

MAPS / Medical
Reporting

Medico-legal
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Medical experts: what you need to know

Who is a 'medical expert'?

Medical experts are doctors who help courts and tribunals by giving expert witness evidence on medical issues that the court has to make a decision about. Their evidence may help to prove or disprove a medical claim being made in a case.

To be a medical expert witness a doctor must be a proven expert on the issue which is in dispute. Their expertise is usually established by years of training, practice and experience in the relevant area, dealing with similar matters in their medical practice and research.

It is important to have the right expert to comment on the right issue, for example a brain surgeon would not be the appropriate medical expert to give expert witness evidence in a case involving lung disease. It is therefore vital to understand which of the many medical fields of expertise deals with the medical issue involved in the matter before the court on which expert comment is required.

When is a medical expert required?

Medical experts are asked to provide witness evidence for many courts, tribunals or disciplinary hearings where there is a medical issue to be decided. This might be about the injuries sustained by a victim in a personal injury claim, or on professional standards and practice in a clinical negligence dispute.

Medical experts in these types of civil law claims for damages can be instructed to report either for the claimant by their law firm or by an insurance company on behalf of the party defending the case. However, the expert witnesses' first and overriding duty is always to the court rather than the party who has paid them to write the report.

This means that a medical expert is an independent party assisting the court, not a "hired gun" for either the claimant or defendant. While it is legitimate for a party to question the expert's opinion, the expert witness must ensure that their opinion remains objective and independent. This can be quite different to other legal jurisdictions outside England and Wales.

Why is a medical expert needed?

Once a medico-legal report is commissioned in a claim for damages for personal injury, the medical expert must use their experience and knowledge to examine the claimant. They must record the injuries and confirm to what extent a recovery has been made in respect of each injury sustained. The medical expert must confirm the extent and duration of the impact of the injuries on the victim's day to day life and activities.

The expert must also confirm whether and to what extent each injury has been caused by the accident in question, rather than an underlying or unrelated medical issue which would have caused the symptoms in any event. This can be a particularly contentious issue where a claimant or defendant may find it difficult to accept the expert's opinion.

Where there are ongoing symptoms from any of the injuries, the medical expert must offer their opinion on whether the symptoms will improve or recover over time and if so, how long that will take. Medical experts make a recommendation on what level of care and [rehabilitation](#) is needed to, as far as is possible, return the victim to the situation they were in before the injury occurred. Sometimes a second report is required to assess the final position and determine whether there is any permanent disability as a result of the accident.

Medical experts will never give their view on the level of compensation that should be awarded to the victim.

It is essential that medical experts must provide an independent, [clear and understandable medical report](#) to the court. However complicated the issues, the report will be considered by a number of different people involved in the legal process, all of whom must be able to understand what is being said.

Are there any rules an expert must follow?

Medical experts have a unique and special position in any court action because they are the only witnesses who are entitled to give evidence of their opinions, rather than just factual evidence. This position of privilege in the court setting means that medical experts must comply with a range of special rules and requirements both in preparing and presenting their evidence to the court.

The main requirements are set out within the legal framework of Part 35 of the Civil Procedure Rules and the Practice Direction on how to apply them. There is also detailed guidance provided by the British Medical Association and the Civil Justice Council which medical experts must be familiar with and take into account.

Medical experts must always ensure they have the appropriate knowledge to fulfil their instructions and be aware of any factors which might hinder their ability to complete the [medical report](#) in accordance with the court rules, guidance and the instructions they have received. They must keep up to date with new medical procedures and knowledge and must be careful to remain within their area of professional expertise. Where they cannot comment on an issue they must indicate this and signpost instructions to another expert in that area of medical expertise, so that a separate medico-legal report can be obtained from them.

MAPS' medical experts

MAPS Medical Reporting has access to a panel of experienced medical expert witnesses and our experts comply with all regulatory obligations of the Civil Procedure Rules and other guidance when applicable.

We have delivered more than 300,000 successful medico-legal reports through our network of medical experts but MAPS Medical Reporting knows that each customer is unique, and we take care to instruct the right experts for every individual case.

Our cost-effective solutions are personalised to match your needs - [contact us](#) to find out more about how we can support you.

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