

Psychological training for lawyers: Lawyer-expert relationships and communication

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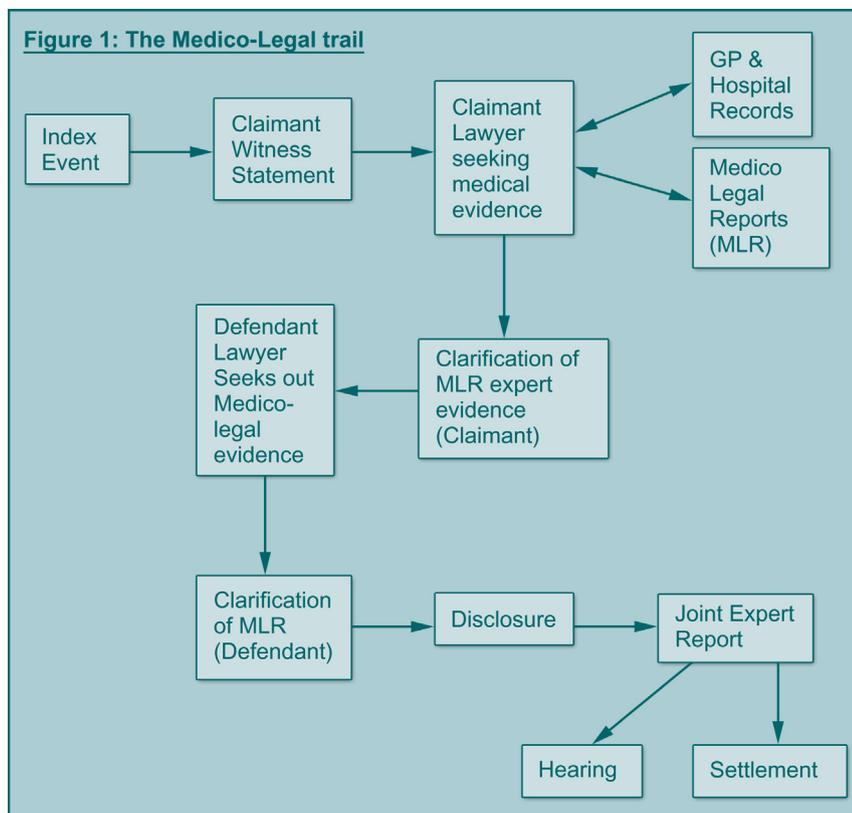
THE PROCESS OF conducting a personal injury claim includes a key aspect of 'quality management', namely managing relationships with experts and communicating effectively with them. Below is a flow chart which illustrates the key aspects of the medico-legal decision making process from instruction of a claim to its resolution (Koch et al, 2015).

Towards continuing professional education for lawyers in psychological injury

More training and professional development opportunities are needed to improve the knowledge and understanding of psychological injury amongst legal professionals.

Such CPD activity should focus on:

- **Clinical Issues**
Understanding diagnostic, attribution and prognosis issues
- **Reliability Issues**
Consistency between data types; assessing truthfulness; reasons and motivation to exaggerate
- **Expert Issues**
Independence and impartiality of experts; communication with experts; obtaining opinion clarification
- **Quality Management Issues**
Effective communication between legal, medical, claimant and defendant; refining and improving medico-legal processes; improving quality and monitoring time and costs. ▷



At several of these steps in the medico-legal 'trail' it is crucial that the lawyer communicates effectively with their chosen experts. For example, he/she needs to understand how the expert uses classification schemes, assesses severity and pre-existing injury/symptoms and, through experience, appreciates the multi-dimensional approach that each expert utilises to assess reliability and truthfulness.

Micro skills of effective communication

In addition to understanding the issues inherent in the lawyer-expert relationship, the lawyer will be faced with plenty of opportunity to communicate with experts in written form, by telephone and face-to-face. Lawyers have a high level of communication skills, utilising some or all of the micro skills of effective communication (see figure 2 opposite) resulting in their contact with experts being much more productive.

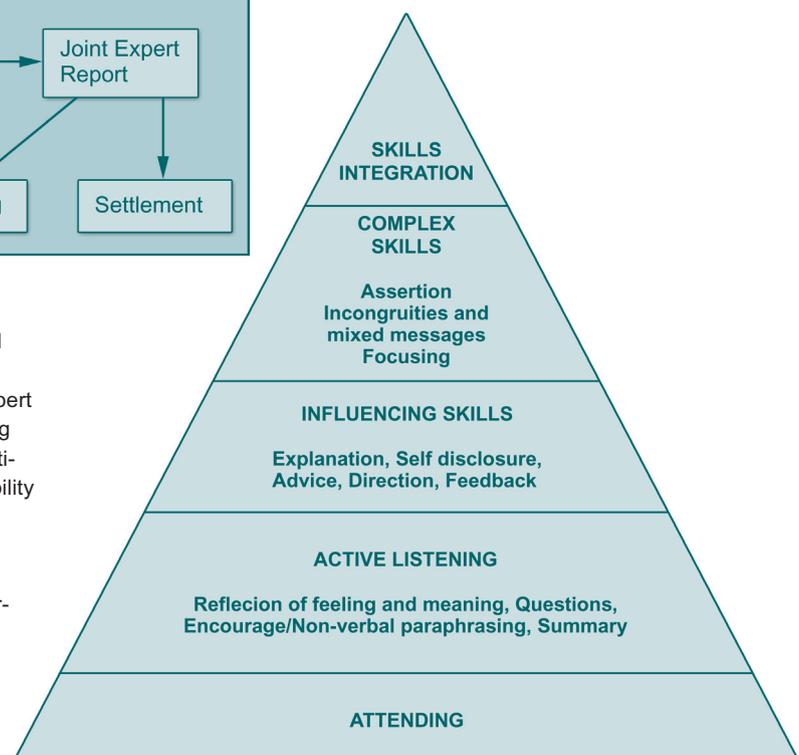


Figure 2: Micro-Skills Hierarchy (Ivey & Litterer, 1979)

Figure 3

Psychological Injury	Psychology and Law: practical implications for civil litigators
<ul style="list-style-type: none">• Main psychological disorders: differentiating factors• Priority given to psychological issues: is it valued?• Chronic pain: assessment, treatment and prognosis• Impact of pre-existing history: vulnerability, treated depression, life events, egg shell skull• Treatment or advice?• Reliability of information• Attribution plus 'But For' test• Reliability and truthfulness• GP medical notes: help or hindrance• Use of psychometric tests• Does anger mean 'disorder' or 'disdain'• Cognitive impairment and seeking neuropsychological advice• Opinions after multifactorial evaluation	<ul style="list-style-type: none">• Psycho-legal research and practice: an introduction• Psychological implications of CPR: impartiality, multi source opinion forming and expert ethics• Getting reliable, robust opinions from experts: facts versus opinions• Effective communication with experts: written, telephone, face-to-face• Questioning experts: getting greater clarity from Part 35 questioning• The politics of the Joint Opinion: ensuring the expert understands his/her role• Are Single Joint Experts more impartial: the 'push and pull' on SJE's• Cross examining an expert's report: how to conduct a robust critique of reports• The psychology of reliability, consistency and truthfulness: who detects deception?

For example, in relation to psychological injury, several topics which fit into one of these four categories are shown in figure 3 above.

Conclusion

Lawyers use a high level of skills to conduct their relationships with several different 'clients' or 'customers', both internal and external, and understand the way expert witnesses operate and provide impartial opinions.

The provision of training or CPD activities for lawyers is seen as crucial to the continuing development of civil litigation procedure and credibility. □

• More information about training and CPD seminars can be obtained from Hugh Koch (hugh@hughkochassociates.co.uk) and at www.hughkochassociates.co.uk and also from Central Law Training (CLT) at www.clf.co.uk.

REFERENCES

- Ivey A E and Litterer J A (1979) Face to Face Interpersonal Communication. Amherst. Mass
- Koch HCH, Newns K and De Haro L (2015) Medico-Legal Evaluations. Expert Witness Journal. Spring



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