



Commissioning reports from consultants or other relevant medical experts

A solicitor has a professional duty to their client and to the court hearing their client's case to present every aspect of the client's claim to the court. This is to ensure that the court is apprised of all relevant details of the personal injuries claimed and to ensure that all relevant evidence is properly before the court in order that the decision ultimately reached by the court consists of a fair assessment of the effects and provenance of any such injuries.

A medical witness is an expert witness who gives evidence to assist the court in determining the issues in dispute between the parties. Any such witness is bound by the obligations attaching to any expert witness including impartiality and also by the code of ethics of their own profession.

It is accepted that the Plaintiff's treating doctor, whether they be a general practitioner, consultant or other medical practitioner, is best placed to provide evidence in the majority of personal injuries actions. Accordingly, solicitors should always endeavour to obtain a medical report from such a practitioner.

However, it is recognised that this is not always practical for any number of reasons, including but not limited to, lack of availability, unwillingness to provide medical reports, cost, overwork and disagreement with their patient.

There will often be a requirement, therefore, in the interests of justice and the professional obligation to place evidence of all injuries alleged to have been suffered before the court, to commission relevant reports from consultants or other medical practitioners specialising in a particular field for these purposes in circumstances where the evidence of the treating doctor is either unavailable or inadequate to assist the court in assessing the issues.

This professional obligation to ensure that all such evidence is made available to the court applies to both solicitors for the Plaintiff and the Defendant and either party should be entitled to commission such reports in those circumstances. It is, of course, then a matter for the court to attach such weight as the Court sees fit to any such report.