

Accreditation of Medical Expert Witnesses - Mark Solon, Bond Solon



01/05/14. Demands imposed on expert witnesses have never been greater. Despite there being no single qualification for experts, who come from a wide variety of backgrounds, the solicitors, insurers and agencies who instruct them need to identify those who understand their duty to the court, and possess the necessary skills and knowledge to fulfil the role. To compensate for the lack of universal accreditation, many instructing parties insist on evidence of formal training.

Experts have had to adapt to changes to the Civil Procedure Rules under the Jackson reforms, introduced in April 2013. For example, experts must now submit a costs estimate at the outset, and the court has the right to reduce fees if they are deemed to be disproportionate. Experts must also adhere to strict timetables, or again risk a financial penalty.

Meanwhile, the effects of Jackson increasingly require the versatility to act as a single joint expert for both sides and, on rare occasions, to take part in the time-and-cost-saving measure of hot-tubbing, where a judge orders experts to give evidence concurrently, with both sides tackling questions from the judge.

When Bond Solon sought comments on the first anniversary of the Jackson reforms, one personal injury and clinical negligence expert said: 'The greatest change is that demands on expert witnesses are increasing as the remuneration decreases and that it is even more vital for experts to be properly trained as experts and experienced in their own field.' This last remark hints at the danger of appointing an expert who has not been made to consider the risks of straying beyond his or her true area of expertise.

Another reason for avoiding an error-prone expert is the Supreme Court judgment in *Jones v Kaney* (2011), which removed experts' immunity from being sued for professional negligence and breach of contract.

Accreditation came under the spotlight last year with the Ministry of Justice's response to two consultations, *Reducing the number and costs of whiplash claims* and the Transport Select Committee's report *Cost of motor insurance – whiplash*. The response stated that 'the Government wishes to press ahead with our consultation proposal to introduce independent medical panels, backed up by an accreditation scheme, to establish a new more robust system of medical reporting and scrutiny... Accreditation should be open to all suitable practitioners (we have no plans to limit accreditation to doctors).'

The surest way to a form of accreditation which is acceptable to people appointing experts is training from an independent body providing the legal perspective rather than serving specific professional interests. One example is the Expert Witness Medico-Legal Certificate offered by Cardiff University Law School in partnership with Bond Solon. Holders of this are added to the Bond Solon National Register of Medical Experts.

Training includes an in-depth look at, and understanding of, the law and procedures that affect expert witnesses in civil claims. Experts are also taught how to produce court-compliant, bullet-proof standard reports adhering to the Civil Procedure Rules, which many admit helps them to be more efficient in the day-job as well.

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