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Letter to the Editor

Response to “A rose by any other name” published in the 2014 July edition of the Journal of Forensic and Legal Medicine



Dear Sir,

We are grateful for the opportunity to reply to the comments made by Dr Davis.

Our paper was developed in response to the common misunderstanding among forensic physicians of the roles of witnesses in the criminal courts and following reflection on the decision in *Jones v Kaney*. We indeed sympathise with Dr Davis' view that doctors who the courts recognise as “forensic physicians” should already have “prior knowledge and understanding of most of the information” outlined in our article.

The fact of the matter, however, is that there has never been any requirement under English Law for experts to demonstrate that they have attained a particular set of training or qualifications, much less membership or fellowship of professional organisations. Rather, the courts have been content to accept that an expert can be anyone with knowledge or experience in a specific field or discipline beyond that to be expected of a layperson.^a Even at professional regulatory level, whilst the GMC distinguishes between professional witnesses and expert witnesses, it too does not make it a requirement for medical practitioners to hold any postgraduate qualifications or specific trainings before assuming these roles.^b The Council instead leaves it up to the court to decide upon the status of the witness and the admissibility of the evidence given.

As for the designation “Forensic Physicians”, it is interesting to note that the newly-formed Faculty of Forensic and Legal Medicine (FFLM) currently maintains a list of Forensic Practitioners that is updated biannually. This listing comprises Affiliates who may or may not be registered medical practitioners; Members who are medical practitioners; and Fellows who are distinguished members of the Faculty. The use of the term “Forensic Physicians”, however, is not restricted to Members or Fellows of the Faculty. Indeed there is nothing to stop Affiliates or medical practitioners not associated with the Faculty to serve as “Forensic Physicians”, if the courts agree to admit them as such. Similarly, the Crown

Prosecution Service (CPS) too does not associate the term “Forensic Physician” exclusively with a doctor able or willing to give expert evidence.^c

We acknowledge that these are precisely the concerns which Dr Davis wishes to highlight. They are ones that we do share and alluded to in the conclusion of our paper. Ideally, more rigour needs to be exercised on the part of the courts and professional bodies on who they would allow to serve as experts in court proceedings. Further, it is important that the use of the designation “Forensic Physician” be preceded by training and the possession of higher qualifications in Clinical Forensic Medicine.

On an optimistic note, the FFLM is currently contributing to the work of the Forensic Science Regulator, Mr. Andrew Rennison, in his role within the Home Office to develop quality standards in Forensic Science. Part of those standards would relate to the role which Forensic Scientists play as witnesses in the courts. It is hoped that when these standards are launched, they could be adapted and developed to apply to Forensic Physicians.

Conflict of interest

None.

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^a UK Register of Expert Witnesses, ‘Factsheet 02: Expert Evidence’ (2014).

^b GMC, *Good Medical Practice* (2013), paragraphs 72–64; GMC, ‘Acting as a Witness in Legal Proceedings’ (2013).

^c Crown Prosecution Service, ‘Rape and Sexual Offences: Appendix F: A Protocol between the Police and Crown Prosecution Service in the Investigation and Prosecution of Allegations of Rape’.