Good Practice in Action 083
Legal Resource

Writing reports for the courts and giving evidence in the context of the counselling professions in England and Wales

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Context

This resource is one of a suite prepared by BACP to enable members to engage with the current BACP *Ethical Framework for the Counselling Professions* in respect of writing reports and giving evidence in court.

Using the Legal Resources

The membership agreement with BACP establishes a contractual commitment by members to abide by the *Ethical Framework for the Counselling Professions*, which includes a responsibility for members to keep the skills and knowledge relevant to their work up to date. Please note that the *Ethical Framework* (BACP 2018) is currently under review, and will be replaced in autumn 2026. Members should watch for the publication of the new *Ethical Framework*, and note its implementation date when announced by BACP, after which members will be required to abide by the new Ethical Framework (BACP 2026).

The Legal Resources cannot constitute legal advice or guidance in specific cases, nor are they sufficient on their own to resolve legal issues arising in practice. The Legal Resources do not give a full statement of the law. They are solely intended to support good practice by offering general information on legal principles and policy applicable at the time of writing. The Legal Resources are intended for information purposes only and are not a substitute for professional advice. BACP and the author accept no responsibility nor any liability arising as a result of any person acting or refraining from acting on the basis of the Legal Resources.

Practice issues and dilemmas are often complex, and may vary depending on clients, particular models of working, the context of the work and the therapeutic interventions provided. We therefore strongly recommend consulting your supervisor, and also, wherever necessary, a suitably qualified practitioner or lawyer. Some professional insurers will provide legal advice as part of their service.

BACP and the author make no representation or warranty as to the completeness or accuracy of the information contained in the Legal Resources. References in this resource were up to date at the time of writing but there may be changes in particular to the law, government departments, government policies and guidance, websites and web addresses.

Organisations and agencies may also change their practice or policies, so please be alert for any changes that may affect your therapy practice.

In this resource, the words 'counselling,' 'therapist' and 'therapy' are used to refer specifically to counselling and psychotherapy.

The terms 'practitioner', 'counselling professional', and 'counselling related services' are used generically in a wider sense, to include the practice of the counselling professions, including counselling, psychotherapy, coaching, professional mentoring and pastoral care.

Introduction

There are several different types of court cases, including criminal proceedings (criminal charges brought by the Crown); public law proceedings e.g. child protection cases; private law family proceedings (i.e. private law cases relevant to children and family issues, e.g. divorce, family financial matters, child arrangements (e.g. residence and contact) and civil proceedings, for example civil claims made against others for breach of contract, or claims made in the law of tort for personal injury – e.g. harm caused by negligence; claims for damage to property; or damage to reputation for example in slander and libel actions.

Some witnesses may be specifically appointed by the court in advance of a hearing to provide written evidence and to attend and give their opinion as expert witnesses. Others may be called to give evidence as a professional witness (see 1 and 2). There are several guidance documents mentioned in this resource which are publicly accessible, and essential reading for any expert witness. Although not all counselling practitioners will be regarded as 'expert witnesses', the principles in these guidance documents can also be useful for general information.

The procedural rules may vary slightly from court to court (with procedural differences in the criminal, civil and family courts), but the general principles leading to the provision of clear, cogent and effective evidence are, essentially, very straightforward – creating a basic framework of good sense and fairness underpinning the use of expert and/or professional evidence in all aspects of the judicial process. Professional and expert witnesses are expected to be impartial, giving their evidence without any bias in favour of any party in the matter before the court.

The Department of Justice has published general guidance on the procedural rules, including what is regarded as expert evidence in different cases, instructing experts, and what is required by the courts, see www.justice.gov.uk/courts/procedure-rules.

For those working with children, of interest may be the Royal College of Paediatrics and Child Health's publication Expert Witness Guide at: www.rcpch.ac.uk/resources/expert-witness-guidance. Although written for paediatricians and medical witnesses, it provides useful insights and information relevant to the family courts.

In May 2019, Acting as an expert or professional witness – Guidance for healthcare professionals was published by the Academy of Medical Royal Colleges for those professionals legally recognised as healthcare professionals, who act as expert witnesses. It has been endorsed by the majority of healthcare professional organisations in the UK. It is available at: www.aomrc.org.uk/reports-guidance/acting-as-an-expert-or-professional-witness-guidance-for-healthcare-professionals. Even if as a practitioner, you are not legally categorised as a healthcare professional, the parts of the guidance which may be relevant to your work are generally useful.

The Crown Prosecution Service (CPS) on 9 October 2019 published Expert Evidence which is a resource for expert witnesses in criminal cases, at: www.cps.gov.uk/legal-guidance/expert-evidence. It is also a very useful general resource for professional witnesses in criminal cases.

In Scotland, updated 20 September 2022, the Crown Office and Procurator Fiscal Service have published the Expert Witness Guide. The role of the expert witness and disclosure, available at: www.copfs.gov.uk/for-professionals/expert-witness-guide.

1 Am I regarded by the court as an 'expert' witness, requiring my 'expert opinion' or as an ordinary professional witness, giving statements of fact?

Expert evidence is **admissible to furnish the court with information which is likely to be outside the experience and the knowledge of a judge or jury** (Criminal Practice Direction V Evidence 19A Expert Evidence).

The court ultimately decides who it will regard as an expert witness. Professional witnesses cannot unilaterally declare themselves 'experts' even though they may personally and professionally regard themselves as highly experienced in their field. There are a number of registers of 'Expert Witnesses' in the UK and abroad, and practitioners may wish to have their name included, but this does not necessarily ensure that a court will take the same view of their expertise and appoint them as an expert witness. The way that the court decides on expertise is based not only on qualifications and experience, but also on that particular professional witness's specific experience of the issues before the court, so in some cases, even a person who may be recently qualified, but who has in-depth knowledge and experience of a specific matter, might be treated by the court as an expert on those specific issues relevant to a particular case. Usually, however, we, as counselling professionals, would not generally expect to be treated as experts by a court unless we have a particular specialist qualification and/or expertise in a topic.

The general rule is that witnesses should only testify in relation to matters within their knowledge. Evidence of opinion or belief is inadmissible. However exceptions have been made by statute and at common law in relation to expert evidence.

Expert witnesses have certain privileges in court. They are allowed to express an opinion to the court, and Section 30 of the Criminal Justice Act 1988 states that an expert's report is admissible as evidence of fact and opinion, whether or not the expert attends court to give oral evidence. If it is not proposed to call the expert witness, the leave of the court must be obtained prior to introducing their report.

An expert witness is allowed to sit in court and hear the other evidence. An ordinary professional witness (i.e. not an expert witness) must wait outside court until called, and cannot hear the evidence given by others, (a perceived protection against contamination of their evidence).

As witnesses, practitioners should not give an opinion unless specifically invited by the court to do so, and even then, we must be very careful to stay within our range of expertise The court will not be impressed, and will be critical if we give an opinion which we are not sufficiently qualified or experienced to provide, this might also lead to professional complaints or disciplinary proceedings as it is contrary to the principles of working within our competence expressed in the current *Ethical Framework for the Counselling Professions*.

2 What responsibility do I have to those who commission my report and pay me?

In any form of court proceedings, the duty of a witness is to provide independent evidence for the court, and not to be partisan in any case. An extract from the civil guidance relating to experts makes this clear, and the same legal and ethical principles would apply to us as professional witnesses in all court cases:

> *'It is the duty of experts to help the court on matters within their expertise. This duty overrides any obligation to the person from whom experts have received instructions or by whom they are paid.'*

2.1 How much should I be paid for report writing and giving evidence?

Remuneration is a thorny issue for many practitioners. How do we value our time and expertise?

Privately paid cases are subject to a contract between the witness and the person instructing them. This will usually be a solicitor, or a party to a case acting 'in person' (i.e. without representation by a lawyer). Fees are usually negotiated and agreed privately, and will vary from case to case. Expect to be paid for your time in court, and also the time taken in writing your report. Often there are long waiting times in court, for which you might also wish to be paid.

In legally aided cases, those instructing the witness are advised to get 'prior authority' from the court and/or the Legal Services Commission for paying the witness an agreed fee, or there is a risk that the fee may be reduced on taxation of the bill at a later stage. Government Guidance: *Expert witnesses in legal aid cases* at www.gov.uk/guidance/expert-witnesses-in-legal-aid-cases was last updated in 2020, and the information in it about fees was updated in 2025.

3 I have been asked if I can provide a report for court, how might I respond?

3.1 Solicitors or the police request information

Please refer to GPiA 014 (*Managing confidentiality within the counselling professions*) and GPiA 069 (*Sharing records with clients, legal and other professionals and the courts*) for more detailed discussion of these points.

Briefly, if a request arrives from a lawyer or the police asking for disclosure of information from client records (in standard lawyers' letters the wording may ask for 'all notes and records' relevant to the work with the named client) then, if they have attached a signed client consent form, the client's consent legally authorises the practitioner to disclose the information requested. However, clients may not be fully aware of the relevant court procedure, and sometimes not all the notes are relevant to the case. Certain parts of the client case records may cause the client emotional pain or anxiety if disclosed openly in court, and could be redacted, or the court can make directions before the case is heard, allowing only the parts of the records directly relevant to the issues in the case to be used in evidence. See (Bond and Sandhu 2005), and (Mitchels and Bond 2021) for more information on this.

Sometimes to avoid sensitive evidential material being lost or misused by a party to the case, the court has the power to make a direction limiting either the extent of the record to be admitted in evidence, and/or limiting accessibility to the records. It may for example direct that copies of the client record are provided only to the parties' lawyers, either for the lawyers' attention only; or for clients to read in their own lawyer's office, but that the records are not to be copied or taken away by the client.

As an alternative to the provision of a full client record, the court can accept a practitioner's offer of writing a report for the court. Often a report is welcomed by the court, practitioner, and client. A well-structured, cogent report is often much easier to use in evidence, and provides the practitioner with the opportunity to discuss the content of the report with the client and to prepare the client for the disclosure of the information to the court.

In either case, it is possible that the practitioner will be asked to attend court to give evidence about the notes or their court report and so may have to answer questions about the evidence they give.

In compliance with the data protection law, practitioners may wish to be assured that their client has understood the exact parameters of the consent he or she has given for disclosure of their records, or writing a court report. The UK-General Data Protection Regulation (UK-GDPR) requires that consent is 'freely given, specific, informed and unambiguous'.

Before responding to a request for notes, therefore, if there is sufficient time and opportunity to do so, it may be very helpful to take the time to discuss with the client which parts of the records are relevant to the case, and whether a court report has been requested.

Furthermore, explain to the client what might actually happen to the disclosed information, ensuring that the client knows who is likely to see their disclosed records or report. The informed practitioner might perhaps also discuss how the client (or they) might seek an appropriate direction from the court if the client is concerned about the effect of disclosure. The police or Crown Prosecution Service (CPS) or the client's lawyer may provide this information if required.

Beware too, of any request for an 'off-the-record' conversation about a client, even if the client has consented to disclosure of their information. Ethically, disclosing information about a client should not be 'off the record' in the interests of trust, openness and transparency. Any disclosure of client information should be lawful, that is, made with client consent, made in accordance with statute, made in compliance with a court order, or justifiable in the public interest, and also then properly documented (see GPiA 014, GPiA 069; Bond and Sandhu 2005; and Mitchels and Bond 2021).

For further information about how to respond to a lawyer's request for therapeutic notes can be found in *Therapists in Court* (Bond and Sandhu, 2005) and in (Mitchels and Bond 2021).

3.1 a) Pre-trial therapy records

Please note that if a therapist is working with a client in pre-trial therapy in a criminal trial, the Crown Prosecution Service (CPS) has issued new guidance for investigators and CPS (CPS 2022).

It is available at www.cps.gov.uk, and for a more detailed discussion of working in this arena, please see GPiA 128 *Working with the Crown Prosecution Service Pre-trial Therapy Guidance (CPS 2022) in therapy with adult and child witnesses in the criminal courts in England and Wales.*

3.2 Client asks for a report for court

Where the client personally or through their solicitor requests a report for a court, because the client has requested it, there is no ethical problem of consent for the practitioner, provided that the client understands that the practitioner is impartial and so must tell the truth in the report. The client should also fully understand the consequences of providing a report to the court, for example, the extent of the information that may be required, who will see the report, and how it may be used.

3.3 Power of the court to request a report

CCounselling practitioners should agree the boundaries of confidentiality with the client in negotiating the therapeutic contract, which would include disclosures required by law. Where the court orders a report, there would be no ethical problem of consent for disclosure, since the practitioner has a legal responsibility to obey the court order. However, in some circumstances a practitioner may seek to persuade the court that there are grounds to ask the court for a direction that either the whole substance or specific parts of the counselling records or report are not relevant to the case, and should be withheld (i.e. not produced in evidence in court). The *CPS guidance on Pre -trial Therapy* (2022), may be relevant where the practitioner is working in this arena, see GPiA 128.

Also watch out for new law, which may become relevant when implemented – the *Police, Crime Sentencing and Courts Act 2022* (as amended by the Victims and Prisoners Act 2024) and the accompanying *Requests for Victim Information: Draft Code of Practice* published 8 April 2025 (www.gov.uk/government/consultations/victim-information-requests-code-of-practice/requests-for-victim-information-draft-code-of-practice).

Failure to obey a court order may be regarded as contempt of court and punishable by a fine, or even in some cases, by imprisonment.

3.4 Negotiating the content of a report for court

The duty of the professional or expert witness is, exclusively, to provide truthful, accurate, impartial evidence to the court. The court is in control of the documentary and oral evidence before it. While the court may give directions about the extent of the information required and the use of a report which is to be submitted in evidence, the client cannot dictate what is written in a report, or require removal of specific information, but a report at least allows the practitioner to present the information about their work with the client in an honest and appropriate way.

4 Writing a report for court

4.1 Headings, structure and style

- Heading (the formal title of the case and court reference number if known)
- Use sub-headings and paragraph numbers for easy reference (page numbers may vary if a report is reproduced, transmitted or printed off)
- Use at least 1.5 or double spacing, a clear font, and adequate paragraph breaks.
- Where possible, ask for a list of issues which the court requires to be addressed in the report, and then keep to the facts on which you are asked to report
- Try to avoid jargon words, or if they must be included, give an explanation
- Academic references are often unnecessary, (especially for non-expert witnesses) and unless essential to the report, they are best avoided as far as possible because they may generate awkward questions on sourcing, sampling, interpretation, application, etc.
- Evidence to a court will be given on the reliance that it is the truth, and subject to the laws of contempt of court if untrue. It is wise, in any report for a court, to make very clear within the report itself which information has been provided by the client, or others (e.g. by stating 'the client reported that... etc), and in the report to include a statement confirming that the content of the report which is within the practitioner's own knowledge is true to the best of the practitioner's knowledge and belief.

Factual content

- Ensure that the report follows a logical progression and link any comments or conclusions to any relevant earlier paragraphs
- A non-expert report should be purely factual. A common problem is a failure to distinguish properly between fact and opinion or between facts, allegations and assumptions
- Do not go beyond the remit of your instructions, and stay within the limits of your qualifications and expertise.

Endings

- A summary can be useful, where appropriate
- Include a brief resumé of your qualifications and relevant experience (this can be at the start or the end of the report)
- List the documents with which you have been supplied by the client or court in order to produce the report (the court may want to know what you have seen/not seen)
- Check spellings
- Statement of truth (If a professional witness, confirm that the content of the report is within the practitioner's own knowledge and is true to the best of the practitioner's knowledge and belief. If an expert witness, see the more formal wording in 'Expert Reports' section)
- Sign and date the report.

Expert Reports:

There are model forms of experts' reports easily available (for a small fee) from various organisations including: the Academy of Experts (www.academyofexperts.org); Expert Witness Institute (www.ewi.org.uk); and the Institute of Expert Witnesses (www.iew.org.uk), which have separate templates complying with the relevant Civil, Family and Criminal Proceedings Rules.

The Ministry of Justice produced a model template for expert reports in civil claims, it is now 10 years old but can still be downloaded at: www.judiciary.gov.uk/wp-content/uploads/2014/08/experts-guidance-cjc-aug-2014-amended-dec-8.pdf).

Statement of truth

Under an update (no 122) to the *Civil Procedure Rules*, An expert witness report must contain a statement of truth, as follows:

> '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. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.'

Reports from a witness of fact:

While we will not necessarily be treated as experts, with the exception of this formal statement of truth, the format for court reports is basically similar for any professional witness. Experts may wish to provide an opinion and to refer to research, but for a witness of fact, opinion should be avoided, and in all instances, great care must be taken in referring to research, if it is the work of others, and therefore not the practitioner's own knowledge and belief, and the content of which, for many potential reasons, might require explanation or defence if questioned.

4.2 Organising the content of a report

Reports for court should be clear, concise, non-partisan and comply with the principles of the current *Ethical Framework for the Counselling Professions*.

The report can be divided into sections if appropriate, with suitable headings.

Heading:

In the ...Court. Name of case/parties, court reference number etc.

Information about the author of the report

The court will want to know some information about the author of the report, so it is helpful to say at the beginning that the report is made by... and then (briefly) set out your relevant qualifications and experience, or alternatively you can include this information about you in a brief appendix.

Expert witnesses in civil claims should include the required statement of truth (see 4.1.).

Context of the report

Set out the context and basis of the therapeutic case work, which may include for example, name of client, relevant referral details, and any relevant background to the therapy.

Therapeutic casework

This may include dates that the client was seen (or the period of working with the client, i.e. from date... to date...), session length, venue, modality used, etc.

Then set out the salient parts of the client work relevant to the case, in numbered paragraphs.

Summary (if appropriate) and any agreements or recommendations for the future treatment of the client.

Appendices (as appropriate for the case)
List the documents with which you have been supplied by the client and/or the other parties or the court and which you have read or considered, in order to produce the report. The court may want to know what you have seen/not seen. Academic references are often unnecessary, (especially for non-expert witnesses) and unless essential to the report, they are best avoided as far as possible because they may generate awkward questions – for example on their relevance to the case, and perhaps how the research was done, i.e. sourcing, research participant cohorts, interpretation, application, etc.

4.3 What should I include/omit?

The key here is to obey the directions of the court as to the specific issues to be addressed in the report. These will often be included in a 'letter of instruction' from one lawyer, or jointly from two or more lawyers, or in a direction (order) of the court, so it will be clear what is to be covered. If there is no letter of instruction or direction, either ask for one, or use professional discretion and try to address in the report the specific issues which are relevant to the case.

It is acceptable to omit from a report those issues which are not relevant to the case, but also be aware that more information may be required. However, if the court or parties then ask for additional information, in situations where there are parts of the counselling records that are not directly relevant to the issues in the case, and if the client would not wish irrelevant personal data from the records to be disclosed, it is possible to seek a direction from the court to omit such material from the report or from the records to be produced in evidence.

4.4 Discussion of the final draft of the report with the client, before filing it with the court

It can be helpful and enhance the therapeutic relationship of trust, to show the court report to the client in advance of filing it with the court, so that the client is aware of all that is written in it and has a chance to discuss this with us.

If a client feels that any issue is incorrectly stated in the report, they have a chance to challenge this beforehand, and they can negotiate and hopefully agree on mutually acceptable wording.

As a counselling practitioner, you have a legal and ethical responsibility to give truthful and accurate evidence to the court and so a report may have to include something which the client would prefer to be omitted. In discussion of the report with the client, you will then have an opportunity to help the client understand the court system, to discuss what will happen to the report once it is filed with the court, and who might be allowed to see it. The client has a better chance to understand and accept the legal responsibility of being impartial and truthful in giving evidence to the court, and you can help the client to prepare therapeutically for any practical or emotional consequences of any necessary but uncomfortable disclosures.

5 Submitting evidence and reports to the court electronically

Usually, instructions about the appropriate way to file documents with the court will be sent along with the request for the report, or with a court order. If uncertain, ask either the instructing lawyers in the case, or enquire with the clerk to the court in question.

Since 2014, some courts have been using an electronic filing and case management system called CE File, in the Chancery Division, Admiralty and Commercial Court, and Bankruptcy and Companies.

Other civil courts now have also been using e-filing systems since 2021. The E-Filing service is an online tool managed by HM Courts and Tribunals (HMCTS-E). It can be used by legal professionals on behalf of their clients or by people who do not have a solicitor, known as 'litigants in person'. See www.gov.uk/guidance/hmcts-e-filing-service-for-citizens-and-professionals.

In the criminal courts in the UK, legal professionals can use systems like the Crown Court Digital Case System (DCS) to correspond with the court staff and other legal parties, and file documents in criminal proceedings. The legal professionals have to pay a fee to use this service, and so it may not be open to a counselling professional witness to use the service directly, but reports may be sent to the legal professional acting for the party requiring the report, which will then be filed by them with the court.

6 Presenting oral evidence in court – dos and don'ts

When you enter a court building, you are likely to be security checked, in the larger courts this is often similar to an airport security screening system.

Courts are usually numbered, for example, Courts 1, 2, etc. Make sure you know the listing number and name of the case before going to court.

The court documents, instructing solicitors or the client should have that information. Cases will be listed in a notice somewhere in the public area, sometimes by case name or by case reference number, indicating the number of the court in which they will be heard.

Criminal and private family law cases are listed by name. Confidential adoption and child protection cases are listed by the name of the local authority and/or a reference number.

The court ushers, known as 'macers' in Scotland (often recognisable by wearing black gowns and carrying clipboards), are responsible for checking who has arrived at the courtroom for the case (and who is missing!). They are a reliable source of information. They will ask for the names of the lawyers, parties and witnesses in each case as each person arrives at the court. The ushers will need to know where to find you when you are required to give evidence, so always let them know where you are, particularly if you are going out of the building to renew the car park fee, or heading off to the canteen, or for a comfort break, etc.

Be prepared for a long wait outside court before giving evidence.

Be aware of the need to maintain professional standards and client confidentiality at court, so avoid getting drawn into inappropriate social conversation, or talking about the case in public places outside the courtroom. Remember that no conversation is 'off the record' and maintain clear professional boundaries at all times outside the courtroom.

Ordinary witnesses of fact in criminal and civil cases usually have to wait outside the courtroom to prevent them being influenced by hearing what others say. In family cases, some witnesses may be invited to sit in court. Expert witnesses may be allowed to sit in to hear the evidence of other experts, or of factual matters, but this is strictly by permission from the court.

The lawyer/advocate representing the party who has instructed you may wish to seek permission for you to sit in during all or parts of the other evidence, but this will depend on how you are regarded by the court (i.e. as an expert or a professional witness), the nature of the evidence you are to give and the type of case being heard.

Switch off pagers and mobiles before entering the courtroom. Try to have as little unnecessary stuff with you as possible. If you must take coats, bags etc. into the courtroom, find somewhere to put down any unnecessary items, then you can go into the witness box with just your report and, if required, your set of case notes for reference (and glasses if you wear them!). Being calm and physically uncluttered as you walk to the witness box helps with maintaining confidence.

In the witness box, after taking the oath or affirmation, it is courteous to remain standing until invited to sit. Behave with dignity and no matter how irritating or irrelevant the questions might seem to be, always remain calm and courteous in reply.

Do not venture an opinion unless the court specifically asks for it. If asked a question beyond your training or expertise, it is acceptable to reply 'I am sorry but I cannot answer that question, as it is outside my expertise'.

Be brave and honestly say 'I do not know' if asked something you that you really do not know.

Witnesses (especially in the more adversarial criminal cases) may occasionally have to tolerate sarcasm, and sometimes apparent obtuseness from advocates or self-represented defendants, but resist the urge to respond with defensiveness, or a show of skill.

Remember that you are the professional in your field of work and that the court is usually respectful and genuinely interested in hearing what you have to say.

If you can justify your professional therapeutic actions as a practitioner, then there should be nothing to fear in court.

Sometimes advocates might try to interrupt you when you are mid-way through saying something, but it is difficult for an advocate to interrupt a witness who is speaking directly to the presiding magistrate(s) or judge(s). Make a habit of listening to the question and then turning physically around to face the magistrates or judge (collectively often referred to as 'the bench') and direct your answer to them, and not to the advocate who asked the question. It would be very discourteous for an advocate to try to interrupt you whilst you are speaking to the bench.

If you are interrupted before saying all that you wanted, it is acceptable to say to the advocate something like 'I am sorry, but I had not quite finished... may I answer your new question in a moment?' and then return to face the bench and answer the unfinished point before going on to the next question.

Speak clearly and slowly enough for the judge and others to take notes of the points they need to record. Do not rush evidence; take time to think before answering questions. Be prepared to refer to notes or records before answering. Be accurate and concise. If the answer is not known or unclear, do not be afraid to say so.

Cross examination provides an opportunity to reconsider, correct or modify previous evidence.

Make sure that all notes and records are kept in a folder or easily accessible, and that you know where to find everything, so that you don't have to scrabble around in a file looking for something. Keep the notes securely held in their file or folder, so, if nervous, you won't accidentally drop all the papers in a heap on the floor! Advocates and others may ask to see your original case notes and records in court.

If, in the witness box, you are asked to pass over or discuss client records which were not filed with the court, and/or do not form part of your report to the court, this is a matter for the court to decide.

If you are reluctant to disclose or discuss any part of the client records because you feel they are not relevant to the case, or if in any other form of doubt, seek directions from the judge or magistrate. The court is in charge of the evidence and can rule on what must be disclosed to other parties.

Professional witnesses should demonstrate their independence by non-partisan behaviour. It is wise to consult the instructing lawyer first about any request to confer with another party or witness outside the court, or to attend a conference meeting, either before the case is heard or during the proceedings.

During an adjournment, e.g. for lunch, the court does not permit discussion by anyone with a witness when they are still in the process of giving evidence.

Witnesses should not leave the court building until the court has given formal consent for their release. Remember to ask for the court's consent to be released at the end of giving your evidence, then if the court might need you to come back again, you will either be asked to stay (in this case you should expect to be paid for your extra time) or the court will make arrangements to contact you if necessary.

Try to make a calm, unhurried exit, picking up notes efficiently, and leaving with dignity. Bring your work diary; if the case is adjourned it is helpful to know dates that you are available for future hearings.

About the author

Dr Barbara Mitchels, PhD, LL.B, BACP Reg/Accred, is a practising psychotherapist and Fellow of BACP. Formerly a solicitor and now retired from legal practice, Barbara combines her experience of therapy and law in providing practice resources, CPD events, and a professional consultancy service for therapists, see www.therapylaw.co.uk.

References and useful sources of information

Note:

- *UK Government* publications available from the Stationery Office (TSO, www.tsoshop.co.uk), PO Box 29, Norwich NR3 1GN. Tel: 0870 600 5522; Email: customer.services@tso.co.uk.
- *The Department for Education* (www.education.gov.uk), formerly Department for Children Schools and Families, publishes policy regarding children's services in England.
- *The Ministry of Justice* (www.justice.gov.uk) publishes policy regarding the courts and tribunals in England and Wales.
- *Northern Ireland Government* publications are available from the Department of Health, Social Services and Public Safety (www.dhsspsni.gov.uk).
- *Welsh Government* publications, see (www.gov.wales/publications).

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British Association for Counselling and Psychotherapy
BACP House, 15 St John's Business Park, Lutterworth,
Leicestershire, LE17 4HB.
Tel: 01455 883300.
Email: bacp@bacp.co.uk
www.bacp.co.uk

British Medical Association
Tavistock Square, London, WC1 9JP.
Tel: 020 7383 6286
www.bma.org.uk

British Psychological Society
St Andrews House, 48 Princess Road East, Leicester, LE1 7DR.
Tel: +44 (0)116 254 9568, Fax: +44 (0)116 227 1314
Email: enquiry@bps.org.uk
www.bps.org.uk

British Psychological Society (BPS) *Code of Ethics and Conduct* (2018) Available at: www.bps.org.uk

British Psychological Society. Available at www.bps.org.uk

ChildLine
ChildLine is the UK's free, national helpline for children and young people in trouble or danger: www.childline.org.uk

Criminal Procedure Rules 2020 and Criminal Practice Directions 2023 Part 19 (see www.gov.uk/guidance/rules-and-practice-directions-2020 and www.legislation.gov.uk/uksi/2020/759/part/19, which clearly sets out what the Government expects of reports for court)

Crown Prosecution Service (England and Wales) (CPS) has headquarters in London and York and operates under a structure of 42 areas in England and Wales. London Office: 7th Floor, 50 Ludgate Hill, London, EC4M 7EX.
Tel: 020 7796 8000, Fax: 020 7710 3447.

Crown Prosecution Service (CPS) *Legal guidance online facility* at www.cps.gov.uk

The Crown Prosecution Service (CPS) (2019) *Expert Evidence.* (a resource for expert witnesses in criminal cases) available at: www.cps.gov.uk

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General Medical Council
178 Great Portland Street, London W1W 5JE.
General Enquiries Desk: 020 7580 7642
www.gmc-uk.org

General Medical Council *Good Medical Practice*. London: GMC. Available at: www.gmc-uk.org

Please note that embedded in this updated on-line guidance document, are web links to all of the GMC's current additional subsidiary guidance, for example, papers on *Confidentiality* and *Consent.*

Hands On Scotland
A new NHS website resource for anybody working with children and young people. www.handsonscotland.co.uk

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Official Solicitor
81 Chancery Lane, London, WC2A 1DD.
Tel: 020 7911 7127
www.gov.uk

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Archway Tower, 2 Junction Road, London, N19 5SZ.
Customer service helpline: 0845 330 2900, Enquiry line: 0845 330 2900
www.gov.uk/government/organisations/office-of-the-public-guardian.

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Samaritans
Freepost RSRB-KKBY-CYJK, PO Box 9090, Stirling, FK8 2SA.
Tel: 116 123 (UK) 116 123 (ROI)
www.samaritans.org

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