

## 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.

## Performance criteria

*You must be able to:*

### **Prepare to act as an expert witness**

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**

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)

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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 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**

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

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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

## 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**

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**

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**

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

K21 protocols regarding liaison with court or hearing officials

K22 court room procedures and protocols

## Scope/range

### **Prepare to present expert evidence relating to a specific case**

#### **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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**Originating Organisation** Skills for Justice

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**Suite** Environmental Conservation, Policing and Law Enforcement, Remote Monitoring Operations, Veterinary paraprofessional activities

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