

Overview

This unit focuses on the expectations and demands of an expert witness and the associated requirements relating to the delivery of expert evidence by such a witness.

The most recent definition of an expert witness states:

A person whose evidence is intended to be delivered 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 assistance.

In order to maintain such status, expert witnesses must retain an up-to-date and relevant appreciation of their field of knowledge and update their curriculum vitae in support of demonstrating to the court that they are competent and credible to deliver on a case-by-case basis.

Expert witnesses must prepare evidence based upon a platform of impartiality, employing their knowledge, research and enquiries to the evidence of a case without response to influences from others more motivated towards a desired outcome. On this basis all evidence from an expert should be transparently prepared and presented, accountable, corroborated by other data or material wherever possible and presented to the courts with the same levels of independence, impartiality and fairness, with consideration of all the influencing evidence, facts and circumstances. If challenged, an expert witness must be able to provide supporting information to clarify their independent involvement with the case to support their appearance of impartiality.

There are three elements

- 1 Prepare to act as an expert witness
- 2 Prepare to present evidence relating to a specific case
- 3 Present expert evidence to a court or hearing

Target Group

This unit is aimed at anyone who is required to provide expert witness testimony to a court or hearing.

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Provide expert evidence to courts and hearings

Performance criteria

Prepare to act as an expert witness

- You must be able to:*
- P1 keep up-to-date with relevant trends and developments in your field of expertise
 - P2 maintain a curriculum vitae specific to your field of expertise that supports your credibility to deliver expert evidence
 - P3 comply with the rules of evidence and court procedures
 - P4 comply with case law and published guidelines for expert witnesses
 - P5 comply with disclosure rules, in particular those specific to expert witnesses
 - P6 comply with current legislation covering race, diversity and human rights

Prepare to present expert evidence relating to a specific case

- You must be able to:*
- P7 compile all evidence in accordance with case law and published guidelines for expert witnesses
 - P8 compile all evidence impartially, reflecting your opinion of what you think is most likely, based on all the evidence
 - P9 take reasonable measures to ensure that you have viewed all **material** that may reasonably influence the outcome of your own findings and rationales
 - P10 take reasonable measures to access additional **material** that may support assertions, rationales or findings within your own evidence
 - P11 maintain, in order to provide an audit trail for inspection, a complete and accurate record of
 - P11.1 requests for **material** made by you
 - P11.2 **material** provided to you
 - P11.3 **material** requested from you, and
 - P11.4 **material** provided by you
 - P12 appropriately document and label any exhibits created by you or under your supervision
 - P13 compile clear, accurate and understandable statement(s) detailing
 - P13.1 your qualifications, experience and expertise relevant to the case
 - P13.2 the **material** which you have used in forming your opinion(s)
 - P13.3 **material** which you have considered but not used in forming your opinion(s)
 - P13.4 your opinion(s) and your rationale for arriving at these opinion(s)
 - P13.5 where you have provided qualified opinions, details of the qualifications
 - P13.6 a summary of all your conclusions
 - P14 prepare any other statements, declarations or information required by the court
 - P15 maintain liaison with those who have engaged you as an expert witness

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in order to ensure you are kept up-to-date, given the opportunity to respond to any developments and available to attend court when required

- P16 respond promptly with regard to witness warnings
- P17 prepare in advance of the hearing to ensure you are acquainted with all elements of your evidence
- P18 retain all notes and **material** for inspection upon attendance at court if required

Present expert evidence to a court or hearing

You must be able to:

- P19 arrive at the venue in time to permit prior consultation with the case team and those responsible for introducing your evidence, such as Counsel
- P20 ensure that your personal appearance reflects your professional responsibilities and your role as an expert witness
- P21 have in your possession all **material** you have used to compile your evidence, in a format suitable for inspection or presentation within the court
- P22 deliver your evidence with clarity and in strict accordance to parameters associated with expert evidence, ensuring that your answers are consistent with your professional responsibilities
- P23 ensure your evidence is consistent with that in your statement and, if drawn away from your written evidence, take care to avoid potential contradictions
- P24 if you are presented with further evidence which contradicts your opinions and/or rationales, acknowledge the contradiction
- P25 if you are unable to answer certain questions through a lack of knowledge or awareness, clearly explain the reasons for this
- P26 be prepared, if supported by the weight of evidence, to concede points that may be detrimental to the party which has engaged you as an expert witness
- P27 deliver your evidence in ways which will help others reach their own conclusions, taking care not to be overly-assertive in your views
- P28 remain available at the venue until such time as formally released

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Knowledge and understanding

You need to know and understand:

Legal and organisational requirements

- K1 rules of evidence, expert evidence and associated case law
- K2 procedures and protocols in courts and at hearings
- K3 specific legislation and legal influences relevant to the case in question
- K4 disclosure rules and published guidance to experts on evidence and unused material
- K5 specific guidelines employed by the organisation for whom your expert evidence is being delivered with regard to the management of expert witnesses
- K6 current legislation, policies, procedures, codes of practice and guidelines in relation to race, diversity and human rights

Prepare to act as an expert witness

You need to know and understand:

- K7 the importance of keeping up-to-date with relevant trends and developments in your field of expertise, and how to do so
- K8 the importance of maintaining a curriculum vitae specific to your field of expertise that supports your credibility to deliver expert evidence, and how to do so
- K9 the importance of keeping up-to-date with current legislation, rules and guidance relating to acting as an expert witness and how to do so

Prepare for court and other hearings

You need to know and understand:

- K10 how to compile an expert statement of opinion
- K11 how to label and record exhibits
- K12 how to assess the evidence of a case and apply your knowledge in order to interpret non-explicit matters
- K13 how to retain, record and reveal unused material
- K14 how to prepare clear, accurate and understandable statements as required by the court or hearing
- K15 the importance of ensuring you are well acquainted with your evidence in preparation for the court or hearing, and how to do so
- K16 the benefits of maintaining frequent liaison with those who have engaged you as a expert witness

Presenting evidence at court or other hearings

You need to know and understand:

- K17 how to give evidence effectively in a court or hearing
- K18 how and when you may refer to original notes or exhibits
- K19 the circumstances within which opinion evidence may be delivered
- K20 the influences regarding how opinion evidence may be delivered

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- K21 protocols regarding liaison with court or hearing officials
- K22 court room procedures and protocols

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Additional Information

Prepare to present expert evidence relating to a specific case

Scope/range

1. **material**
 - 1.1 information
 - 1.2 intelligence
 - 1.3 evidence
 - 1.4 unused material
 - 1.5 non-relevant material

Present expert evidence to a court or hearing

2. **material**
 - 2.1 information
 - 2.2 intelligence
 - 2.3 evidence

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