agreement and disagreement; and
  - b. indicate the evidence which supports or undermines the views expressed.
14. Experts should comply with any directions, including case management directions, issued by the fitness to practise committee.
15. Experts should comply with any relevant requirements and standards set by their professional bodies, provided that such requirements and standards do not conflict with the primary duty of the expert to the Committee.

*Format of the expert report*

16. All expert reports presented in evidence to a fitness to practise committee must:
  - a. be addressed by the expert to the Committee, not to the party instructing the expert;
  - b. set out the instructions received by the expert (both written and oral);
  - c. set out the questions on which an opinion is sought;
  - d. set out the material provided and considered, and the material which is relevant to the opinions expressed or upon which those opinions are based;

- e. where tests or examinations have been conducted by another person, such as Assessments of Competence or medical tests, provide information about who conducted such tests and their qualifications, the methodology used and whether or not the tests or examinations were conducted under the supervision of the expert;
  - f. set out the expert's academic and professional qualifications and relevant experience;
  - g. confirm whether or not any adverse findings have been made against the expert by a Court or regulatory body;
  - h. set out any information which may adversely affect the professional competence and credibility of the expert, including any convictions or cautions received by the expert, or whether there are any pending proceedings against the expert;
  - i. contain a signed declaration in relation to the duties of an expert witness, in the form set out at Annex A; and
  - j. contain a signed statement of truth in the form set out at Annex A.
17. Expert reports must contain numbered paragraphs and page numbers.
18. Expert reports should be written in clear and simple language, addressed to a lay audience.
19. Expert reports must identify any relevant professional literature and material relied upon by the expert in reaching an opinion. All relevant material must be listed in the report and hard copies must be appended to the report wherever possible.

### **Further information**

20. This Practice Note is part of a suite of Practice notes produced by the GOsC Council.
21. For further information about the PCC's procedures and guidance, please see the GOsC's website - [www.osteopathy.org.uk](http://www.osteopathy.org.uk) – or contact the Regulation Department on 020 7357 6655 x224.

## **Annex A to Practice Note: 3/2014**

### **Declaration in relation to duties of an expert and statement of truth Duty of the Expert Witness**

I declare that:

1. I understand that my primary duty in furnishing written reports and giving evidence is to assist the fitness to practise committees of the General Osteopathic Council and that this takes priority over any duties which I may owe to the party by whom I have been engaged or by whom I have been paid or am liable to be paid. I confirm that I have complied and will continue to comply with this duty;
2. I have endeavoured in my reports and in opinions to be accurate and to have covered all relevant issues concerning the matters stated which I have been asked to address, and the opinions expressed represent my true and complete professional opinion;
3. I have endeavoured to include in my report those matters of which I have knowledge and of which I have been made aware which might adversely affect the validity of my opinion;
4. I have indicated the sources of all information that I have used;
5. I have wherever possible formed an independent view on matters referred to in my report;
6. where I have relied upon information from others, I have disclosed this in my report;
7. where there is a range of opinion on a particular matter, I have summarised the range and provided reasons for my own opinion;
8. where I am not able to give my opinion without qualification, I have stated the qualification;
9. I will notify those instructing me immediately and confirm in writing if, for any reason, my existing report or opinion requires any correction or qualification;
10. I understand that my report, subject to any corrections before swearing as to its correctness, will form the evidence which I will give under oath or affirmation, and that I may be cross-examined on my report by a cross-examiner assisted by an expert;

11. I confirm that I have not entered into any arrangement whereby the amount or payment of my fees, charges or expenses is in any way dependent upon the outcome of this case.

Signed:.....

**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.

Signed:.....