

EXPERT MEDICAL REPORT FOR THE COURT

on

... this section will state that the report is a liability, causation, condition or prognosis or the combination requested by the instructor

prepared by

**Mr Andrew C Howard Mb ChB FRCS FRCS (Orth)
Consultant Orthopaedic Spinal Surgeon
Thornbury Hospital
312 Fulwood Road
Sheffield S10 3BR**

Date :

Claimant's details

Prepared at the request of :

Name address reference of instructing solicitor/agency

INDEX / LIST OF CONTENTS

- 1. BRIEF CURRICULUM VITAE**
- 2. SUMMARY OF INSTRUCTION AND ISSUES TO CONSIDER**
- 3. LIST OF MATERIALS AND DOCUMENTATION PROVIDED**
- 4. HISTORY AS GIVEN BY THE CLAIMANT**
- 5. EXAMINATION OF THE CLAIMANT (if relevant)**
- 6. SUMMARY OF RELEVANT MEDICAL RECORDS, IMAGING**
- 7. SUMMARY OF RELEVANT WITNESS STATEMENTS**
- 8. SUMMARY OF OTHER EXPERT REPORTS (if relevant)**
- 9. OPINION ON CONSENT**
- 10. OPINION ON BREACH OF DUTY**
- 11. OPINION ON CAUSATION**
- 12. SUMMARY OF CONCLUSIONS**
- 13. LITERATURE / REFERENCES**
- 14. EXPERTS' DECLARATION**
- 15. STATEMENT OF TRUTH**
- 16. APPENDICES**

1. BRIEF CURRICULUM VITAE

Medicolegal CURRICULUM VITAE Andrew Corin Howard, MB, ChB, FRCS, FRCS (Orth)

Address:	Thornbury Hospital 312 Fulwood Road Sheffield S10 3BR PA contact: info@achmedicolegal.com	GMC No: MPS No: DOB:	3070435 145818 13 June 1961
Undergraduate Training	Sheffield Medical School		1980 - 1985
Post Graduate Training:	House Officer Sheffield Basic Surgical Training Sheffield Higher Surgical Training Sheffield Paediatric and Spine Fellow Adelaide		1985 - 1986 1986 - 1991 1991 - 1996 1996 - 1998
Consultant Appointments:	Consultant Orthopaedic Surgeon Sheffield Teaching Hospitals NHS Trust		1997 - 2004
Present Appointment:	Consultant Orthopaedic & Spinal Surgeon Medical Director – The One Health Group		2004 - 2019
Previous Appointments:	Secretary and then President of the British Orthopaedic Trainees Association BOTA representative on The Council of the Royal College of Surgeons BOTA representative on The Council of the British Orthopaedic Association Head of Basic Surgical Training and College Tutor 2001-2004 Member of the Medical Advisor Committee Thornbury Hospital Member of Local Medical Committee 2002-2004 Clinical Risk Management Group 2003-2004 Sheffield Teaching Hospitals Training Board 2003-2004 Clinical Governance Lead, One Health Group 2004 to 2019 Executive Board Member, One Health Group 2004 to 2019		

MEDICO LEGAL EXPERIENCE

Since being appointed as a consultant in 1997 I have built a medico-legal practice preparing around 100 personal injury reports and 30 negligence reports per year. My initial training was with Bond Solon which, combined with extensive training and clinical experience in orthopaedics, spinal surgery and trauma, gives me the knowledge and competence to prepare reports for personal injury and spinal medical negligence cases. I have continued to update my medico-legal experience and knowledge through the Medico-Legal Expert Witness Course on Clinical Negligence, Manchester 2015 and attend the Bond Solon Specialist Expert Workshop 12/13th October 2017 in London.

My medico-legal case mix for personal injury is - Joint 50% : Claimant 30% : Defendant 20%, and for medical negligence 50% Claimant : 50% Defendant.

I have been required to give evidence in Court 1-2 times per year over the past 5 years.

I have experience in preparing for and representing colleagues in cases at the GMC and have attended several GMC hearings in my capacity as Expert Witness.

I have a particular knowledge and experience regarding the interface between private clinical practise and NHS clinical practice and the medico-legal issues peculiar to NHS patients treated in the private sector.

CLINICAL PRACTICE

I continue with a busy clinical practice seeing NHS and private patients. My practice is entirely spinal surgery. I worked as medical director of the one health group which gave me responsibility for the development of our surgeon's safe medical practices and clinical governance for the group. We have developed a Governance strategy including robust audit, outcomes and patient satisfaction monitoring. I have particular insight into what represents safe and best practice across all surgical specialities particular my own sphere of spinal surgery.

Each year I am subject to appraisal and as part of this process I take opportunities to attend courses and meetings in my areas of interest in order to keep up to date in both the clinical and medicolegal aspects of my practice. In addition I am required to keep up mandatory training as required.

REFEREES

Mr Peter Goodfellow Consultant General Surgeon
Thornbury Hospital
312 Fulwood Rd
Sheffield S10 3BR

Mr J Bosma, Consultant Neurosurgeon
One Health Group
131 Psalter Lane
Sheffield S11 8UX

2. SUMMARY OF INSTRUCTIONS AND ISSUES TO CONSIDER

In this section, the substance of all the instructions that I have received are summarised.

I endeavour to clearly set out the issues to be addressed and the questions answered, both those raised in the instruction letter and any other issue or question that seems relevant having reviewed the available evidence.

Where appropriate I will state that, although I am instructed by the instructing party, the report is prepared as an independent expert opinion for the Court and not for the instructing party.

My full declaration will be set out at the end of the report.

Also in this section will be a statement of what legal test is used in deciding the evidence, eg Bolam's test.

3. DOCUMENTATION, MATERIALS AND INFORMATION PROVIDED

In this section a full list of all of the available evidence including all documents and other submitted materials, on which my opinion will be based, is listed.

4. HISTORY AS GIVEN BY CLAIMANT

If the Claimant is interviewed for the purpose of preparing the report, this section will note the history as given by the Claimant on questioning at consultation. It will only contain the Claimant's oral evidence as given at the time of interview. At interview the Claimant will be asked for their account of any incidents or accidents and indeed the process of that care. In addition there will be a history of symptomatology and clinical presentation. Their past medical history as reported to me at the date of interview will be recorded. Their clinical management and treatment will be explored and recorded. Claimants are also asked with regards any impairment and disability that they may have particularly with regards work, social and domestic function, sporting activity etc.

5. EXAMINATION OF THE CLAIMANT (if relevant)

Where it is necessary to examine the Claimant, this section will record the examination undertaken in a factual manner.

6. SUMMARY OF RELEVANT MEDICAL RECORDS, IMAGING

Following review of the medical records that are made available, this section will record a chronology of the Claimant's medical history as contained within the medical records. The medical records as listed in section 4 will be reviewed and recorded in chronological order. Where possible page numbers will be given and the nature of the document being referred to will be recorded.

Where possible, any contradictions between the Claimant's reported medical history and that contained within the medical records will be identified and where possible explored in order to try and clarify the evidence.

7. SUMMARY OF RELEVANT WITNESS STATEMENTS

Where witness statements have been provided, they will be reviewed and summarised in this section of the report.

Any difficulties or inconsistencies that are identified in reviewing the witness statements will be summarised here.

At times it may be necessary to provide a commentary on the evidence within the witness statements as they are summarised. However I will clearly distinguish any comment from the narrative.

8. SUMMARY OF OTHER EXPERT REPORTS

In cases where reports from other experts, either from the same or different interest areas, are available they will be summarised here and I will state, with reasons, why I may agree or disagree with other experts.

Where the other expert reports fall outside my sphere of expertise, I would usually make a statement to that effect and clearly defer to other experts in this matter in evaluating the information within the report.

9. OPINION ON CONSENT

In cases where consent is an issue in this section I will comment on whether an appropriate consent process took place in line with published guidelines. I will endeavour to compare the consent process to what would be considered good medical practice and contained within GMC and other guidance.

Having regard to the Montgomery ruling, I will comment here as to whether consent was properly obtained having regard to the risks and circumstances.

10. OPINION ON BREACH OF DUTY

In this section I will present as clearly and unambiguously as possible my opinion with regards any breach of duty that has been identified following review of the available evidence.

Adopting the Bolam's test as modified by Bolitho, I will consider whether the Claimant's care fell below the standard expected.

I will endeavour to reach decisions in the context of contemporary standards at the time that any incident took place.

I will endeavour to give a range of opinions within the spinal surgical field.

Where necessary if I identify any potential breaches of duty which fall outside my field of expertise, I will make appropriate recommendations as to which sort of additional expert may be required.

11. OPINION ON CAUSATION

If any breach of duty has been identified in section 10 above, I will consider whether the breach of duty identified has a material effect on the outcome for Claimant. Such decisions will be made on the balance of probability.

12. SUMMARY OF CONCLUSIONS

Here I will summarise as succinctly as possible the opinions I have given in the preceding sections and reflect the key points in the case from my point of view as the reporting clinician.

I will make recommendations for any further evidence that may be required or further investigation that may be required in order to finalise the evaluation of the case.

13. REFERENCES

In this section where necessary and appropriate, any literature relied upon in coming to the conclusions in the sections above will be listed.

14. DECLARATION

I Mr A C Howard DECLARE THAT:-

1. I understand that my duty in providing written reports and giving evidence is to help the Court, and that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied and will continue to comply with my duty.
2. I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependant on the outcome of the case.
3. I know of no conflict of interest of any kind, other than any which I have disclosed in my report.
4. I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.
5. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect my answers to points 3 and 4 above.
6. I have shown the sources of all information I have used.
7. I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.
8. I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.
9. I have not, without forming an independent view, included or excluded anything which has been suggested to me by others, including my instructing lawyers.
10. I will notify those instructing me immediately and confirm in writing if, for any reason, my existing report requires any correction or qualification.
11. I understand that;
 - 11.1 my report will form the evidence to be given under oath or affirmation;
 - 11.2 questions may be put to me in writing for the purpose of clarifying my report and that my answers shall be treated as part of my report and covered by my statement of truth;
 - 11.3 the court may at any stage direct a discussion to take place between experts for the purpose of identifying and discussing the expert issues in the proceedings, where possible reaching an agreed opinion on those issues and identifying what action, if any, may be taken to resolve any of the outstanding issues between the parties;
 - 11.4 the court may direct that following a discussion between the experts that a statement should be prepared showing those issues which are agreed, and those issues which are not agreed, together with a summary of the reasons for disagreeing;
 - 11.5 I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert;
 - 11.6 I am likely to be the subject of public adverse criticism by the Judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.
12. I have read Part 35 of the Civil Procedure Rules and the accompanying practice direction including the "Protocol for Instruction of Experts to give Evidence in Civil Claims" and I have complied with their requirements.
13. I am aware of the practice direction on pre-action conduct. I have acted in accordance with the Code of Practice for Experts.

15. STATEMENT OF TRUTH

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I confirm that I have verified with the claimant the facts as referred to in this report.

Report prepared by

Mr A C Howard MB, ChB, FRCS (Orth)
Consultant Orthopaedic Spinal Surgeon

16. APPENDICES