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Getting the best from a Care Expert.

Elizabeth Waterman exposes her experience of efficient use of experts 'from report to court'.

Introduction. I write with the experience of being a care and equipment expert witness since 1989 and as the Director of Services of Jacqueline Webb & Co since 1996. Throughout that time, I have quality assured in the region of 9,000 expert witness reports predominantly in the area of personal injury, clinical negligence and industrial disease. The vast majority were care and equipment reports in complex, high value multi track cases where the cost of a detailed, complex report is appropriate. Therefore, I have considerable expertise in encouraging solicitors to get the best from their care expert. The views I express are borne of hard earned experience; however can be summarised by ensuring quality in the selection of expert witness report writers and the quality assurance of their reports.

The Expert Witness. In order to be credible, your expert must retain clinical currency in their field. In view of the fact that they provide service to the Courts in complex, high value cases, they should be selected against stringent criteria covering clinical knowledge, intellect and self-confidence. You should ensure your expert fully understand the Part 35 rules and practice directions and keeps up to date with recent judgements affecting their area of expertise. They should also be trained in court room skills.

Quality Assurance of the Reports. I would advise that you ask any potential expert how they ensure they ensure consistent quality of reports. One of my priority tasks is to co-ordinate and oversee our quality assurance system in detail. By way of example I summarise our 3 stage process. On Stage 1 a new consultant will have detailed critique by an experienced consultant from the same clinical area (and proof readers in the office), on written english, logic and content of each draft of the report to ensure that the argument is cohesive, justifiable and compliant with other legislative requirements for example the Working Time Regulations and the Pensions Act. At Stage 2 only final drafts are checked and subsequently the expert is fully responsible for their own work. At that stage we pay experienced consultants to provide formal critique and comment on a sample of reports both to contribute to continued quality assurance and as mutually beneficial professional education. The aim for all experts should be to ensure that their report provides the Court with a factually correct, well written independent report.

Letters of Instruction.

The Requirement. A deal of effort is often required in clarifying the instructing solicitor's actual requirements. For instance; 'provide a care report' or 'an occupational therapy report' tells us little of value. The best instructions list the specific issues to be addressed, e.g.: value past gratuitous care; cost future care needs; quantify case management; assess the efficacy of equipment purchased to date; cost future specialist equipment needs; quantify extra transport costs; outline extra miscellaneous costs e.g. special diet, extra heating, holidays etc; cost future needs for occupational therapy, physiotherapy or speech and language therapy, or, comment on the claimant's housing needs. You may also need an assessment of; a disabled individual's future employment prospects; adaptations necessary to allow a disabled person to return to the workplace; competency to drive post accident; or, liability issues associated with moving and handling people in a hospital, residential or home environment.

Supporting information. In order to receive an accurate quote we need some further detail. We need the claimant's name in order to check that instructions have not already been received from the other side; the claimant's address, to gauge travel times; the claimant's age and diagnosis; obvious functional problems e.g. wheelchair user, no use of dominant hand etc; the date of injury to gauge the amount of past care information that must be assessed; and the deadline, especially if you're in a hurry. Medical reports showing condition and prognosis are useful, but not essential if you supply the information listed above; we do not need hospital reports/notes. However, it is your responsibility to warn us if the claimant has a history of violence; arrangements can then be made to escort the consultant. The accuracy of the quote can be improved further if you tell us of any complicating factors that may increase the time it takes to prepare a report or assess the claimant's needs. Typically, these are: a pre-existing medical condition or illness or injury suffered since the accident; communication or language problems where an interpreter may be needed; obesity problems or the exceptional height of the claimant; injured or sick family members or carers; numerous interventions or operations since the accident; pregnancy, baby or childcare difficulties; or, cultural or religious beliefs which might limit the claimant's care options.

What you should expect. You should expect a detailed quotation broken down into time for assessment, travel and report preparation, by return. Within 2 weeks of your acceptance of quotation, a date for an assessment visit should be

organised, with written confirmation to you and the claimant. If it is a joint instruction, a copy of the instruction (and all other correspondence) should be sent to both parties. You should expect to receive the completed report by the promised date. As the case progresses you may need extra work for example to review the potential implications of other reports. You should expect a letter confirming receipt of your request and the current hourly charge out rates that you will be charged for the extra work.

Meetings of experts. Tight deadlines are often set for meetings of experts which can cause difficulty for both sides. It is helpful to have as much warning as possible and it is more cost efficient if it can be agreed that one side is tasked to prepare an agenda and the joint statement outlining areas of differences and agreement. It is your responsibility to ensure your expert has access to the same medical evidence as the opposing expert. You should also advise how to deal with mismatched report content, e.g. if a major topic like care or equipment is not addressed in one of the reports.

Case conferences. It is beneficial if to provide all experts with the same medical evidence as others attending so that each expert can consider their contribution beforehand.

Court. Let your experts know the trial date as soon as it is available then nearer the time, the address of the court building, the number of the courtroom, the time you wish the expert to arrive and the name of a contact person to meet.

Finally. Let your experts know promptly if the case is settled or adjourned.

Elizabeth Waterman is Director of Services of Jacqueline Webb & Co and has been actively involved in the medico-legal field for over 20 years having given evidence in a number of high profile cases over the years. Jacqueline Webb & Co is the UK's largest provider of rehabilitation cost reports for personal injury lawyers and insurance companies. For more information, please email watermane@jwebb.co.uk or call 01722 329156