

The Physiotherapy Expert  
Witness in Clinical Negligence  
& Personal Injury

**Chris Worsfold**

MSc PGDipManPhys MMACP


*Musculoskeletal Physiotherapist Specialising in Neck Pain*

*Cardiff University Accredited Expert Witness*

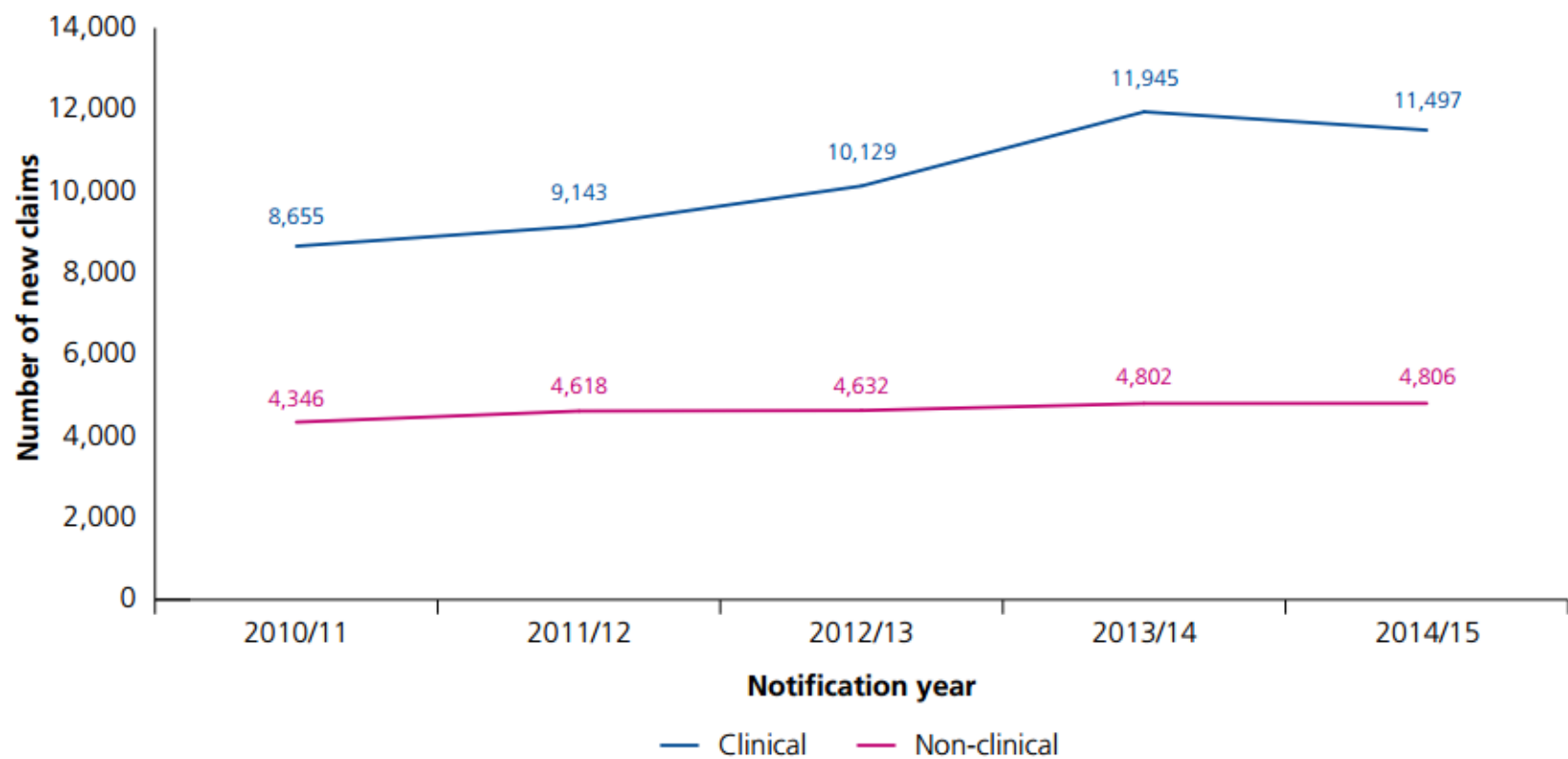


@chrisworsfold1

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- A photograph of a courtroom interior. The room features extensive wood paneling on the walls and a large wooden table with several chairs. In the foreground, a wooden chair is partially visible. The text is overlaid on the right side of the image.
- What is an Expert Witness ?
  - The Role of the Expert Witness.
  - Structuring the report: fact -v- opinion
  - Civil Procedure Rules
  - Common themes from 100+ cases
  - MedCo / Accreditation

A wooden gavel with a three-tiered head and a single handle, resting on its circular sound block. The gavel is positioned on a light-colored, textured surface, possibly a desk or table. The background is blurred, showing what appears to be a window with light coming through.

Figures for the past year show that the NHS paid out more than £1.1bn to patients and their legal representatives.





Solicitor

“My client suffered a stroke following negligent physiotherapy treatment consisting of aggressive manipulation of the neck region. They have on going problems with speech and mobility and they are unable to work....”



Solicitor

**“I instruct you to prepare a report dealing with breach of duty and the standard of Physiotherapy provided to the Claimant.”**



# Witness of fact & expert witness

- Opinion of witnesses is not permissible: **can only state facts.**
- Many issues the Court must determine that are far removed from the Court's experience: it needs to obtain **the opinion of experts.**
- Training required.



**ex·pert**<sup>1</sup>

*skill or special knowledge*

*an expert in electronics*

**expert**<sup>2</sup>

*a sub*



# Structuring your report

- Instructions
- Facts:
  - chronology from medical notes
- Opinion:
  - HCPC professional conduct
  - Guidance documents e.g. IFOMPT
- Statement of Truth

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## PART 35 - EXPERTS AND ASSESSORS



### Contents of this Part

Title	Number
<a href="#">Duty to restrict expert evidence</a>	<a href="#">Rule 35.1</a>
<a href="#">Interpretation and definitions</a>	<a href="#">Rule 35.2</a>
<a href="#">Experts – overriding duty to the court</a>	<a href="#">Rule 35.3</a>
<a href="#">Court's power to restrict expert evidence</a>	<a href="#">Rule 35.4</a>
<a href="#">General requirement for expert evidence to be given in a written report</a>	<a href="#">Rule 35.5</a>
<a href="#">Written questions to experts</a>	<a href="#">Rule 35.6</a>

Standards of  
conduct,  
performance  
and ethics



International Federation of Orthopaedic  
Manipulative Physical Therapists



SUBGROUP OF WCPT  
World Confederation  
for Physical Therapy

IFOMPT, P.O. Box 35 602, Browns Bay, Auckland 0753, New Zealand. [www.ifomt.org](http://www.ifomt.org)  
Ph: +64 9 476 5353 Fax: +64 9 476 5354 Email: [admin@ifomt.org](mailto:admin@ifomt.org)

**2012 (to be reviewed and updated 2017)**

**International Framework for Examination of the Cervical Region for potential of Cervical Arterial  
Dysfunction prior to Orthopaedic Manual Therapy Intervention**

Authors:

Rushton A, Rivett D, Carlesso L, Flynn T, Hing W, Kerry R.



Solicitor

**“I instruct you to prepare a report dealing with breach of duty and the standard of Physiotherapy provided to the Claimant.”**



Solicitor

Legal files  
Medical records  
Claimant witness statement  
Physiotherapist witness statement.

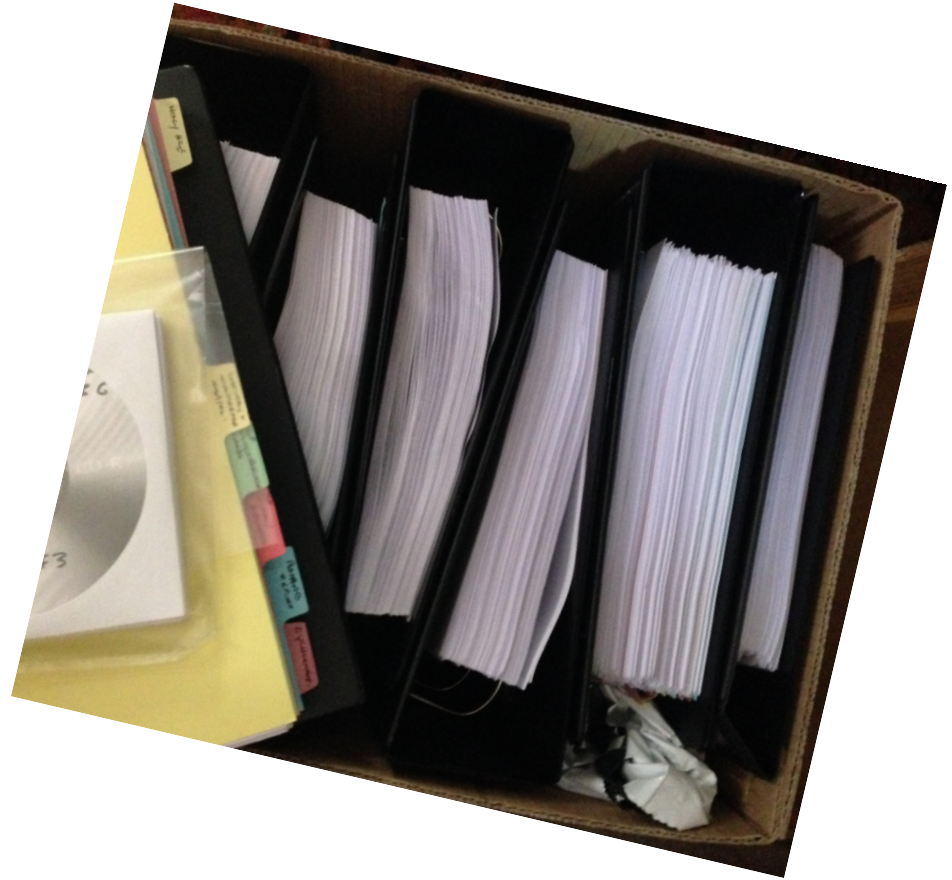
# Case notes.

Legal files

Claimant witness statement

Medical records

Physiotherapist witness statement



16-29.14

8. neck pain & stiffness 6/7

in goal 5-a-side - stretched to save  
felt neck click & pain since

5. (L) or stiff

Rx' not (L) c1/2 14's

see 2/7



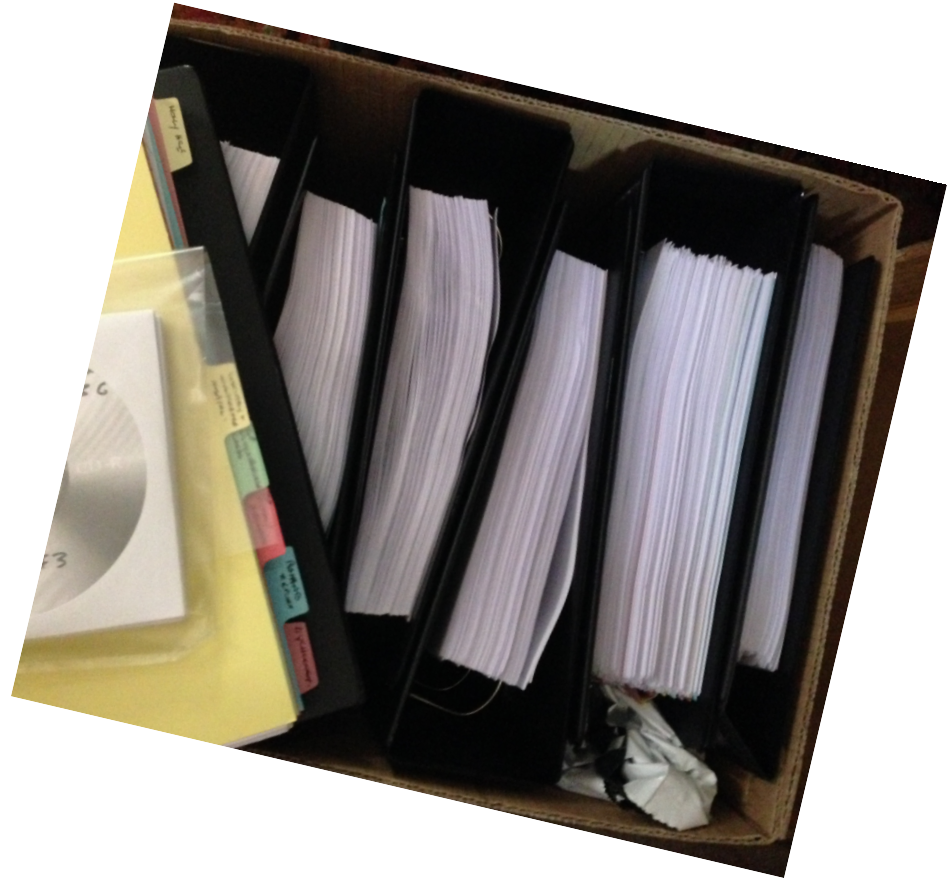
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# Nurse Elizabeth Hughes left disabled by stroke following alleged botched beauty treatment at Eastwell Manor near Ashford

by **Express reporter** [kentishexpress@thekmgroun.co.uk](mailto:kentishexpress@thekmgroun.co.uk)



11 November 2015

A nurse who was left tragically disabled by a stroke following an allegedly botched beauty treatment has settled her £1.2m High Court damages claim.

Elizabeth Hughes, 50, suffered the stroke only days after she had a facial treatment at Eastwell Manor, near Ashford, in Kent, in 2011.

She collapsed while on holiday in Wales and was rushed to hospital, but not soon enough to save her from a lifetime of disability.



# Common themes from 100+ cases:

- Missed diagnosis:
  - Cauda Equina Syndrome
  - Malignancy
  - Cervical Arterial Dissection
  - Prolapsed Disc
  - Scaphoid #
- Rx related problems:
  - Failure to follow post op instructions
  - Lost to follow up
  - Aggressive Rx - #'s, soft tissue injury
  - Too much / too little treatment



# Avoiding negligence claims

- ESP role
- Anxious patients
- Being on 'auto pilot'
- Post op protocols – inter hospital communication
- Sporting environments

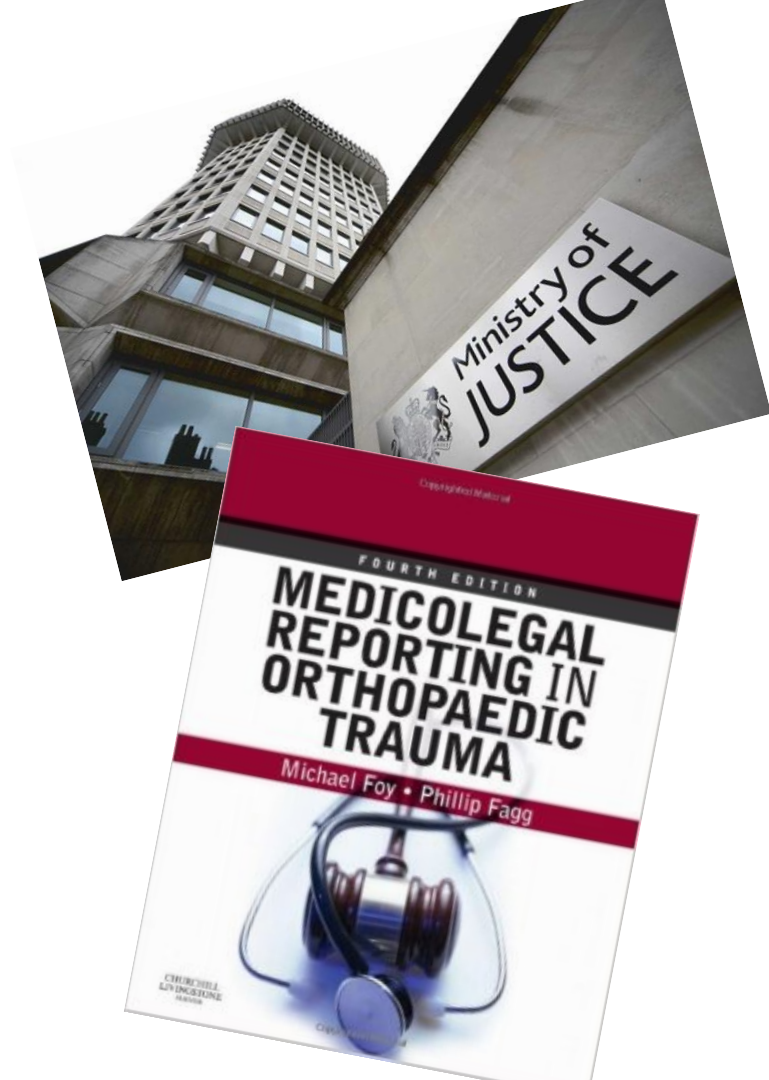


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# The physiotherapist as personal injury expert witness

‘I note that the writer is a Physiotherapist and a court is unlikely to consider this as independent expert evidence.’

‘...the vast majority of them [Physiotherapists] do not have the breadth and depth of clinical experience, or knowledge of the spinal literature, to act in this capacity.’



# Personal Injury: MedCo

- Set up at behest of Ministry of Justice 01.04.15
- Portal for soft tissue injury claims
- Expert accreditation by 01.02.16
- Solicitors' search for an expert randomised
- Solicitors choose either MRO or Direct Expert
- < 1% of Direct Expert instructions are to a physiotherapist

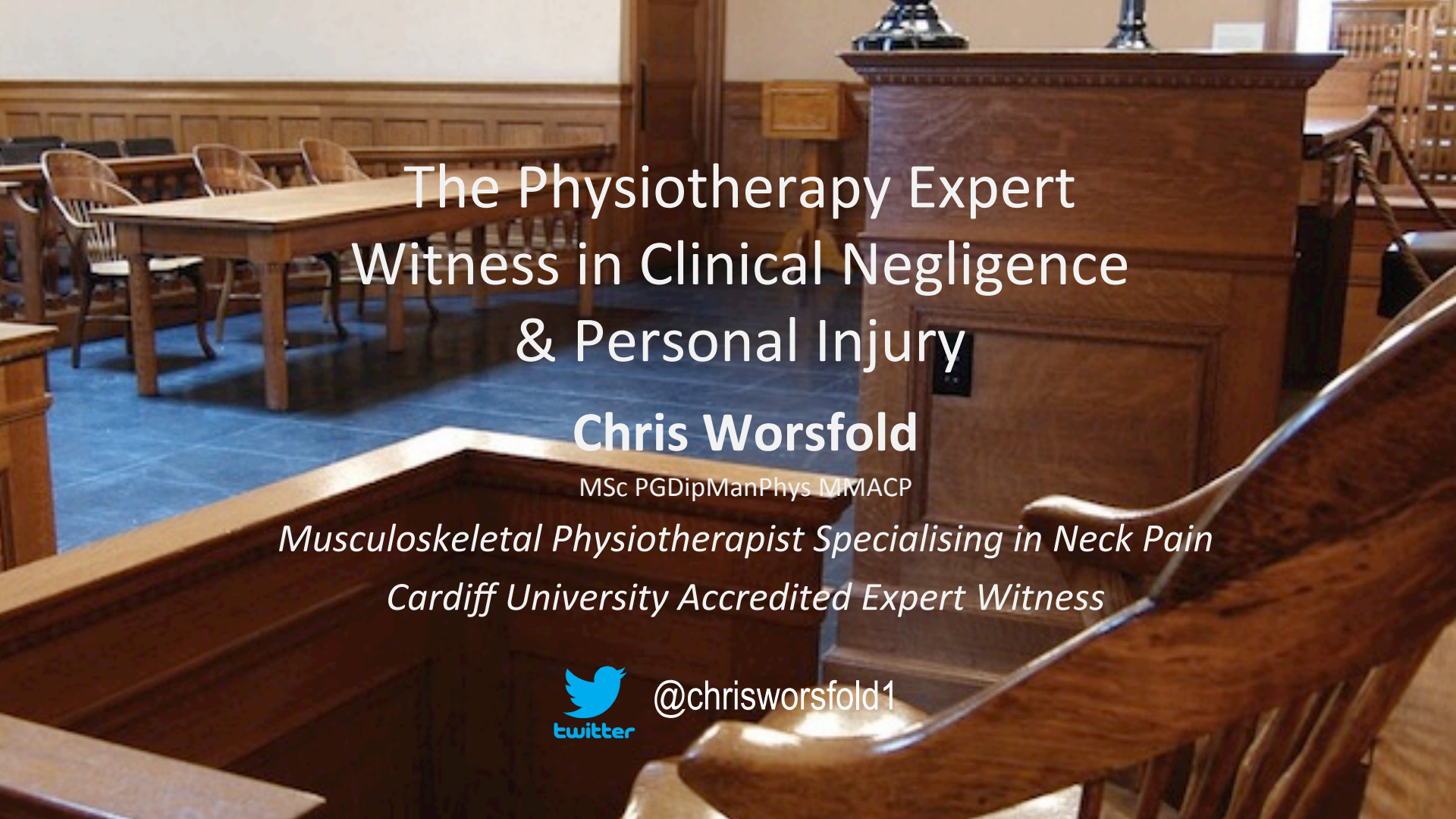


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**DON'T QUESTION ME**  
I know what I'm doing.



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