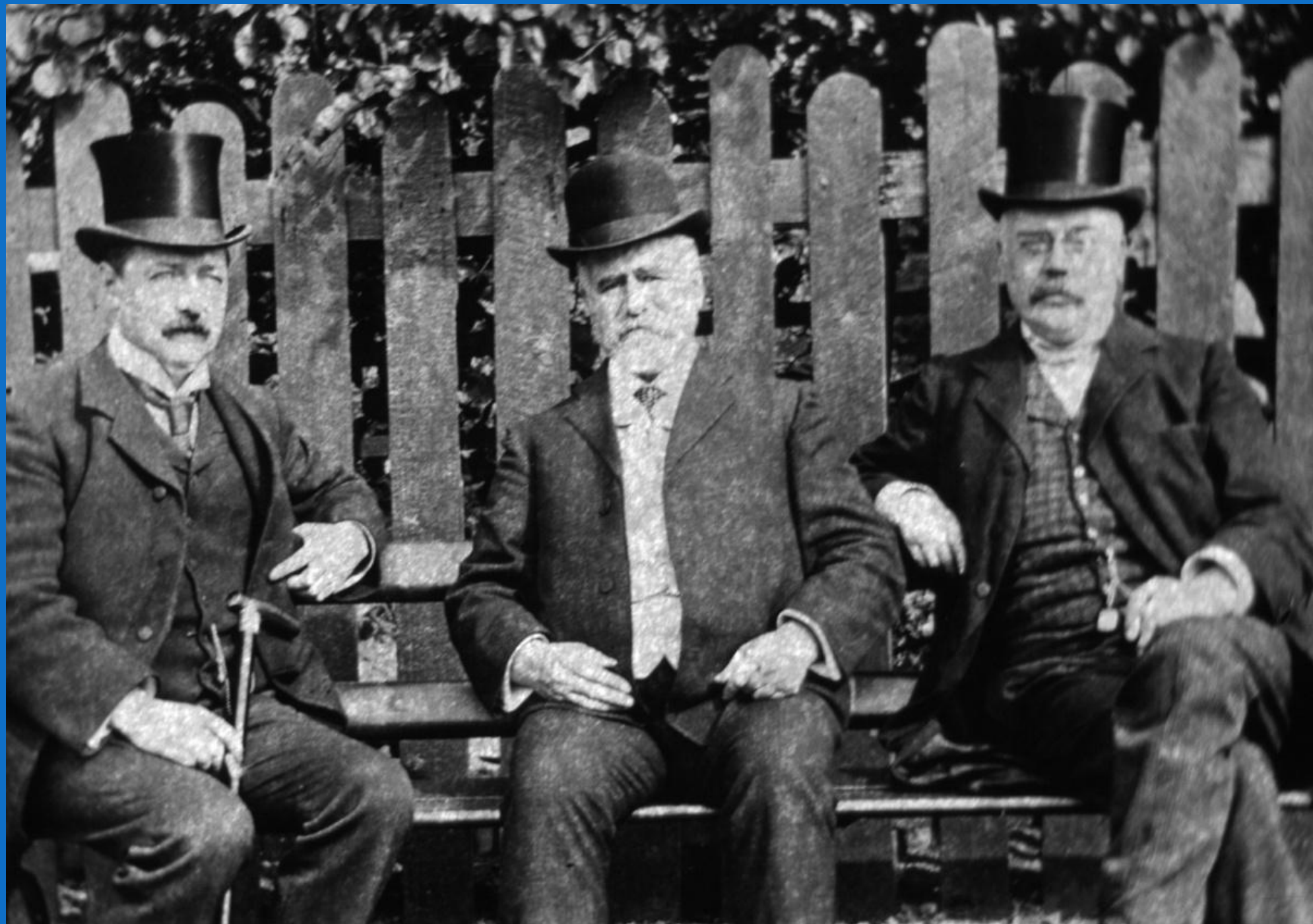


How to Instruct an Expert

And how to get the best from them

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Choosing your Expert - Google or recommendation?

- Be in clinical practice or sufficiently recently in practice to be credible
- Have the necessary clinical knowledge, training and experience to act as an expert (senior GP or consultant level)
- A role in designing and monitoring the delivery of medical care, patient safety or medical education
- Undertaken specific training for being an expert witness
- Understanding of the expectations and responsibilities of the role.

- Does the expert understand the jurisdiction?
- Are they aware of the relevant test?
- Do they have enough time to undertake expert work and understand the pressures it can bring if the case goes to trial or Proof
- There will be consultations, review of Productions and Statements, other expert reports, expert meetings and reports from those meetings
- Willing and able to give evidence in court.

- Valuable to have acted for pursuers and defenders
- Is this within their specific area of expertise?
- Have a clear understanding of the limits of their expertise
- Is there any potential conflict of interest?
- Agree terms
- GDPR

Letter of Instruction – can be very variable

- Does the letter of Instruction reflect the letter of Claim?
- Letters of instruction should be comprehensive and complete
- A summary of events
- A set of questions linked to the Letter of Claim or Court Pleadings
- Set out the legal tests
- Time scale.

- Papers now usually sent out electronically – can I open them?
- Issues with voluminous records – can be thousands of pages
- Key information buried in multiple PDFs and CDs
- Paginated records with index of contents
- A chronology of events
- Updates and adjustments ASAP.

The duties of an expert – what to expect

- Must be independent and impartial
- Duty is to the court not the client – you get the same answer no matter who instructs
- Don't stray beyond the limits of their expertise
- Be objective
- Fact v Opinion
- Identify ambiguity – grey areas.

- Identify there may be a range of different opinion
- There may be insufficient information to reach an opinion – balance of probabilities but avoid speculation
- Where accounts of events differ – offer an opinion on both if they were accepted
- Provide references to support their opinion
- Refer to available relevant information and local or national guidelines to support their opinion.

And Finally...

