



# **Psychologists as Expert Witnesses**

## **The Facts**

April 2012

The publication by the University of Central Lancashire of a summary report "Evaluating Expert Witness Psychological Reports: Exploring Quality" by Professor Jane Ireland in February of this year is thought by many psychologists who work as expert witnesses to have created confusion about:

- the status of the recommendations in the summary report;
- the titles, qualifications and work of psychologists as expert witnesses.

This document has been prepared by a group of registered and chartered psychologists who are currently providing expert witness services to Courts in the United Kingdom in order to clarify the situation by restating the facts as they stand at present.

### ***Status of the recommendations in the summary report***

Professor Ireland's study was undertaken as the result of an initiative of the Family Justice Council (FJC) and was part funded by the Council. The report of the study has not yet been accepted by the FJC but was nonetheless released to the media and has since been referred to widely. It has generated considerable controversy. A number of methodological criticisms have been made of the study. The FJC is understood to have asked Professor Ireland to submit the report to peer-review of the methodology, findings and conclusions by the academic and professional community with a view to revision and eventual publication in a professional journal should it meet the requisite standards. In view of that procedure, those issues are not addressed in this document.

The FJC has clearly stated that it is currently developing consensus-based standards for expert witnesses and that it intends to publish them, for consultation, as soon as possible.

The FJC has **not** referred to, promulgated or recommended use of any so-called "Ireland Criteria" for psychologists as expert witnesses. Therefore any reference to such criteria, as if they have been established and accepted, is premature.

## ***Psychologists' titles and qualifications***

The Health Professions Council was given statutory responsibility for the registration of professional applied psychologists from July 2009. From August 2012, only psychologists who are registered with the Health Professions Council (HPC) may use titles protected by the HPC. These are:

- Clinical Psychologist
- Counselling Psychologist
- Educational Psychologist
- Forensic Psychologist
- Health Psychologist
- Occupational Psychologist
- Sports and Exercise Psychologist
- Registered Psychologist
- Practitioner Psychologist.

The term 'Chartered Psychologist' refers to a grade of membership of the British Psychological Society (BPS). The Society is authorised to confer that title by its Royal Charter. Use of the title is legally restricted. It is granted only to psychologists who have achieved and maintain appropriate professional qualifications and experience which have been vetted by the Society.

Registration by the HPC and Chartered Membership of the BPS requires that the psychologist:

- has appropriate qualifications and experience,
- is in active practice according to the current professional standards, and
- has undertaken appropriate Continuous Professional Development (CPD).

However, a person does **not** need to be registered with the Health Professions Council if they do not use one of the protected titles.

A person does **not** need to be a member of the British Psychological Society if they do not use the title “Chartered Psychologist”.

Further, neither the HPC nor the BPS is authorised to protect the basic title 'psychologist'. Therefore a person does not need to be in any way qualified in psychology to use the title 'psychologist'.

That unqualified people can and do refer to themselves as ‘psychologists’ may create confusion for the public, other professions and the legal system. But unless such people cross other boundaries, such as laws concerning misrepresentation of qualifications, deception and fraud, they can continue to use the title legally and without hindrance.

Neither registration with the Health Professions Council (HPC) nor membership of the British Psychological Society (BPS) is mandatory for professional applied psychologists in the United Kingdom.

In other words, a psychologist who is registered with the HPC or a Chartered member of the BPS is definitely a fully qualified psychologist and currently in practice. But a psychologist can be fully qualified and currently in practice without either being registered by the HPC or being a Chartered member of the BPS. Registration by HPC or Chartered membership of the BPS does not qualify a psychologist as an expert witness nor does lack of registration or membership disqualify them from working as an expert witness.

A further consequence of the current legislation is that both fully qualified and experienced psychologists and people who are not qualified in psychology at all can legitimately refer to themselves as any kind of psychologist, so long as they do not use one of the protected titles. Thus titles such as:

- Business Psychologist
- Child Psychologist
- Consultant Psychologist
- Criminal Psychologist

Expert Psychologist  
Graduate Psychologist  
Neuropsychologist  
Organisational Psychologist

and others are in use, both appropriately by fully qualified and experienced psychologists and inappropriately by some people who are not psychologists at all.

### ***The use of the title 'Dr' by psychologists***

Some psychologists are entitled to use the title 'Dr' in front of their name because they have a post-graduate research degree such as a PhD or a professional training degree such as a DClinPsy.

Other psychologists qualified as applied psychologists before it became customary to award Doctoral level degrees and may have older qualifications which nonetheless confer entitlement to register and practice.

Thus the title 'Dr' may or may not have significance depending on the individual psychologist's training and experience.

### ***Complaints about psychologists and misuse of 'psychologist' titles***

The HPC can only take action on complaints about psychologists who are registered with it or about misuse of one of the protected titles. Likewise the BPS can only take action on complaints about its members or about people using the title Chartered Psychologist when they are not entitled to do so. The HPC and the BPS are not in a position to take action about people who call themselves 'psychologist' although they are not fully qualified or are not qualified at all.

### ***'Current practice' in relation to psychologists as expert witnesses***

Professor Ireland suggested that “there should be an expectation that psychologists providing court reports should continue to hold contracts with relevant health, government or educational bodies (e.g. NHS, Private Health, Prison Service, Local Authority etc) or demonstrate continued practice within the areas they are assessing (e.g. treatment provision).”

At present a significant and growing number of fully qualified psychologists, some of whom provide expert witness services, are self employed or work for commercial, not-for-profit or charitable organisations. This is likely to become more common because of the current reforms of public sector services and restrictions on public sector finances.

Further, professional psychologists working within public sector organisations are under increasing pressure to provide their core services more efficiently. Public sector contracts of employment may also limit the non-core work that an employee can undertake, such as expert witness work. As a consequence, opportunities to undertake such work may be very limited or even excluded. Recent pilot projects which have attempted to set up expert witness services within the NHS do not appear to have overcome perceived shortages in provision, perhaps for those reasons. Also, recent restrictions by the Ministry of Justice on the fees payable for expert witness services may make it uneconomic for public sector bodies to provide staff to provide those services, especially when the full cost of overheads is taken into account.

Therefore the suggestion that psychologists who are providing court reports “should continue to hold contracts have to be employed in relevant health, government or educational bodies” may seem attractive as a ‘rule of thumb’ but ignores the current realities of professional work in the public services. More generally it ignores the wide variety of relevant and valid professional practice undertaken by professional applied psychologists in the commercial, not-for-profit and charitable sectors.

Professor Ireland’s suggestion that in order to be an expert a psychologist should be able to “demonstrate continued practice within the areas they are assessing (e.g. treatment provision)” is seriously misleading. It appears to be based on an inappropriate analogy between psychologists and medical doctors. It is entirely appropriate and long-standing good clinical practice for psychologists to apply their expertise in assessment, diagnosis and prescription independently of practice as a therapist. In fact, many professional applied psychologists both within and outside the NHS are not therapists at all; they provide assessments, advice, supervision and other forms of consultancy. The suggested distinction between clinicians who are legitimate experts and those who cannot be experts because they only assess people in order to advise Courts is therefore a false distinction.

The issue of 'current practice' should be addressed by looking for:

- continuity of relevant professional practice (whether employed, self employed or voluntary) in preceding years;
- an appropriate level of experience in the area required (with reference to indicators such as Continuing Professional Development, including relevant training updates and skills development, teaching, professional and committee activity, or publications in peer reviewed journals).

As with all expert witnesses, the nature of the current practice required of a psychologist working as an expert witness will depend on the nature of the expertise required to advise the Court on the specifics of the case in question.

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Requests for further information may be addressed to Bernard Kat on behalf of the National Centre at [b.kat@psynapse.co.uk](mailto:b.kat@psynapse.co.uk) or on 0788-799-8375.

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