

EDITORIAL

The importance of being expert

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^a Rix K, Eastman N, Adshead G, Hallett N, Briscoe J (2023) *Responsibilities of Psychiatrists Who Provide Expert Evidence to Courts and Tribunals*. College Report CR193. Royal College of Psychiatrists.

^b Rix K, Mynors-Wallis L, Craven C (eds) (2021) *Rix's Expert Psychiatric Evidence*, 2nd edn. Cambridge University Press.

^c Percival T (1803) *Medical Ethics or a Code of Institutes and Precepts Adapted to the Professional Conduct of Physicians and Surgeons*. S. Russell.

In order for justice to be served, litigants require a fair hearing. To have a fair hearing, you not only require your case to be put competently to the court; you need to be able to participate constructively in the hearing and, in a criminal case, you need to have any mitigation put before the decision-maker(s).

I recall the late Nigel Eastman describing how he wrote on the back of an envelope the requirements for acting as an expert psychiatric witness – outlining them for the judge. It is a testament to his intellect that his elaboration of these requirements remains so useful today. He would definitely have been a contributor to this issue, as he was to The Grange Annual Conference, if he were still alive – and no doubt he would have been robust in his defence, but also in his criticism of those sections which were not good enough.

Nigel understood that psychiatrists are crucial to the delivery of justice, but the reality is that we do not have enough experts of good enough quality doing expert evidence work. This is a travesty, particularly for the family courts where the delays incurred awaiting expert opinion from psychiatrists translate into lengthy periods for children and young people whose attachments and connections may be irreparably damaged by the delay. Time is relative. Remember how long the 6-week summer holidays used to feel? When you are 3 years old, a year away from loving caregivers is a third of your life, without loving attention.

So, it is incumbent upon us as a profession to become involved with this work, to become proficient in providing expert evidence and to be available to do so. We now have all the tools to support us in this. The College guidance, CR193,^a written by Keith Rix, Nigel Eastman, Gwen Adshead, James Briscoe and Nicholas Hallett, is an excellent overview of the role and responsibilities of psychiatric experts. I urge you to read it – not least because you may be cross-examined on your familiarity with it. We have Keith Rix's incredibly practical book, now in its second edition^b and plans for a third edition being made. We have the Multi-Source Assessment of Expert Practice (MAEP) (<https://www.rcpsych.ac.uk/improving-care/ccqi/multi-source-feedback/maep>), the brainchild of Keith Rix, and maintained by the College, an online system designed to help expert witnesses collect feedback for their continuing professional development, appraisal and revalidation. And

recently the College appointed a Lead for Medicolegal work, who is being assisted by expert witness stalwarts to support psychiatrists to become competent expert witnesses. They are also working with Keith Rix to provide experts with the monthly 'Expert Witness Matters' newsletter.

The College's report, CR193 begins and ends with the following paragraph: "The administration of justice depends on the willingness of psychiatrists to play their part by offering expert assistance as and when required". Yet it remains the case today, as it did in years past, that psychiatrists are apprehensive about doing medicolegal work. The authors cite Percival (1803)^c – "It is a complaint made by coroners, magistrates and judges, that medical gentlemen are often reluctant in the performance of the offices, required from them as citizens qualified by professional knowledge, to aid the execution of public justice". I couldn't think of a better way of putting this myself. The practitioners may look different, but the reluctance remains.

The fact is that most matters of a psychiatric nature are beyond the knowledge or experience of the court decisionmakers. We have seen time and time again how things can go wrong when there is an absence of expert evidence or when the expert evidence is poor – justice is not done and cannot be seen to be done. This not only impacts our confidence in the justice system but also the public's confidence in the psychiatric profession.

It is imperative that as psychiatrists we develop expertise in providing expert evidence or what in Scotland is known as skilled evidence. This is part and parcel of our everyday work. Most psychiatrists will have completed reports for and provided oral evidence to the First Tier Tribunal (Health, Education and Social Care Chamber). This is a form of medicolegal evidence to these inquisitorial courts. In addition, the craft and discipline involved in providing expert evidence enhances communication and clinical skills. There is nothing like being questioned by barristers trained in sharp and precision questioning to galvanise one's focus when it comes to reading round a topic to ensure you can answer whatever tricky questions may come your way. Not having sufficient knowledge and understanding to defend your opinion is fine when sitting around the dinner table with friends, not so when on the witness stand in front of a jury, lawyers, defendants, claimants, judge and possibly, journalists. Showing your working and how you

justify and came to your conclusion is beyond simply writing down what you think. It is taking others through the logical process by which you came to your conclusion, in the hope that your evidence is so compelling that they can only agree with you.

Poor evidence not only interferes with justice being done, but it is a waste of time and money.

It is part of our duty to support our patients, the courts and our profession with the provision of expert evidence and to do so, we must learn how best we can do this. I find myself learning all the time – from other experts, from the reading and research prior to completing reports and giving

oral evidence, from the examination in chief and even from excoriating cross examination. It is intellectually stimulating and challenging and above all supports me in providing better clinical care to my patients. It's a consummate skill that as psychiatrists, we should all aim towards having. The series of articles that follows, written mainly by contributors to the Grange Conference, will support you in that endeavour.

Declaration of interest

None.