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Psychologists as Expert Witnesses in the family courts in England and Wales: Standards, competencies and expectations

Guidance from the Family Justice Council
and the British Psychological Society

June 2023 (2nd edition)



GUIDELINES





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1. Introduction

- 1.1 The agreed minimum standard for all stakeholders, including psychologists and those in the legal profession, to be guided by, and adhered to, whenever instructing expert witnesses in family proceedings is set out in Practice Direction 25(b)¹.
- 1.2 This guidance is a companion document to these generic expert witness standards by focusing on psychologists and has been prepared jointly by the Family Justice Council (FJC) and the British Psychological Society (BPS). The guidance provides information to all stakeholders regarding the use of psychologists as expert witnesses and provides discipline specific information in relation to regulation, codes of conduct, competencies, supervision/peer review and quality of service. There is also generic guidance for psychologist expert witnesses from the British Psychological Society (BPS)².
- 1.3 It should be noted that throughout this document the use of the term ‘psychologist’ relates exclusively to practitioner psychologists working within the remit of Health and Care Professions Council (HCPC) or academic psychologists chartered by the British Psychological Society (BPS). For guidance on expert witnesses who are not psychologists, please refer to MOJ standards.
- 1.4 This guidance is written within the legal context of England and Wales. However, it is acknowledged that it may have some benefit to those working in other jurisdictions subject to compliance with local practice directions and procedural matters.

2. Role of psychologists as expert witnesses in family proceedings

- 2.1 As set out in *Psychologists as Expert Witnesses: Best Practice Guidelines for Psychologists* (BPS, 2021):

'An expert is a person who, through specialist training, study, or experience, is able to provide a court, tribunal, or hearing with relevant scientific, technical, or professional information or opinion, based on skills, expertise, or knowledge, that is likely to be beyond the experience and knowledge of the representing lawyers, judge, jury or panel.'^{3'}

Psychologist experts may be instructed in the family courts only where 'necessary' to resolve a case justly. Changes in the way the court can instruct experts were reflected in the Family Procedure Rules introduced on 31 January 2013 and later enshrined in legislation with the Children and Families Act that came into force in April 2014.

- 2.2 Psychologists offer expertise in considering the individual and collective psychological profiles of different family members, and their impact on key issues and decisions for determination by the Court, in public or private family court proceedings.
- 2.3 Psychologists assist by undertaking comprehensive assessments that may include developmental, psychological, social, relational and neuropsychological issues in complex situations through the application of psychological formulation⁴. This is a highly skilled process combining scientific principles with reflective practice to describe the findings of the assessment(s). The knowledge and application of a broad range of psychological theories and principles to specific contexts provide a theoretical framework for valid analysis and prediction. Psychological formulation allows for the evaluation of strengths, weaknesses, capacity for change and evidence-based interventions. It should be noted that whilst the focus is on formulation some psychologists also use diagnosis alongside formulation and many can also comment upon diagnostic issues in line with their competence should this arise.
- 2.4 Information from varied sources over time and multiple contexts contribute to the essential process of triangulation, the validation and verification of data gathered at assessment. This helps to overcome the bias and weaknesses of individual methods/theoretical models of assessment, and increases the credibility and validity of the analysis and psychological formulation.
- 2.5 Completion of psychological assessment generally involves direct assessment and contact with the individual and one or more members of the family. Indirect assessment (relying on documentation and other sources such as video evidence) may be appropriate in some circumstances and may for example provide corroborating information.
- 2.6 Techniques for establishing a psychological opinion appropriate to the instruction and the individual/family being assessed will vary between psychologists, who may have differences in theoretical orientation and approach. Psychologists usually include in their assessments some combination of standardised psychometric tests, in-depth interviewing, observation of behaviour and interactions and review of other professional records (such as social care, education, medical and forensic records) in relation to family members, carers, and significant others.

- 2.7 A psychologist's evidence may be necessary to evaluate single or multiple issues including: mental health; behavioural and emotional functioning; intellectual functioning; mental capacity; neuropsychological functioning (e.g. memory, attention, executive functioning); personality assessment; forensic risk assessment; substance misuse and/ addiction; learning needs; psychological impact of disability, sensory impairment or ill health; psychological impact of trauma and/or abuse; domestic abuse (e.g. violence and coercive controlling behaviours); neuro-developmental conditions (e.g. Autism Spectrum Disorder (ASD)/Autism Spectrum Condition (ASC)); attachment styles and interpersonal relationships; capacity for change; and personal, developmental and therapeutic needs. In addition, these features may all be influenced by socioeconomic deprivation; child arrangement disputes between separated parents; disputed immigration/asylum status; social isolation; child protection; homelessness; criminality; and varied cultural, religious and ethnic backgrounds.
- 2.8 Family Court cases may require psychologists to evaluate parents/carers' functional capacities to meet all the needs of their child(ren) throughout the period of being younger than the legal age of adulthood. Public and private family proceedings tend to have differing perspectives, but practitioner psychologists are often required to comment upon an individual's capacity for change within the child's timeframe.
- 2.9 Skill areas offered by psychologists also include assessments of mental capacity and mental competence which may include instruction by the Court of Protection. Adult mental capacity assessments may relate to the capacities to engage in the legal process, to give evidence or to give consent in matters such as adoption, sexual contact, financial matters or living arrangements. For children this could include their competence to engage directly in the legal process, to give evidence or their competence to directly instruct their solicitor without their guardian.

3. Regulation

- 3.1 Statutory regulation for psychology in the UK was introduced in 2009 and the Health and Care Professions Council (HCPC) is the regulator of practitioner, or registered, psychologists. Practitioner psychologists who have the qualifications necessary to meet the stringent criteria for statutory regulation with the HCPC, are registered with the HCPC with one (or more) ‘protected’ titles. The legislation protects seven titles: Clinical Psychologist, Health Psychologist, Counselling Psychologist, Educational Psychologist, Occupational Psychologist, Sport and Exercise Psychologist, and Forensic Psychologist. In addition, the two generic titles – Practitioner Psychologist and Registered Psychologist – are available to registrants who already hold one of the seven ‘specialist’ titles. See Appendix 1 for a detailed description of protected titles.
- 3.2 These titles are protected by law. Anyone who uses a protected title must be registered with the HCPC. Article 39(1) of the Health Professions Order 2001 makes it a criminal offence for a person, with intent to deceive, to state that they are on the [HCPC Register](#); to use a designated title to which they are not entitled; or to say falsely that they have qualifications as a practitioner psychologist. An unregistered person may be committing an offence even if they do not use the designated title directly, such as describing the service they provide as ‘clinical psychology’ or ‘forensic psychology’.
- To assist the family court in making appropriate instructions all statutorily registered practitioner psychologists should use their protected specialist title as it appears on the HCPC register.**
- 3.3 The title ‘Chartered Psychologist’ can only be used by psychologists who have achieved Chartered membership status with the BPS who will appear on the [List of Chartered Members](#). There are various routes to Chartered Membership currently including postgraduate training, research and teaching (see Appendix 1) and it is anticipated that these routes will be widened to take into account competencies as well as qualifications. It is a voluntary scheme and the BPS does not have a regulatory function but those who are Chartered members of the BPS must comply with BPS codes of conduct and member conduct rules.
- 3.4 Some practitioner psychologists are both statutorily registered with the HCPC and Chartered with the BPS. However, the terms ‘Chartered Psychologist’ and ‘Registered Psychologist’ are not equivalent. Psychologists registered with the HCPC and/or Chartered with the BPS both fall within recognised professional codes of conduct and ethical frameworks. The only psychologists subject to statutory regulation in the UK are those registered with the HCPC.
- 3.5 A lack of understanding and awareness has resulted in the use of various titles in the Family Court system. Such titles have no specific meaning, nor are they protected or regulated by the HCPC. Examples of such titles include ‘psychologist’, ‘child psychologist’, ‘consultant psychologist’, ‘assessment psychologist’, ‘developmental psychologist’ and ‘attachment psychologist’. The HCPC does not protect these titles and their use does not indicate statutory registration. Chartered members of the BPS may use descriptive titles to indicate an area of expertise or specialism but these and their areas of specialism on the [Directory of Chartered Members](#) are self-determined and not verified by the BPS.

- 3.6 It is not possible to verify how a psychologist has achieved Chartered membership status from the information available on the BPS List of Chartered Members. It is important therefore to assist the court by ensuring that a psychologist's qualifications/training, experience and specific areas of knowledge are set out clearly in their CV.

It is the responsibility of the psychologist expert to be transparent in relation to their qualifications and registration to assist the court in determining their suitability to offer the necessary expert opinion in the case being considered.

Should a court appoint an individual who does not use an HCPC protected title, it should be aware that this would fall outside of the regulatory framework of the HCPC, e.g. to check qualifications and current fitness to practice. While a Chartered Psychologist and non-Chartered Psychologist would fall within the accountability of the BPS, if they are members of the BPS, e.g. code of ethics and conduct, they would not fall within the HCPC regulatory authority. Psychologists who are not HCPC registered should make it clear when accepting instruction, as should those who are not Chartered Members of the BPS.

- 3.7 *In every case the court should identify whether a proposed expert is HCPC registered. Where the expert is un-registered, it is for the court to indicate in a short judgment why it is, nevertheless, appropriate to instruct them.* (Re C ('Parental Alienation') [2023] EWHC 345 (Fam).)
- 3.8 Any psychologist expert witnesses who are not subject to UK professional standards or regulation should meet the criteria as set down in the FJC standards document for overseas experts⁵. Psychologists from EU countries can demonstrate their qualifications and status through membership of the relevant national body via the [European Federation of Psychologist Associations](#), (of which the BPS is a member). This Federation can provide information regarding qualifications and status across the national training and regulation regimes.
- 3.9 Courts should expect that all psychologists based in the UK providing evidence in family proceedings are regulated by the HCPC (if they are practitioners) and/or that academic psychologists have Chartered membership with the BPS.
- 3.10 It remains at the discretion of the court to appoint individuals who are not eligible for Chartered membership of the BPS or qualified for registration with the HCPC but that the court determines have relevant psychological knowledge or training. However, it should be made clear in orders and letters of instruction that these individuals are not being appointed as psychologist experts but under the auspices of other professional frameworks, e.g. Independent Social Workers with additional psychological qualifications or Psychotherapists. These individuals are also distinct from psychologists in relation to their remuneration rates paid by the Legal Aid Agency⁶.

4. Codes of conduct

- 4.1 Psychologists should operate within the ethical principles and codes of conduct of the HCPC or their professional body (BPS) and clearly state under which code they practice.
- 4.2 **HCPC registered Psychologists** – Psychologists registered with the HCPC are obliged to meet its Standards of Performance and Ethics⁷ including:
- **To act in the best interests of service users** (Note: our primary objective in the Family Court is the wellbeing of the child. However, the interests of every individual need to be considered and treated with respect and dignity);
 - **To respect the confidentiality of service users** (Note: through being clear about the fact all information disclosed in the assessment may be shared with the court and the other parties);
 - **To keep their professional knowledge and skills up to date;**
 - **To act within the limits of their knowledge, skills and experience and, if necessary, refer the matter to another practitioner; and**
 - **To behave with honesty and integrity and make sure that their behaviour does not damage the public's confidence in the practitioner or their profession.**
- 4.3 **Chartered Psychologists** – Psychologists that have Chartered membership with the BPS are guided by its Code of Ethics and Conduct⁸. The code sets out four ethical principles that constitute the main domains of responsibility within which ethical issues are considered. These are: respect, competence, responsibility and integrity. These principles reflect the fundamental beliefs that guide ethical reasoning, decision making and behaviour. The Code sets out the standards of ethical conduct that the BPS expects of its members.
- 4.4 **Family Procedure Rules** – Psychologists giving expert opinion into the Family Courts must adhere to the Family Procedure Rules and be fully compliant with all standards set down regarding those providing expert opinion. These are described within Part 25 of the Family Procedure Rules and the accompanying practice directions which provide details of what is expected of an expert witness in the Family Courts.
- 4.5 Working with individuals in the Family Courts who are vulnerable and/or experiencing difficulties highlights psychologists' professional obligation to provide ethical and client focused services. In the Family Court context, work is commissioned by parties to proceedings, but experts have to provide independent opinion evidence to the Court, regardless of who instructs them. This may lead to a range of professional conflicts for the psychologists, including issues of confidentiality, consent and vulnerability and the consequences of an adverse opinion. The psychologist maintains a duty of care to the individual being assessed, whether child or adult, in terms of attempting to ensure all individuals' needs are being respected, recognised and wherever possible met by facilitating future action.
- 4.6 As with many areas of practice there will always be a tension between the requirements for quality and rigor against the time and costs allowed by the Court and funding parties. Furthermore, each family case is unique with differing combinations of issues that the Court needs assistance with, as such they will require varying amounts of time and resources alongside different types of expertise.

The issue of quality however is dependent on a suitable number of hours and resources being available to complete the required task in an ethically sound manner with a fit for purpose outcome.

- 4.7 The range of psychological assessments required by the Family Court is broad, with a plethora of variation in complexity, intensity and purpose. It is therefore not possible to offer definitive professional guidelines on required hours. It is however possible to offer a broad professional consensus on the ranges of hours that would generally apply to the medium to high frequency assessments requested by the Family Court as detailed in Appendix 4. It is suggested that these time ranges would typically facilitate an appropriately detailed and ethical assessment on the basis of a number of assumptions. It is essential for the psychologist to inform the Court of the current best practice and professional guidance regarding the case specific issues so that the Court can make an informed decision regarding the permitted scope and range of data made available and any consequences therein.
- 4.8 High quality opinion is provided via written evidence with clear judicial guidance indicating the requirement for succinct, focused and analytical reports that are evidence based. Psychological evidence is derived by the process of formulation, a unique synthesis of psychological theory and research; with case specific multiple data sources, both current and historic. In turn psychological opinion is not absolute, but rather a kaleidoscope of factors that need to be seen in context incorporating cultural issues and from multiple perspectives.
- 4.9 In order, therefore, to provide valid opinion evidence to the Court, the report has to include sufficient detail to explain, and justify the conclusions drawn, threading together the relevant factors and providing a coherent explanation. A failure to provide coherent evidence is likely to arise if there is an exclusion or over simplification/summarisation of often complex and multiple contributory factors or if the Psychologist is not allowed sufficient access to relevant information and data (e.g. no access to medical records or permission withheld to undertake direct observation). Such circumstances are likely to lead to the requirement for clarification, either by the provision of further written evidence or court attendance, both of which often cause additional cost and delay.

5. Issues in relation to competences

- 5.1 Practitioner psychologists must maintain current HCPC registration to undertake practice, which requires individuals to demonstrate professional training, competence and appropriate continuing professional development (CPD) in their field of practice.
- 5.2 Academic psychologists should be Chartered members of the BPS on the basis of their research expertise in a specific area of psychology within which they are offering an opinion.
- 5.3 Only HCPC Registered psychologists have the relevant clinical experience and training to conduct psychological assessments of people and make clinical diagnoses and recommendations for treatment or interventions, whereas, academic psychologist, who should be Chartered, but who are not registered with the HCPC, would not normally have the clinical experience and training in order to complete psychological assessments or make clinical diagnoses.
- 5.4 Feedback on performance is essential for ongoing professional development, and this should be routinely available following each case.
- 5.5 Part 25 of the Family Procedure Rules, rule 25.19(1) says that the instructing solicitor must, within 10 business days after the final hearing, inform the expert in writing about the court's determination and the use made by the court of the expert's evidence.

If the Court has significant concerns regarding the quality of a psychologist's expert work in a case, they may ultimately be criticised and named within a published judgement, in advance of this it should consider feeding this back to the expert in the first instance as a complaint. This will allow the expert to respond and address any concerns relating to their own performance or the system wide performance issues that may have affected the quality of the work. It is accepted that there may be occasions when the Court does not consider this appropriate.
- 5.6 If initial feedback on a case is not satisfactorily resolved, the Court should consider whether there is a need to refer the matter to the appropriate (regulatory, chartering or employing) body to ensure that any concerns are addressed appropriately. Otherwise, there is no mechanism to improve quality, maintain standards and safeguard the public.
- 5.7 Prior to instruction, the psychologist should be prepared to discuss whether their areas of expertise are appropriate to the proposed instructions and this will require an exchange of information with the proposed instructing solicitor in relation to the detail of the key issues and presenting issues of the individual(s) requiring assessment.
- 5.8 To act within one's field of expertise as a psychologist expert witness in a case requires a demonstrable basis of specialist psychological knowledge and experience appropriate to the case. This is consistent with the requirements for practitioner psychologists to work within their competences as highlighted in the code of conducts of the BPS and HCPC. This may include expertise in specific conditions or formulations (e.g. autism spectrum disorder/condition, deafness, disordered attachment, personality disorder), as well as specific age groups and settings (e.g. foster care, residential care, youth offending). There is no professional requirement to demonstrate employment in a public body, e.g. NHS, Education, or engagement in general psychological provision. It is acknowledged however that engagement in practice outside a solely Family Court context is likely to assist in the maintenance of relevant skills, knowledge and comparators with broader population

norms particularly in terms of treatability, as well as enhancing the psychologist's ability to comply with the relevant standards and Practice Directions set down regarding expert evidence.

- 5.9 Psychologists are responsible for ensuring they are sufficiently competent to offer an expert opinion. Indications of competence in respect of the knowledge required by the Court, and expertise within a specialised field, may include:
- Qualifications and/or degrees in the areas in question;
 - Number of years of relevant post-doctoral/post-qualification experience;
 - Academic, professional and scientific publications in relevant areas;
 - Demonstrations of professional practice, competence, specialist knowledge and expertise with a bearing upon the issues in the case; and
 - Current and applied psychological experience in the area of claimed expertise (e.g. clinical, counselling, educational, forensic, health, occupational, sport and exercise). This may include expertise and experience of risk assessment, treatment, work in the field (e.g. neuropsychology, assessing a patient's memory), and so on. These may differ with each case.
- 5.10 Psychologists need to be particularly aware of the danger of straying from their areas of expertise in accepting an instruction, in their written opinion and under cross-examination. They should always be prepared to decline to give an opinion when this is appropriate, and to remind the lawyers or judge of their expertise and remit of instruction. The President of the Family Division's Memorandum on the use of experts in the family court October 2021⁹ emphasises the rigorous approach taken by the family courts in admitting expert evidence and in particular whether there is a *reliable body of knowledge or experience to underpin the expert's evidence*.
- 5.11 Appendix 2 gives a detailed description of each type of practitioner psychologist in terms of typical areas of activity, proficiencies and exclusions at registration (qualification) alongside typical training and career pathways. Whilst these descriptions give general guidance, when appointing a HCPC registered psychologist it is important that post-qualification training, additional competencies and current area of practice are also considered with regards to the issues within the case. This principle remains valid when the Family Court considers instructing other psychologists because of their specialisms, such as those working in academia in relevant applied areas of research, e.g. specific populations such as children with very restricted diets.
- 5.12 As well as professional knowledge and skills, expert witnesses in Family Courts must also develop and maintain skills specific to court work. The CPD in relation to work in the Family Court will be consistent with the standards for expert witnesses.
- 5.13 The academic quality of the psychologists' evidence must be such that it is informed by the latest evidence in the field. This includes the use of the most up to date and relevant assessments and tests based on accepted professional and/or academic opinion. The psychologist should also anticipate, be aware of, and prepare for potential conflicts in expert opinions when preparing evidence¹⁰.
- 5.14 Psychologists often provide expert opinion to courts informed by psychometric testing. In addition to their duty to the court, psychologists need also to consider their obligation to the profession and the ethical standards required of those employing psychometric instruments. These include, for example, ensuring that the expert opinion they provide does not exaggerate the attributes of tests and that they do not go beyond their competences in making comment. The importance of this has been highlighted in relation to personality measures with parents in particular, underscoring the need for triangulation in assessment and formulation¹¹.

- 5.15 Any use of psychometric tests should comply with the *International Guidelines for Test Use*¹² including having relevant test user qualifications^a and quality assurance in place. Psychologists working within specific areas may be required to have additional qualifications in order to conduct assessments and/or make recommendations. Such additional qualifications may be in the form of specialist training, the use of specific psychometric tests, and so forth. The psychologist should provide supporting evidence of such additional qualifications, and indicate in their CV which tier of tests they can use. Please see Appendix 5.
- 5.16 The Psychological Testing Centre statement on the conduct of psychologists providing expert psychometric evidence to courts and lawyers¹³ sets out guidance to psychologists and other users of psychological tests concerning obligations when providing evidence or opinion, which rests on the results of psychometric testing. Many tests are invalidated by prior knowledge of the specific content of tests and their objectives. Psychologists who use tests are required to respect the confidentiality of test materials and to avoid release of test materials into the public domain (unless this is explicitly allowed in the nature of the test and by the test publisher). In reporting the results of psychometric assessment psychologists should act in accordance with the current BPS Statement on the Conduct of Psychologists providing Expert Psychometric Evidence to Courts and Lawyers.
- 5.17 It is also possible for the psychologist to use assistants as data gatherers, for example to administer, score and analyse psychometric assessments. This would typically include graduate posts such as research assistants, or **assistant psychologists** who have **Graduate Basis for Chartered Membership**^b. This should not include placement students, honorary post holders or volunteers. **Trainee psychologists**^c during their work placements could also be involved as data gatherers. Any such involvement will be disclosed to the Court with a clear indication of the limitation of their involvement and this made clear within the psychology report itself. Such assistants must be employed in a way that is compliant with all relevant codes of ethics and conduct, as well as necessary safeguarding, health and safety and employment regulations and covered by the insurance of the instructed psychologist. The analysis and integration of data gathered and any subsequent formulation or opinion is the domain of the appointed qualified practitioner psychologist who takes overall responsibility for the work and content of reports and remains the source of all opinion. If in exceptional circumstances an unqualified psychologist is required by the Court to provide evidence it would be as a **professional witness**, in that they can detail the facts of what was observed, but not give expert opinion.
- 5.18 *HCPC registration, or chartered status in the BPS, provide a reliable, one-stop, method of authentication. Where a potential expert is registered with the HCPC as entitled to hold themselves out as an expert under one of the protected titles, this can be taken*

^a The British Psychological Society's **Psychological Testing Centre (PTC)** provides information and services relating to standards in tests and testing for test takers, test users, test developers and members of the public. Through the PTC, the BPS provides nationally recognised qualifications in test use, a Register of Qualifications Test Use (RQTU) and provides independent reviews of psychological tests. This training is open to non-psychologists and does not require BPS chartered membership. The qualifications can be completed at Assistant Test User and Test User level for the Occupational, Forensic and Educational domains. Those completing the qualification can apply to join the voluntary RQTU.

^b Psychology graduates who have completed accredited undergraduate degrees in psychology can apply to the BPS for Graduate Basis for Chartership (GBC).

^c Psychology graduates who are undertaking formal programmes of postgraduate study in order to gain the necessary qualifications and experience for HCPC registration or Chartered Membership (e.g. 3-year Doctoral Degree with work placements).

as sufficient qualification to offer an opinion within that field of practice. Further detail in the CV may assist with the choice of one particular expert over another, but it is the kitemark of HCPC registration which should resolve the question of qualification without more. A psychologist's CV should, therefore, prominently highlight whether they are HCPC registered or not. It is incumbent on an un-registered psychologist to assist the court by providing a short and clear statement of their expertise. (Re C ('Parental Alienation') [2023] EWHC 345 (Fam).)

6. Supervision/peer review

- 6.1 The codes of conduct for both the BPS and HCPC state that it is best practice for psychologists to engage in regular **supervision** and/or **peer review** in relation to all aspects of their professional activities. Seeking regular supervision/peer review is the responsibility of the psychologist to ensure practice is current, reflective, of an appropriate and consistent standard, and to obtain regular support, especially in relation to complex matters or new areas of application. Further details in relation to supervision and peer review are provided in Appendix 3.
- 6.2 Courts and hearings recognise that all experts have to start somewhere and gain experience through training, supervision, and cumulative practice. If a psychologist is not experienced in preparing evidence for legal purposes, they are responsible for obtaining the appropriate advice, training, supervision, and mentoring in the preparation of the report and for the first court appearance. It is partly in this way that expertise is developed. The individual psychologist being called to provide evidence is responsible for securing appropriate support and training necessary in relation to the legal process to ensure professional standards are met.
- 6.3 Experts are not expected to require supervision of their opinion; indeed, if a psychologist believes that they need this, then they should question whether they are ready for expert witness work.
- 6.4 Psychologists who are appearing for the first time as witnesses should take advantage of available training materials and events which will likely assist them in their preparation for appearance at a court, tribunal or hearing. The BPS and a number of other organisations produce materials for continuing professional development (CPD), such as training events, workshops and other learning materials that will assist with this. The Family Justice Council's [Experts in the Family Justice System \(EFJS\)](#), aims to support the development and availability of experts through various means, including national and regional training and networking events and a mini-pupillage scheme open to psychologists which can include shadowing barristers and judges during the conduct of a case and cross examination of expert witnesses.

7. Quality of service

The Court's expectations from a psychologist as expert witness are set out below.

7.1 The legal framework and duties for all expert witnesses is a matter of law^d and is set out in the relevant Family Procedure Rules (FPR) Part 25 and Practice Directions (PD) and in current case law. Witnesses can only give evidence of fact unless they qualify as experts who can give opinion evidence. That said, opinion evidence given by experts such as psychologists can only be given with the court's express permission, when such evidence is 'necessary'^e. The rules are the legal foundation for expert witnesses and compliance is mandatory.

PD25B para 4.1(b) requires an expert to comply with the Standards set out in the Annex. These include requirements to have been active in the area of work; to have sufficient experience of the issues; to have familiarity with the breadth of current practice or opinion; and if their professional practice is regulated by a UK statutory body that they are in possession of a current licence, are up to date with CPD and have received appropriate training on the role of an expert in the family courts.

7.2 The expert witness's overriding duty is to the Court and to be impartial in their evidence; the impartiality of expert witnesses is essential¹⁴ to their evidence; if the psychologist has a view that is controversial as between experts or that might be derived from partiality, she or he must declare the extent of that interest. This is particularly relevant when a psychologist expert recommends an intervention or therapy that they or an associate would benefit financially from delivering. Whilst this may be experienced as helpful and facilitative to the court, this would be a clear conflict of interest and threat to the independence of their expert evidence.

7.3 The psychologist offering expert witness evidence must be subject to regulation with HCPC and/or Chartered with the BPS and will only use the appropriate protected title(s) in all communication to provide immediate clarification of regulatory status.

7.4 The psychologist expert witness's CV will clearly state under which code(s) of conduct they are governed, and any/all regulatory/professional body to which they belong, including their current registration details and the process by which such details can be verified, such as the website address.

7.5 The psychologist's CV will provide relevant and verifiable details of qualifications, experience, other professional memberships, academic publications and post-qualification specialisations including any matters in which they are competent.

7.6 The psychologist will respond to questions on all aspects of their CV to ensure clarification with regard to regulation and professional competence in the relevant matter.

^d The general rule that a witness may only give evidence as to fact observed by them is overridden in the case of expert evidence given by a person whose expert evidence justifies the court receiving such evidence; Civil Evidence Act 1973, s3.

^e The court will only order such expert evidence when it is 'necessary' as defined by the President of the Family Division in *Re H-L (A Child) [2013] EWCA Civ 665*; 'having "the connotation of the imperative, what is demanded rather than what is merely optional or reasonable or desirable."' [3]

- 7.7 The psychologist will take part in or, when necessary, initiate a dialogue with the Court to ensure the best quality and most relevant questions are asked and any apparently superfluous aspects of the instruction are challenged. Experts can ask the court for directions¹⁵.
- 7.8 The psychologist will work within the relevant code(s) of conduct as well as the PD and FPR. This may include raising concerns regarding ethical considerations, including where the guidance or instruction indicates too few hours to complete the requested assessment (and solicitors can apply to the LAA for prior authority to pay an expert for work in excess of the LAA's 'benchmark' hours¹⁶). The psychologist will act on their duty of care with regard to the individuals being assessed (e.g. contacting the GP of the individual being assessed) alongside communicating their concerns to the Court. The psychologist will undertake peer review in relation to their Family Court work. If supervision is required to supplement the expertise of the psychologist in a discrete area, this should be disclosed in the report and the subsequent evidence.
- 7.9 The psychologist will have an appropriate enhanced Disclosure and Barring Service check and professional indemnity insurance.
- 7.10 All psychologists will be registered with the Information Commissioner's Office regarding information security and comply with data protection legislation.
- 7.11 The psychologist will transparently and clearly set out fees, hours of work and timeframe, and communicate any variation without delay over the duration of the assessment process.
- 7.12 The psychologist will present and deliver their evidence as directed by the Court and comply with all relevant court orders and directions.

8. References

- ¹ [Ministry of Justice \(2014\). Practice Direction 25b – The Duties of an Expert, the Expert's Report and Arrangements for an Expert to Attend Court.](#)
- ² [British Psychological Society \(2021\). *Psychologists as expert witnesses*. Leicester: Author.](#)
- ³ Cannon, M., Evans, H., Stewart, R. (General Editors), Sir Rupert Jackson, J. Powel (Consultant Editors) and others (Eds.) *Jackson and Powell on Professional Liability* (8th edn, Sweet and Maxwell 2017 and 3rd supp 2019) at 6-006 to 6-007.
- ⁴ [British Psychological Society \(2019\). *Understanding formulation*. Leicester: Author.](#)
- ⁵ Family Justice Council (2011). *Guidelines for the instructions for medical experts from overseas in family cases*. London: Author.
- ⁶ [Legal Aid Agency \(2020\). *Guidance on the remuneration of expert witnesses in family cases*. London: Author.](#)
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- ⁸ [British Psychological Society \(2018\). *Code of ethics and conduct*. Leicester: Author.](#)
- ⁹ [Family Justice Council \(2021\). *President's Memorandum: Experts in the family court*. London: Author.](#)
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- ¹² International Test Commission (2001). International guidelines for test use. *International Journal of Testing*, 1(2), 93–114.
- ¹³ [British Psychological Society \(2016\). *Statement on the conduct of psychologists providing expert psychometric evidence to courts and lawyers*. Leicester: Author.](#)
- ¹⁴ *Re C ('Parental Alienation')* [2023] EWHC 345 (Fam).
- ¹⁵ [Ministry of Justice \(2010\). Family Procedure Rules part 25, rule 25.17.](#)
- ¹⁶ [Legal Aid Agency \(2020\). *Guidance on the remuneration of expert witnesses in family cases*. London: Author.](#)

Appendix 1 – Protected titles and regulation of practitioner psychologists

The Health Professions Council (HPC), which preceded the current Health and Care Professions Council (HCPC), was given statutory responsibility for the regulation of practitioner psychologists from July 2009. Only practitioner psychologists who are registered with the HCPC may use titles protected by the HCPC. These are:

- Clinical Psychologist
- Counselling Psychologist
- Educational Psychologist
- Forensic Psychologist
- Health Psychologist
- Occupational Psychologist
- Sport and Exercise Psychologist
- Registered Psychologist; and
- 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 appropriate professional qualifications and experience that have been vetted by the Society.

To be eligible for Chartered Membership a psychologist must have achieved both the Graduate Basis for Chartered Membership (at least a 2:2 on a society-accredited undergraduate honours degree or equivalent as determined by the BPS) and one of the following:

- a society-accredited doctoral qualification (which includes supervised practice)
- a BPS Stage 2 Qualification that confers Chartered status (which includes supervised practice)
- appropriate postgraduate training and experience of teaching psychology
- a PhD achieved through research in psychology
- professional recognition by the society against standards for conferring Chartered status

The BPS has other grades of membership including ‘associate fellow’ and ‘fellow’ as well as membership of specific specialist Member Networks (such as the Division of Clinical Psychology and the Division of Educational and Child Psychology). In addition, the Society has a Specialist Register of Clinical Neuropsychologists, for those who have met the standards for the Qualification in Clinical Neuropsychology. ‘Neuropsychologist’ is not currently a protected title under the HCPC regulatory framework.

Although the qualifications and experience required are different for each, registration with the HCPC and Chartered Membership of the BPS both require that the psychologist has the required qualifications and experience (and these are confirmed). For those registered with HCPC there is also the requirement that they are in active practice and are undertaking appropriate continuous professional development (CPD).

Under the current legislation, the HCPC is not authorised to protect the basic title ‘psychologist’. Therefore, 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. For example, the following titles are in use but have no specific meaning in applied psychology or psychological practice:

- Assessment Psychologist
- Child Psychologist
- Criminal Psychologist
- Expert Psychologist
- Developmental Psychologist
- Consultant Psychologist and
- Graduate Psychologist.

Courts should expect that all psychologists based in the UK providing evidence in family proceedings are regulated by the HCPC (if they are practitioners) and/or that academic psychologists have Chartered membership with the BPS.

The HCPC states that ‘... A person commits an offence if they use a protected title if they are not registered. It is also an offence to deceive by implying that you are a member of one of the professions we regulate i.e. provide psychological services.’

When unqualified people refer to themselves as ‘psychologists’ this 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, this is currently not illegal.

The HCPC does allow the use of assistant, trainee or student as the prefix implies that the individual is not fully qualified.

Appendix 2 – Typical training and expertise of practitioner psychologists

(Developed in collaboration with senior psychologists of each type with experience as practicing expert witnesses and based upon the HCPC standards of proficiency)

A. CLINICAL PSYCHOLOGISTS

Clinical psychologists are qualified to work with individuals across the lifespan with behavioural, emotional and/or psychological distress causing disruption to their everyday functioning and wellbeing. Their task is to facilitate adaptability and change in individuals, groups, families, organisations and communities in an effort to alleviate distress and enhance future resilience.

In addition to the core proficiencies of assessment and formulation clinical psychologists specialise in psychological treatment, that is the application of therapeutic techniques and process within the context of working with a range of individuals in distress. This includes specific knowledge of psychological therapy using a range of therapeutic models including cognitive behavioural therapy (CBT), systemic family therapy and psychodynamic psychotherapy.

Key standards of proficiency at registration: Clinical psychologists are proficient to work with individuals of any age with often complex, overlapping and multiple difficulties relating to a number of contributory factors including:

- Mental health problems (e.g. anxiety, eating disorder, depression, self-harm);
- Severe mental illness (e.g. psychosis);
- Personality difficulties;
- Psychosexual and/or relationship difficulties;
- Brain injury/neuropsychological difficulties, whether related to trauma (e.g. head injury from road traffic accident), condition (e.g. epilepsy) or abnormal ageing process (e.g. dementia);
- Physical, sensory or communication disabilities;
- Cognitive and adaptive functioning impairments (e.g. significant learning disability);
- Developmental difficulties (e.g. eating, sleeping, challenging behaviour);
- Pervasive developmental delay/disorders (e.g. autism spectrum disorder/condition);
- Neuro-developmental difficulties/disorders (e.g. attention deficit hyperactivity disorder);
- Adjustment to adverse circumstances or life events (e.g. bereavement, loss, trauma, abuse, domestic violence);
- Physical health issues (e.g. stroke, cancer); and
- Substance misuse (e.g. alcohol, drugs).

Relevant proficiency exclusions (at registration): core training does not include the assessment and management of specific learning difficulties, e.g. dyslexia, dyscalculia; and core training does not include the assessment of psychopathy.

Typical training pathway: Undergraduate degree in psychology accredited by the British Psychological Society to infer the Graduate Basis for Chartered Membership (usually 2:1 or higher). Relevant clinical/research experience, typically two to four years, e.g. assistant psychologist, healthcare assistant, social/support worker; research assistant. Health and Care

Professions Council approved postgraduate or doctoral programme in clinical psychology – a three-year programme involving a doctoral research thesis and up to six placements lasting approximately six months each, working under the direct supervision of a clinical psychologist. Each placement is likely to focus on working with one of the key client groups such as adult mental health clients; children and families; older adults and those with a significant learning disability (e.g. Down’s syndrome) as well as more specialist services.

Typical career pathway: The majority of clinical psychologists work in mental health services in the NHS or equivalent private healthcare organisations and specialise in a particular age group (such as child, adult or older adult) and a chosen psychological therapeutic model. During their careers most do additional psychological therapy training. This may include further academic qualifications, such as obtaining a postgraduate certificate or diploma in a psychotherapy of their choice (e.g. CBT) or a master’s degree in an associated area such as neuropsychology.

B. EDUCATIONAL PSYCHOLOGISTS

Educational psychologists are qualified to address concerns affecting psychological and emotional development and learning expressed by and on behalf of infants, children and young people (0–25 years). They draw on a range of psychological theories and apply these to carry out a wide range of tasks with the aim of enhancing children’s development, learning and emotional wellbeing. Educational psychologists enable parents, teachers and other individuals working with children to become more aware of and address the social factors affecting development and learning.

Key standards of proficiency at registration: Educational psychologists have skills and knowledge that enable them to: understand and apply psychological models related to the influence on development of children and adolescents from family structures and processes, cultural and community contexts, and organisations and systems;

- understand the structures and systems of a wide range of settings in which education and care are delivered to children and adolescents;
- understand psychological models related to the influence of school ethos and culture, educational curricula, communication systems, management and leadership styles on the cognitive, behavioural, emotional and social development of children and adolescents;
- understand psychological models of the factors that lead to underachievement, disaffection and social exclusion amongst vulnerable groups;
- understand theories and evidence underlying psychological intervention with children and adolescents, their parents/carers, and education and other professionals;
- understand the influence of education legislation on the processes of education;
- understand the range of social, cultural, biological, neurological, medical and life events that impact on children and adolescents and that may give rise to special educational needs or developmental delays; and
- understand the impact on families of concerns about the welfare, development and learning of children and adolescents.

Relevant proficiency exclusions (at HCPC registration): Core training does not include working with adults. Educational psychologists are trained to work with and on behalf of individuals aged 0 to 19 years. From September 2014, changes in the special educational needs legislation means that this will extend to include assessments of educational needs for individuals up to the age of 25

years. Sometimes they are involved with young adults who are still in education, e.g. those with more chronic learning, behavioural, social and/or emotional difficulties.

- Core training does not include the assessment of substance misuse.
- Core training does not include capacity related issues.
- Core training does not include the assessment of offending behaviour and other forensic issues.
- Core training does not equip the educational psychologist to offer psychotherapy or other psychological treatments.

Typical training pathway: Undergraduate degree in psychology accredited by the British Psychological Society to confer the Graduate Basis for Chartered Membership (usually 2:1 or higher).

Experience of no less than two years working with children or adolescents e.g. assistant psychologist, learning support assistant, teacher, early years worker, youth worker.

For those qualifying from 2009, a Health and Care Professions Council approved doctoral programme in educational psychology. The programme is a three-year programme that involves supervised placements in each year and a doctoral research thesis. The required placements in the doctoral training courses focus on developing an understanding of the structures and processes of early years settings, care settings and schools, working with children, adolescents and families and may include experience of other specialist services for children provided by paediatricians, child and adolescent psychiatrists, speech and language therapists, social workers and youth workers.

Educational psychologists qualifying before 2009 were required to be qualified teachers with at least two years teaching experience and a master's degree in educational psychology approved by the British Psychological Society.

Typical career pathway: The vast majority of educational psychologists work in children's services within local authorities. Some educational psychologists may specialise, e.g. in early years education; in working with children in public care; in an area of special needs such as autism spectrum disorder; in working with young offenders or working with specific institutions such as schools for children with severe learning disabilities. Some educational psychologists may acquire qualifications or expertise through supervised experience in other fields of psychology such as psychotherapy, brief therapy, solution focused approaches, family and parenting work and neuropsychology.

C. COUNSELLING PSYCHOLOGISTS

Counselling psychologists are qualified to work with people across the lifespan as individuals, couples, families, groups or organisations, addressing any manifestation of psychological distress as well as adjustment to life experiences. They pay particular attention to subjectivity and inter-subjectivity through the use of therapeutic relationships with an understanding of relevant spiritual and cultural traditions and contexts. They work in health and social care, educational, forensic, organisational and independent settings.

In addition to the core proficiency of assessment and psychological formulation, counselling psychologists specialise in providing psychological therapy within the three major traditions of psychotherapy; cognitive behavioural therapy, humanistic therapies and psychodynamic therapies. Practitioners integrate a range of models and theories to draw on the most appropriate approach for the client or clients. They will have experienced psychotherapy as a client and reflected on their own life experiences.

Key standards of proficiency at registration:

Counselling psychologists will be able to work with a range of difficulties that include:

- Mental health problems, anxiety, depression, eating disorders, self-harm;
- Severe mental illness, psychosis;
- Personality difficulties;
- Relationship difficulties, adult relationships, parenting problems, conflict resolution;
- Brain injuries, epilepsy, dementia, accidents;
- Communication difficulties, sensory disabilities; Developmental difficulties;
- Bereavement, loss, trauma, sexual abuse, domestic violence;
- Attachment styles;
- Physical illness or disability;
- Critical evaluation of psychopharmacology i.e. medication;
- Boundary violations;
- The dynamics of power;
- Substance misuse and addictions;
- Minority groups and discrimination; and
- Use and interpretation of psychometric tests.

Relevant proficiency exclusions at registration: Core training does not include the assessment of specific or global learning difficulties.

Core training does not include the assessment of offending behaviour. Core training does not include capacity related issues.

Typical training pathway:

Undergraduate degree or master's degree in psychology, accredited by the British Psychological Society to confer the Graduate Basis for Chartered Membership.

Basic counselling skills training and some experience of face-to-face work with adults or children.

Completion of an accredited Practitioner Doctoral Degree in Counselling Psychology or the completion of the Qualification in Counselling Psychology awarded by the British Psychological Society. The courses require supervised counselling practice of 450 hours over three or more years in a variety of settings. Trainees are required to receive personal therapy during training.

Typical career pathway:

The majority of counselling psychologists will have experience of working in psychological services in the NHS as well as in voluntary organisations and private healthcare organisations. Most will develop a preferred therapeutic approach and many specialise in a particular client group.

Counselling psychologists with further experience will qualify for the Register of Psychologists Specialising in Psychotherapy and become clinical supervisors. Many counselling psychologists also maintain a private practice as a psychotherapist.

D. FORENSIC PSYCHOLOGISTS

Forensic psychologists work with all aspects of the criminal justice system from the psychological aspects of investigation and legal process through to offending behaviour and application of psychological methods and theories to reduce the impact of this and future reoffending. Whilst this usually applies to adults, some specialised forensic psychologists work with young offenders and within the youth justice system.

In addition to the core proficiencies of assessment and formulation forensic psychologists specialise in psychological treatment, that is the application of therapeutic techniques and process within the context of offending behaviours.

Key standards of proficiency at registration: Forensic psychologists have skills and knowledge that enable them to: Analyse and assess the risk of recidivism across a range of antisocial and offending behaviours from psychological models including the influence of:

Personal psychological development; Socialisation and criminalisation processes; Risk assessment; Context, maintenance and dynamic influencing criminogenic factors.

Understand how environmental factors influence offending behaviour. Identify key risk information and relate this to the specific needs of the individual. Develop the design and implementation of intervention programmes to modify offending behaviour. Respond to the changing needs of environments and offenders. Provide empirically derived research evidence to support practice. Produce empirically supported analysis of offenders for profiling and estimating risk. Give evidence to Courts, Parole Boards and Mental Health Tribunals. Undertake crime analyses.

In the treatment of offenders, forensic psychologists are responsible for the development of appropriate programmes for rehabilitation. They may include work on sexual offending, violence and aggression, interpersonal and social skills and intervention to address for illicit drug and or alcohol use. In the support of prison or hospital staff, forensic psychologists may be responsible for the delivery of stress management or staff training (e.g. understanding bullying and hostage negotiation).

Relevant proficiency exclusions (at registration): Core training does not include working with children. Forensic psychologists are trained to work with and on behalf of individuals over the age of 18 years, although some specialised practitioners work with young offenders, e.g. Sexual Harmful Behaviour units and Young Offenders Institutions. Core training does not include working with individuals with emotional disorders or severe and enduring mental health issues. Core training does not include working with individuals with significant learning disabilities or pervasive developmental delay/disorders (e.g. autistic spectrum disorders). Core training does not equip forensic psychologists to offer psychotherapy but they may be able to offer specialised psychological treatments for specific offending behaviour problems (e.g. violent offending).

Typical training pathway: Undergraduate degree in psychology accredited by the British Psychological Society to confer the Graduate Basis for Chartered Membership (usually 2:1 or higher). A Health and Care Professions Council approved higher degree (MSc) in Forensic Psychology that provides the necessary underpinning knowledge or 'Stage 1' of the British Psychological Society Diploma in Forensic Psychology. A minimum of a three-year period of evidenced supervised practice during which trainee forensic psychologists provide evidence of applying psychology appropriately in forensic practice (referred to as Stage 2). Or a BPS and HCPC accredited/approved doctoral programme covering 'Stage 2' that includes practice placements and a doctoral research thesis. Or a BPS and HCPC accredited/approved doctoral

programme of three or more years covering both ‘Stage 1’ and ‘Stage 2’ requirements, including the completion of practice placements and a doctoral research thesis. A third option includes an HCPC only registration 3-5 year route for those with a Forensic Psychology Masters Degree. This course covers the competencies required to be HCPC registered but those completing this route cannot become BPS Chartered.

Typical career pathway: The largest single employer of forensic psychologists in the UK is HM Prison Service, although forensic psychologists are also employed in the specialist mental health settings (such as the ‘secure hospitals’), Social Services and Offender Management Services (such as police and probation). Many forensic psychologists are independent practitioners or employed in academic departments.

Some forensic psychologists may acquire qualifications in other fields of psychology (e.g. psychological therapy and neuropsychology).

E. CLINICAL NEUROPSYCHOLOGISTS

Clinical neuropsychologists work with people of all ages dealing with clients who have had traumatic brain injury, strokes, toxic and metabolic disorders, tumours and neurodegenerative diseases. Clinical neuropsychologists require not only general clinical skills and knowledge of the broad range of mental health problems, but also a substantial degree of specialist knowledge in the neurosciences. Clinical neuropsychology is a post-qualification discipline, available to chartered psychologists within the field of clinical or educational psychology. The clinical aspect of neuropsychology overlaps with academic neuropsychology, which provides a scientific understanding of the relationship between brain and neuropsychological function.

Key standards of proficiency at registration: please refer to clinical or educational psychology sections above.

Relevant proficiency exclusions (at registration): please refer to clinical or educational psychology sections above.

Typical training pathway: Clinical neuropsychology is a post-qualification discipline, subsequent to training in clinical or educational psychology. The BPS offers the Qualification in Clinical Neuropsychology (QiCN) which confers eligibility for entry onto the Society’s Specialist Register of Clinical Neuropsychologists. Criteria for the QiCN involves completing a post-doctoral diploma in clinical neuropsychology and examination of a two-year portfolio of clinical neuropsychology cases.

F. HEALTH PSYCHOLOGISTS

Health psychologists use their knowledge of psychology and health to promote general wellbeing and understand physical illness. They are specially trained to help people deal with the psychological and emotional aspects of health and illness as well as supporting people who are chronically ill.

Health psychologists promote healthier lifestyles and try to find ways to encourage people to improve their health. For example, they may help people to lose weight or stop smoking. Health psychologists also use their skills to try to improve the healthcare system. For example, they may advise doctors about better ways to communicate with their patients.

Key standards of proficiency at registration: Health psychologists have skills and knowledge that enable them to:

understand context and perspectives in health psychology; understand the epidemiology of health and illness;

understand biological, cognitive and behavioural mechanisms of health and disease; plan and implement assessment procedures for training programmes;

develop appropriate psychological assessments based on appraisal of the influence of the biological, social and environmental context; and

choose and use a broad range of psychological interventions, appropriate to the service user's needs and setting.

Relevant proficiency exclusions (at registration):

Core training does not include the assessment of specific or global learning difficulties. Core training does not include the assessment of offending behaviour. Core training does not include capacity related issues.

Core training does not equip the health psychologist to offer psychotherapy or other psychological treatments.

Typical training pathway: Undergraduate degree in psychology accredited by the British Psychological Society to confer the Graduate Basis for Chartered Membership (usually 2:1 or higher). A HCPC/BPS accredited master's in health psychology and one of the following: HCPC/BPS 'Stage 2', doctoral-level qualifications: The BPS's Qualification in Health Psychology Stage 2 (QHP Stage 2) or an HCPC/BPS accredited doctorate in health psychology.

In Scotland, an NHS-funded Stage 2 training scheme employs a number of trainee health psychologists each year. This enables Chartership through the BPS's Qualification in Health Psychology. Currently, there is not an equivalent funded Stage 2 training scheme for the rest of the UK; however, some institutions and funding bodies do offer trainee health psychologist roles or funding for training.

G. SPORT AND EXERCISE PSYCHOLOGISTS

Sports psychologists provide services including counselling referees to deal with the stressful and demanding aspects of their role, advising coaches on how to build cohesion within their squad of athletes, and helping athletes with personal development and the psychological consequences of sustaining an injury.

Services offered by exercise psychologists include optimising the benefits that can be derived from exercise participation and helping individual clients with the implementation of goal-setting strategies.

Practitioners typically specialise in either the sport or exercise branches though some work equally in both fields.

Key standards of proficiency at registration: Sport and exercise psychologists have skills and knowledge that enable them to: understand cognitive processes, including motor skills, practice skills, learning and perception; and self-regulation;

understand psychological skills including strategies for stress and emotion management;

understand social processes within sport and exercise psychology;

understand the impact of developmental processes, including lifespan issues and processes related to career transitions and termination;

assess social context and organisational characteristics;

develop psychological formulations using the outcomes of assessment, drawing on theory, research and explanatory models;

formulate service users' concerns within the chosen intervention models; and be aware of the possible physical risks associated with certain sport and exercise contexts.

Relevant proficiency exclusions (at registration):

Core training does not include working with children.

Core training does not include the assessment of specific or global learning difficulties. Core training does not include working with individuals with emotional disorders or severe and enduring mental health issues.

Core training does not include the assessment of offending behaviour. Core training does not include capacity related issues.

Core training does not equip the sports and exercise psychologist to offer psychotherapy or other psychological treatments.

Typical training pathway: Undergraduate degree in psychology accredited by the British Psychological Society to confer the Graduate Basis for Chartered Membership (usually 2:1 or higher).

A HCPC/BPS accredited master's in sport and exercise psychology

Stage 2 of the BPS's Qualification in Sport and Exercise Psychology (two years supervised practice) or an equivalent qualification that has been approved by the HCPC.

H. OCCUPATIONAL PSYCHOLOGISTS

Occupational psychologists focus on the behaviours and functionality of individuals, groups and organisations, and apply the science of psychology to work. This involves them using an evidence base when devising workplace interventions.

Occupational psychologists use psychological theories and approaches to deliver tangible benefits by enhancing the effectiveness of organisations and by developing and/or improving the performance, motivation, job satisfaction, and wellbeing of people in the workplace.

Occupational psychologists develop, apply and evaluate a range of tools and interventions across those factors that impact on work, workers, and the work environment.

Key standards of proficiency at registration: Occupational psychologists have skills and knowledge that enable them to: understand the following in occupational psychology:

- human-machine interaction;
- design of environments and work;
- personnel selection and assessment;
- performance appraisal and career development;
- counselling and personal development;

- training;
- employee relations and motivation; and
- organisational development and change; and assess individuals, groups and organisations in detail;
 - use the consultancy cycle;
 - research and develop psychological methods, concepts, models, theories and instruments in occupational psychology;
 - use psychological theory to guide research solutions for the benefit of organisations and individuals;
 - understand and be able to act and provide advice on policy development concerning employees' and job seekers' rights; and
 - run, direct, train and monitor others.

Relevant proficiency exclusions (at registration):

Core training does not include working with children. Core training does not include the assessment of specific or global learning difficulties. Core training does not include working with individuals with emotional disorders or severe and enduring mental health issues.

Core training does not include the assessment of offending behaviour. Core training does not include capacity related issues.

Core training does not equip the occupational psychologist to offer psychotherapy or other psychological treatments.

Typical training pathway: Undergraduate degree in psychology accredited by the British Psychological Society to confer the Graduate Basis for Chartered Membership (usually 2:1 or higher).

A HCPC/BPS accredited master's in occupational psychology. Stage 2 of the Society's Qualification in Occupational Psychology (two years supervised practice) or an accredited doctorate in occupational psychology or equivalent qualification that has been approved by the HCPC.

Appendix 3 – Supervision

The specific aims of supervision/peer review are to:

- assure the quality of the assessment process and written evidence provided; share best practice;
- facilitate continuous development practice and service provision through reflective learning;
- contribute to the protection of service users by providing psychologists with opportunities to assess risk and discuss professional and ethical dilemmas; and
- contribute to the psychological health, wellbeing and resilience of practitioner psychologists by providing opportunities to disclose their personal reactions to the demands of their work.
- Supervision is also an important tool for addressing potential practitioner bias

As with most professional psychological activities supervision and peer review for Family Court work is external to any lines of authority, management or organisational accountability and does not provide any form of coaching, advice or specific guidance as to any opinion formed therein. It is there to support the court appointed psychologist in reflecting on the quality of the evidence gathered and the coherence of the psychological formulation, which then forms the basis of the opinion. It also provides an opportunity to consider how these often complex issues are effectively communicated to the Court.

Supervision is usually undertaken between a psychologist and a supervising psychologist who is more senior, experienced or specialist in a given area. This higher level of review and support is considered best practice for psychologists new to expert witness work, or new to a particular type of Court or legal process until they have confidence in this role. Similarly, it is best practice for psychologists new to expert witness work to observe others giving evidence in the relevant Court, or complete appropriate training in giving evidence, as provided for example by mini-pupillage schemes.

Psychologists should work within their competences and recognise their boundaries; however appropriate training and supervision on unusual or specialist aspects of a case enables psychologists to integrate and expand their areas of expertise over time within safe and ethical parameters.

Peer review usually takes place between qualified psychologists with comparable training/experience/expertise and represents a continuous process of review and reflection. Peer review constitutes one method of fulfilling the requirements of the HCPC standards of proficiency for practitioner psychologists [standard 2]. As such there is a presumption that it will be undertaken when appropriate as a matter of good practice. Psychologists offering expert opinion in isolation of peer review are increasing risks within their practice. Professionally there is a requirement for access to a relevant and active professional network whether this is through informal networks or more formal relationships between individual psychologists and agencies or larger practices offering a range of psychological services.

In Family Courts supervision/peer review usually focuses primarily on the quality of the psychologist's report and preparation and review of his/her oral evidence. Such review does not require the disclosure of court documentation and would be undertaken on a confidential basis without identifiable information being shared. Consistent with the requirements of the HCPC standards of proficiency for practitioner psychologists [standard 1], responsibility for the final report itself remains with the court appointed Psychologist producing it.

If supervision is required to supplement the expertise of the Psychologist in a discrete area for a particular case, this should be disclosed in the report and subsequent evidence. Peer review is to be considered standard practice and would not warrant being disclosed in this way.

Psychologist expert witnesses should also engage in reflective practice with non-psychological peers to ensure their work is fit for purpose within the Family Court. It is good practice wherever possible for psychologists to seek feedback on reports from lead solicitors, decision makers, and/or other professionals involved. In order to promote the provision to experts of judgments or decisions for cases in which their reports were commissioned a standard form of direction has been approved to be included in orders which flow from such decisions (see <https://www.judiciary.uk/wp-content/uploads/2022/03/A-View-March-2022.pdf>)

Appendix 4 – Example of case instructions and appropriate time ranges

All estimates are based on the following assumptions:

- individual being assessed speaks fluent English without marked sensory impairment;
- individual being assessed attends as scheduled and is generally cooperative;
- individual being assessed arrives with necessary aids if applicable (e.g. reading glasses, hearing aid);
- total expected reading is 350 pages,^f
- Medical records are available, if relevant; and
- no highly specialised low frequency issues.

Should any of these assumptions be violated additional time is likely to be required.

It is erroneous to assume there is any economy of scale when multiple family members are included in an assessment. This adds complexity owing to the increased requirement for synthesis of additional data sources and potential conflicts therein.

Intellectual (cognitive) assessment	7–10 hours
<p>To include, e.g. a full IQ test and guidance on how to work with individual.</p> <p>2–3 hours of direct assessment.</p> <p>1 hour psychometric scoring and analysis.</p> <p>1–2 hour reading (limited).</p> <p>2–4 report compilation.</p>	
Complex intellectual (cognitive) assessment	12–20 hours
<p>To include IQ test, adaptive functioning for, e.g.</p> <p>individual with complex health/disability issues; individual with sensory and/or communication issues; individual with neuropsychological issues; or individual with limited English requiring interpreter.</p> <p>3–6 hours of direct assessment.</p> <p>2–3 hour psychometric scoring and analysis. 2–4 hour reading (limited). 5–7 report compilation.</p>	
Capacity assessment	10–15 hours
<p>To include e.g. Neuropsychological assessment (e.g. IQ, memory) provision of capacity certificate.</p> <p>3–4 hours of direct assessment including third party. 1–2 hour psychometric scoring and analysis. 2–3 hour reading (limited). 3–4 report compilation.</p>	

^f Ministry of Justice (2014) Practice Direction 27a – Family Proceedings: Court Bundles (Universal Practice To Be Applied In The High Court And Family Court)

<p>Complex capacity assessment</p> <p>To include capacity assessment for individuals with a range of very complex presentations including those required by the Court of Protection, e.g.</p> <p>individual with complex health/disability issues; individual with sensory and/or communication issues; or individual with neuropsychological issues.</p> <p>4–6 hours of direct assessment including third party.</p> <p>2–3 hour psychometric scoring and analysis.</p> <p>2–4 hour reading (limited). 6–8 report compilation.</p>	<p>14–21 hours</p>
<p>Complex neuropsychological assessment</p> <p>To include e.g. individuals with complex neuropsychological difficulties/conditions.</p> <p>8–12 hours of direct assessment time.</p> <p>4–6 hours reading.</p> <p>3–7 hours of psychometric scoring and analysis.</p> <p>1–3 hours discussion with others.</p> <p>1–2 hours psychological formulation.</p> <p>8–12 hours report compilation.</p>	<p>25–42 hours</p>
<p>Comprehensive/full assessment (1 adult)</p> <p>To include, e.g. psychological profile/state assessment; risk assessment; and brief assessment of parenting capacity/attachment.</p> <p>5–7 hours of direct assessment time including observations.</p> <p>3–6 hours reading. 2–3 hours of psychometric or narrative scoring and analysis. 1–3 hours discussion with others.</p> <p>1–2 hours psychological formulation. 8–14 hours report compilation.</p> <p>Each additional full/comprehensive assessment of an adult in an instruction would add between 15–22 hours.</p> <p>The comprehensive psychological assessment would not typically include a full assessment of intellectual functioning (IQ) so if this were required then the hours for this as detailed above would need to added.</p>	<p>20–31 hours</p>
<p>Full/comprehensive assessment (1 child)</p> <p>To include, e.g. psychological profile/state assessment; risk assessment; or developmental assessment or assessment of attachment.</p> <p>3–7 hours of observation and/or direct assessment time.</p> <p>2–3 hours of interview with carer/parent re current presentation and developmental history.</p> <p>3-6 hours reading.</p> <p>1–3 hours of psychometric or narrative scoring and analysis</p> <p>1–3 hours discussion with others</p> <p>1–2 hour psychological formulation</p> <p>7–12 hours report compilation</p> <p>Each additional full/comprehensive assessment of a child in an instruction would add between 8–14 hours depending upon age.</p>	<p>18–35 hours</p>

Family assessment (2 adults, 2 children)	50–75 hours
<p>To include, e.g. psychological profile/state assessments; parenting capacity/attachment; and family dynamics and functioning.</p> <p>16–26 hours of direct assessment time including observation.</p> <p>2–4 hours of interview with carer/parents re current presentation and developmental history of each child.</p> <p>5–8 hours reading.</p> <p>4–6 hours of psychometric or narrative scoring and analysis.</p> <p>2–4 hours discussion with others.</p> <p>3–4 hours psychological formulation.</p> <p>15–25 hours report compilation.</p>	
Child arrangement dispute (2 adults, 1 child)	40–60 hours
<p>To include, e.g. psychological screening/attachment assessments of adults; risk assessment; and assessment of child’s needs</p> <p>9–17 hours of direct assessment time including observation.</p> <p>1–2 hours of interview with carer/parents of child re current presentation and developmental history.</p> <p>2–8 hours reading.</p> <p>1–3 hours of psychometric or narrative scoring and analysis.</p> <p>1–2 hours discussion with others.</p> <p>2–3 hours psychological formulation.</p> <p>15–24 hours report compilation.</p>	

Appendix 5 – Checklist for instructing solicitors

A: Regulation/accountability	Is the practitioner psychologist currently registered with the HCPC and report their registration number and date of registration?	If not, ask which code of conduct they operate within and to whom they are professionally accountable to (see Appendix 1).
	Is the academic psychologist currently chartered with the BPS?	
B: Protected titles	Does the psychologist use one or more of the protected titles? (E.g. registered, practitioner, clinical, counselling, educational, forensic, occupational, health, sport and exercise, chartered.)	If not, ask which, if any, protected title they are eligible to use (see Appendix 1).
C: Competence as an expert	Does the psychologist demonstrate recent CPD specific to working as an expert witness in the Family Court in England and Wales and acknowledge the requirement for compliance with relevant FPR and PDs?	If not, ask for more details (see Appendix 2 and 5.9–5.10).
	Does the psychologist demonstrate broad experience and exposure to the matter of relevance to the Family Court?	If not ask for more details (see 5.7).
D: Use of data gatherers	Does the psychologist state their intention to undertake all aspects of the work themselves?	If no, ask for details of data gatherers used, their qualifications and status (see 5.12).

<p>E: Use of psychometric assessments</p>	<p>Does the psychologist state their intention to use psychometric assessments that have specific restrictions? Have they confirmed their competence/ qualifications in using such tests?</p> <p>A psychological assessment will normally include the administration of one or more psychological assessment tools. Whilst some such tools are available to any user, most are controlled by their publishers and only supplied to psychologists who have the requisite qualifications to use them. The group of assessment tools which are controlled in this way is itself sub-divided into two groups, with the second, more exclusive category, only supplied to those with a specific qualification (for example registration with the HCPC).</p> <ul style="list-style-type: none"> i) The first tier containing tests capable of being purchased by anyone. ii) The second tier requiring the purchaser to demonstrate and evidence their competency at a relatively high level. iii) The third tier requiring (for some publishers) registration with the HCPC as a practitioner psychologist or a psychologist chartered with the BPS, and for others: a doctorate, or certification to practice in a related field to purchase, or certification/full active membership in a professional organisation requiring training and experience in the relevant area of assessment. 	<p>If no, ask for details of likely tests, seek confirmation of eligibility and qualifications (see 5.13–5.15).</p>
<p>F: Supervision/peer review</p>	<p>Does the psychologist state their intention to seek supervision and/ or peer review in relation to work undertaken within the Family Court?</p>	<p>If no, ask for details of supervisory and review processes in place (see Appendix 3).</p>
<p>G: Letter of instruction</p>	<p>Has the psychologist’s view been sought with regard to the appropriateness of the questions posed in the Letter of Instruction? Have they confirmed their competence to answer them and agreed a sufficient time estimate?</p>	<p>If not, initiate a dialogue regarding how to best achieve quality, sufficient and relevant questions. (see 4.8 and 5.6 and Appendix 4).</p>
<p>H: Compliance with legal requirements</p>	<p>Has the psychologist confirmed compliance with all relevant aspects of professional practice? (e.g. enhanced DBS, professional indemnity insurance, ICO registration).</p>	<p>If not, ask for details (see 7.10–7.11).</p>

Appendix 6 – Checklist of necessary minimum information for a Psychologist expert’s CV

The following information is required in order to comply with the expectations set out in section 7 in relation to providing relevant and verifiable details of qualifications, experience and competence. Psychologist experts are reminded that in this area *lawyers, magistrates and judges are lay readers. They need to be able to see with clarity, and in short form, the underlying basis for an individual’s expertise. (ref Re C (‘Parental Alienation’) [2023] EWHC 345 (Fam)).*

HCPC registration number	
HCPC specialist protected title as it appears in HCPC register (e.g. Occupational, Counselling, Clinical, Educational, Forensic)	
Chartered Membership of BPS (yes/no)	
Undergraduate and Postgraduate Degree(s) – (state degree subject, awarding institution, date and degree class to allow for verification)	
Confirm the tier of psychometric test you are eligible to use/purchase (i,ii,iii – see appendix 5 E for description)	
List test-specific training and any qualifications in test use (e.g. PTC test user qualifications) with the date of training and awarding institution	
Postgraduate qualifications (state full title of qualification, date and awarding institution)	
Other professional body membership	
Summary of areas of experience/expertise/ knowledge/post qualification specialisms	
Relevant publications	
Posts held – include dates and employer(s)	



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