

Code of conduct for expert witnesses

August 2017

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Unique document number	G164
Document name	Code of conduct for expert witnesses
Version number	1
Produced by	Professional Standards Department
Date active	2 August 2017
Date for review	2 August 2020

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Registered charity in England and Wales, no. 261035

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Background

The legal obligations of expert witnesses in the criminal justice system are largely summarised in the Criminal Practice Rules (CPR), section 19 of which requires a declaration of truth. The CPR are generally revised twice a year and experts should use the latest version when preparing their reports. Part of the declaration of truth now requires the expert to state that they have acted in conformity with “the code of practice or conduct for experts of my discipline, namely [identify the code]”.

Given the diversity of professional practice covered by Fellows of the College, it would be impractical to provide a detailed Code of Practice for each specialty.

In relation to making a declaration, we believe that it would not be sensible to declare adherence to a code of practice. Such a code would often contain a lot of detail and, if a declaration of compliance was made, then any non-compliance no matter how trivial could be the basis of an allegation of perjury.

The College has prepared the following Code of Conduct, which is based, with agreement, on the Code proposed by the Forensic Science Regulator. It is intended that this Code would assist Fellows of the College when required to provide a ‘declaration of truth’ in conformity with the CPR.

Code of conduct for pathologists

As a pathologist you should:

1. Ensure that your overriding duty is to the court and to the administration of justice
2. Act with honesty, integrity, objectivity and impartiality
3. Comply with the legal obligations imposed on practitioners in the jurisdiction(s) in which you practice
4. Declare at the earliest opportunity any personal, business, financial and/or other interest that could be perceived as a potential conflict of interest
5. Act and provide expert advice and evidence only within the limits of your professional competence
6. Take all reasonable steps to maintain and develop your professional competence, taking account of research and developments within the relevant field
7. Inform those instructing you of any information that may reasonably be considered to undermine your credibility as a practitioner or the reliability of the material you produce and include this information within any written report provided to those instructing you
8. Establish the integrity and continuity of identification of items as they come into your possession and ensure these are maintained while in your possession (for details see reference 1)
9. Seek access to exhibits/productions/information that may have a significant impact on the output from your work (particularly evidence)
10. Where applicable, conduct casework using methods of demonstrable validity and comply as far as is practicable with the quality standards relevant to the area in which you work
11. Be prepared to review any casework if any new information or developments are identified that would significantly impact on the output from your work
12. Where you have good grounds for believing a situation may result in a miscarriage of justice, ensure that the relevant instructing party is informed either by:
 - a) invoking the appropriate organisational processes for addressing potential miscarriages of justice
 - b) where you do not operate as part of an organisation or the organisation does not have appropriate procedures, by informing the party directly.
13. Preserve confidentiality unless the law obliges, a court/tribunal orders, or a customer explicitly authorises disclosure.

Reference

1. Royal College of Pathologists. *A G047 Guidance for handling medicolegal samples and preserving the chain of evidence*. March 2017. Available at: www.rcpath.org/resourceLibrary/g047-chainofevidence-mar17.html