

Child health and wellbeing

Department of Health Consultation. October 2006. 277342

Bearing Good Witness: Proposals for reforming the delivery of medical expert evidence in family law cases – Consultation

The Department of Health is proposing to increase the organisation and professionalism of medical expert witnesses in family law cases. Expert work in child protection cases is considered part of the remit of the NHS [to protect children] and could be paid for as a public service. The model has many features which could be applied to other expert witness work and would lead to greater accountability.

The stated aim is to provide a well organized system to ensure competent medical expert witnesses for family law cases e.g. allegations of child abuse. The proposals are open to consultation, closing 28th Feb 2007.

The current system is coming under pressure as individual NHS staff are becoming less inclined to provide expert witness services to the courts, and the expertise of those who do is not quality assured. A high proportion of proceedings are regularly delayed by the lack of availability of an expert or their report.

The proposals include:

- Establishing local organised pools of experts, in the form of a public service. It being a duty of the NHS to safeguard children means that the public service proposal is legitimate. Other medical expert witness work e.g. a civil compensation case, is private fee earning work not related to an aim regulated by NHS statute.
- Pool experts should be trained and developed to be more effective, training should be accredited. Pooled expertise permits supervision and peer review.
- Instructions should be improved
- The credentials of expert individuals should be available through a central register
- A national knowledge service should be set up to support experts. This would help ensure common standards and mastery of the evidence base which underpins clinical practice and will help the expert to unravel the instructions offered up by inexperienced solicitors. The knowledge service could identify and update the 'state of knowledge' and provide training in the interpretation of scientific publications.

Comment

Quality assurance, peer review, mentoring and a knowledge service are all potentially transferable to other areas of medical expert witness work. Audit of opinion vs. objective outcomes could also be useful in increasing the accuracy of advice and this would be facilitated by the existence of a more organised body of expert witnesses.

Accreditation, supervision and knowledge services would present new potential liabilities.