

Schedule 4

Code of conduct for expert witnesses

r 9.43

Duty to the court

- 1 An expert witness has an overriding duty to assist the court impartially on relevant matters within the expert's area of expertise.
- 2 An expert witness is not an advocate for the party who engages the witness.

Evidence of expert witness

- 3 In any evidence given by an expert witness, the expert witness must—
 - (a) acknowledge that the expert witness has read this code of conduct and agrees to comply with it;
 - (b) state the expert witness' qualifications as an expert;
 - (c) state the issues the evidence of the expert witness addresses and that the evidence is within the expert's area of expertise;
 - (d) state the facts and assumptions on which the opinions of the expert witness are based;
 - (e) state the reasons for the opinions given by the expert witness;
 - (f) specify any literature or other material used or relied on in support of the opinions expressed by the expert witness;
 - (g) describe any examinations, tests, or other investigations on which the expert witness has relied and identify, and give details of the qualifications of, any person who carried them out.
- 4 If an expert witness believes that his or her evidence or any part of it may be incomplete or inaccurate without some qualification, that qualification must be stated in his or her evidence.
- 5 If an expert witness believes that his or her opinion is not a concluded opinion because of insufficient research or data or for any other reason, this must be stated in his or her evidence.

Duty to confer

- 6 An expert witness must comply with any direction of the court to—
 - (a) confer with another expert witness;
 - (b) try to reach agreement with the other expert witness on matters within the field of expertise of the expert witnesses;
 - (c) prepare and sign a joint witness statement stating the matters on which the expert witnesses agree and the matters on which they do not agree, including the reasons for their disagreement.

- 7 In conferring with another expert witness, the expert witness must exercise independent and professional judgment, and must not act on the instructions or directions of any person to withhold or avoid agreement.

Schedule 4 clause 7: replaced, on 1 December 2009, by rule 10 of the High Court Amendment Rules (No 2) 2009 (SR 2009/334).