

Medical evidence in the asylum determination process: 8 Practical tips for maximum impact



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1. Structure

- Asylum context: PD10 - can use the requirements as a structure.
- Civil context: CPR Part 35

PD 10.9: An expert's report must:

- (a) give details of the expert's qualifications;
- (b) give details of any literature or other material which the expert has relied on in making the report;
- (c) contain a statement setting out the substance of all facts and instructions given to the expert which are material to the opinions expressed in the report or upon which those opinions are based;
- (d) make clear which of the facts stated in the report are within the expert's own knowledge;
- (e) say who carried out any examination, measurement or other procedure which the expert has used for the report, give the qualifications of that person, and say whether or not the procedure has been carried out under the expert's supervision;
- (f) where there is a range of opinion on the matters dealt with in the report: (i) summarise the range of opinion, so far as reasonably practicable, and (ii) give reasons for the expert's own opinion;
- (g) contain a summary of the conclusions reached;
- (h) if the expert is not able to give an opinion without qualification, state the qualification; and
- (i) contain a statement that the expert understands his or her duty to the Tribunal, and has complied and will continue to comply with that duty.

- What is missing from this list is methodology – can be very important for judge to understand how long it has taken to elicit the information.

2. Set out key info at the beginning

- E.g. in a box on the front page:
 - Name, Dob, Address
 - Nationality
 - Religion
 - Language of assessment
 - Interpreter
 - Where examined, when examined, by whom
 - Instructed by
 - Other key info e.g. Documents read and their date – Screening i/v, SEF, Rule 35 etc.

3. Use Headings

- Make it easy to navigate

4. TYPOS

- Aka ytpos...

5. Language

- Keep it neutral where possible
- Use the terminology of your own field with lay explanations.
- Avoid superlatives
- Avoid using phrases like “I would argue that”

6. Solicitors: make it is easier for the expert

- e.g. chronology, draft WS
- Clear instructions as to what the issues are and where expert can help
- Don't forget to specifically mention that their opinion is sought on the impact of the asylum seeker's mental state on their ability to recall events or sequences of events with precision.

7. Experts – you are not the advocate

An expert that gives the impression of being anything other than impartial will have little credibility.

8. Don't forget the formalities

- Declaration
- Statement of truth
- Signature

Thank you for listening

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