

ROYAL COURT OF JERSEY

RC17/09

Expert Evidence

1. The purpose of this practice direction is to provide guidance to parties on how to approach applications to adduce expert evidence under Rule Court Rule 6/20(2)(d).
2. Other than in cases where a party has suffered personal injury, the Court will not normally permit expert evidence from more than two different disciplines to be called.
3. Each party may only call evidence from one expert for each discipline.
4. Where the claim involves more than one plaintiff or defendant, where possible the relevant plaintiffs or defendants shall endeavour to instruct the same expert.
5. The need for expert evidence will ultimately be determined by reference to the overriding objective.
6. In ordering expert evidence, the Court may have regard to what expert evidence is necessary to:-
 - a. determine a case at trial, and
 - b. enable the parties to explore settlement of the case and/or to take part in some form of alternative dispute resolution process.
7. The parties shall further explore whether any area of expert evidence can be provided by a single expert jointly instructed by the parties.
8. If by the time of any directions hearing dealing with expert evidence, the identity of the expert a party proposes to retain has not been communicated to another

party, orders may be made requiring a party to inform any other party of the identity of the expert retained within a specified timeframe.

9. In a case involving personal injury, the parties at the time of any directions hearing considering expert evidence will set out the number of experts and the nature of expert evidence required including whether any category of expert evidence might be provided by a single expert in accordance with paragraph 5.
10. The obligations expected from experts are set out in Schedule A.
11. Directions may be given for meetings of experts. The requirements for such meetings are set out in Schedule B

This practice direction shall come into force on 1st June 2017

Schedule A
Obligations of an Expert

1. Expert evidence shall be the independent opinion of the expert uninfluenced by any other pressures. The duty owed by an expert is to the Court and is to provide objective unbiased opinions on matters within his or her expertise.
2. An expert should not argue the case for a party.
3. An expert must consider all material facts whether they are supportive of or contrary to the ultimate conclusion of the expert.
4. An expert shall make clear:-
 - a. if a question or issue falls outside his or her expertise;
 - b. if the expert is unable to reach a definite opinion and the reasons why;
 - c. the facts or assumption upon which the opinion is based; and
 - d. all written materials relied upon, attaching a copy of such materials if these have not already been provided to the other party
5. If the view of an expert, after providing an opinion, changes on any material matters, this should be communicated as soon as possible to all parties and where appropriate to the Court setting out where the opinion has changed and the reasons why.
6. An expert's report must give details of the expert's qualifications, any literature or other material relied on in making the report, must contain a statement setting out the substance of all facts and instructions material to the opinions expressed, set out what steps the expert has taken where any examination measurement test or experiment is carried out in order to produce the report

and where there is a range of opinion on the matters dealt with in the report, summarise the range of options and give reasons for the expert's own conclusions;

7. A report should contain a summary of conclusions reached;
8. A report must set out any qualifications to the opinion;
9. A report must contain a statement that the expert understands the obligations set out in this Schedule.

Schedule B

Discussions between experts

1. The parties and their legal adviser shall explore with an expert retained whether or not there is any purpose in holding a meeting of experts and when such a meeting should take place.
2. The purpose of any meeting is for experts to ascertain areas of agreement and disagreement, whether any steps may be taken to resolve areas of disagreement and where there are any other issues which the experts should address.
3. Parties should not normally attend experts' discussions.
4. Legal representatives may only attend to advise on the law including procedure, otherwise they should not intervene in the discussion.
5. Experts may hold discussions in the absence of legal representatives.
6. In advance of any meeting the parties should endeavour to agree an agenda on issues to be discussed.
7. Following a meeting of experts a joint statement shall be prepared for the parties and the Court setting out the outcome of the meeting and setting out the conclusions reached.