A City & Guilds Group Collaboration

City & Guilds
Expert Witness Testimony

Continuous Professional Development Series
Assessment Pack

Version 1.0 (October 2020)

Content

1. Introduction 3
2. What is an Expert Witness? 3
3. Who can be an Expert Witness? 4
4. The scope of the Expert Witness Testimony role within the assessment process 4
5. How to become an Expert Witness and related support 5
6. A few questions to consider in respect of best practice 5
7. Remote technology 6
8. Assessing evidence provided by an Expert Witness 6
9. Quality Assurance 7
10. Summary 7
Appendix 1 – Exemplar Expert Witness (EW) Requirements 8
Appendix 2 – Exemplar Expert Witness Testimony (EWT) Form 9

A City & Guilds Group Collaboration

1. Introduction

The purpose of this guide is to support new and existing Assessor/Trainers in their understanding and use of 'Expert Witnesses' who can contribute towards providing performance evidence for learners who are undertaking competency-based programmes. There are many industry sectors where the use of Expert Witnesses provides valued and valuable contributions to the assessment process for example in Health & Social Care, Hospitality & Catering, Digital Skills, Business Administration or Hair & Beauty sectors. The use of Expert Witnesses can support Assessor/Trainers in their assessment practice and in making assessment decisions to confirm the occupational competency of learners.

The guide also includes two exemplar forms that have been designed to support the effective use of Expert Witnesses and their testimony within the assessment process. These are referred to later and can be found towards the end of this guide in the appendix section.

2. What is an Expert Witness?

An Expert Witness is an individual who has current knowledge and experience in a field of occupational practice and is occupationally competent in their area of expertise. Often expert witnesses will also be familiar with the requirements of the qualification being assessed. In most cases they will be working directly alongside a learner within an employment setting either as their supervisor or manager/deputy manager or another experienced senior work colleague.

It is important that everyone in the qualification assessment process understands that unlike the learner's Assessor/Trainer, the Expert Witness **does not** make assessment decisions in respect of the learner's qualification. They do however provide a detailed report or 'testimony' of a learner's ability to complete work based activities that are directly aligned with the skill requirements of their role, or more specifically the outcomes and/or assessment criteria requirements within the qualification they are working to achieve.

Testimonies are normally written by the Expert Witness, but in some cases they can be written by the learner themselves. In the case of the latter the evidence it must be confirmed and signed off by the appointed Expert Witness whose role it is to authenticate this evidence to ensure it is robust and valid and meets the requirements for their qualification. This form of testimony must also be checked by the Assessor/Trainer for authenticity learner and reliability. This is usually done by the Assessor/Trainer discussing the learner's performance with the Expert Witness and recording a summary of this discussion alongside the testimony. This additional information must be signed and dated by the Expert Witness and the Assessor/Trainer.

It is possible that a learner may well have one or more Expert Witnesses who provide competency-based evidence on specific aspects of their work practice. However, the final assessment judgment on the validity of an Expert Witness testimony **always** rests with the Assessor/Trainer and such testimonies may only be used in line with the Awarding Organisation's qualification requirements. More detail on this will be covered later in this guide.

Finally, under no circumstances should the content of any expert witness testimony compromise the confidentiality of any individual. Data protection legislation and confidentiality policies must be adhered to at all times and it would be expected that the Assessor/Trainer would have explained this to both the learner and the Expert Witness at the start of the learner's assessment process.

3. Who can be an Expert Witness?

In the majority of cases, the Awarding Organisation/Body will clearly outline in their qualification support materials the requirements to be an Expert Witness. In some cases, this is informed either by a qualification Regulator, a Sector Skills Council or other professional/employer body. Assessor/Trainers are expected to ensure they are fully aware of these requirements when considering the use of any Expert Witness within a learner's qualification.

As examples, mandatory requirements to be an Expert Witness could include the following:

- Have current and credible expertise and occupational competence in the areas where a testimony may be required
- Have the same vocational expertise as the Assessor/Trainer
- Be registered with a professional regulatory body
- Hold a qualification on assessment of workplace performance
- Have a professional work role which involves evaluating the everyday practice of others
- Have a working knowledge of the qualification units on which their expertise is based

From an internal quality assurance perspective, all Assessor /Trainers must ensure they have evidence which confirms that any Expect Witness used in providing a testimony meets all necessary requirements. This evidence will consist of the Expert Witness name, contact details, an overview of their role and could also include a review of their job description, CV and/or CPD records.

Confirming the Expert Witness meets the requirements it will be reviewed by the Internal Quality Assurer (IQA) and made available to the External Quality Assurer (EQA) on request.

(See Appendix 1 for an example of Exemplar Expert Witness Requirements form).

4. The scope of the Expert Witness Testimony role within the assessment process

It is important to remember that using an Expert Witness does not eliminate the requirement for a competent Assessor/Trainer to be assigned to a learner. In most competency-based qualifications the primary source of evidence to confirm learner competency in practice is generated via Assessor/Trainer observations undertaken in the workplace.

Expert Witness testimony may be used to replace an observation of practice, but this should be determined and agreed by the Assessor/Trainer and aligned to the requirements of the qualification. An Expert Witness can be used to infer consistent competency and/or 'fill in gaps' within the assessment evidence which cannot be obtained by the Assessor/Trainer. For example, an Expert Witness testimony may be required where it is not possible for an Assessors/Trainer to observe an activity in the workplace for reasons which may include restricted access, health and safety risks, privacy and matters pertaining to confidentiality and safeguarding.

> Before the Expert Witness is assigned to the learner, it is important that the Assessor/Trainer has checked that expert witness testimony is a valid form of evidence for the Learning Outcome/Assessment Criteria, or qualification area being confirmed by the Expert Witness.

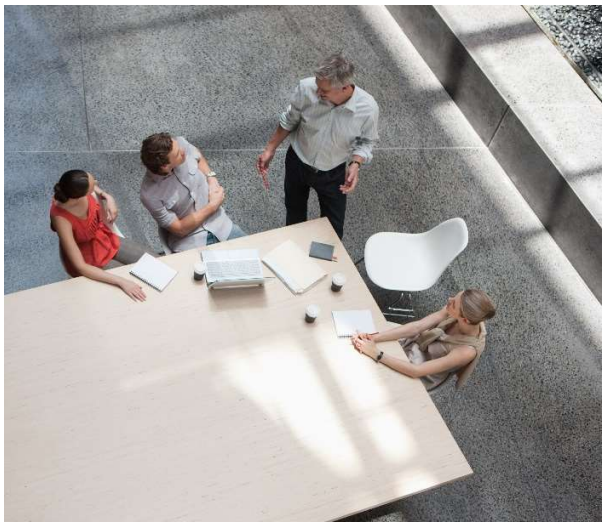
It should be remembered that there is a range of other evidence gathering assessment opportunities available within most competency based qualifications i.e. use of prior learning, reflective accounts, professional discussions, but alongside these robust Expert Witness testimonies support and enable Assessors/Trainers to

make well informed, safe, reliable and consistent judgments of competency for their learners before they confirm that a unit or qualification can be awarded.

(See Appendix 2 for an exemplar of an Expert Witness Testimony form)

5. How to become an Expert Witness and related support

As part of the planning for the assessment strategy for a qualification, where the Assessor/Trainer identifies the need to use an Expert Witness it is very important that not only are potential Expert Witnesses identified and supported (and the learner may well be able help in this process), but also the Expert Witness is inducted into their role. This may involve face to face or virtual training which is provided by the Assessor/Trainer at the start of the learner's qualification.



Support materials may also be provided to enable the Expert Witness not only to confirm they meet the requirements, but also ensure that they are clear on what is expected in the role and how they can contribute to the assessment process. Providing these materials aims to ensure from the start that the Expert Witness fully understands their role and responsibilities and can refer to clear guidance if required.

6. A few questions to consider in respect of best practice

Assessors/Trainers may find it useful to consider some or all the following questions as part of their Expert Witness planning and assessment processes:

- Has a potential Expert Witness received enough support information about the role? This essential information will enable them to make an informed decision as to whether they want to take on this responsibility for a learner
- Is the Expert Witness fully familiar with, and has a copy of, the relevant qualification units for which their expert witness testimony is required?
- Does the Expert Witness know the name, contact details of their learner?
- Does the Expert Witness have the contact details of the Assessor/Trainer so that they can access further support?
- Has the Expert Witness been provided with an expert witness form (ideally digitally) that they fully understand and can complete for the learner, with agreed timescales for completion and how to return to the Assessor/Trainer?
- If the Expert Witness' role is simply to authenticate and sign/date an account provided by the learner, what additional commentary, if any, might be required to ensure the validity, sufficiency and reliability of the evidence provided?
- Has the Expert Witness been provided with an exemplar expert witness testimony so they can see and read what constitutes best practice and the type(s) of evidence they need to produce for their learner?
- Is there a word limit set for the written expert witness testimony to support the focus and clarity in a written testimony?
- How many examples of a learner's practice need to be provided and over what period of time?
- Does the Expert Witness know they can bring any concerns about a learner to the attention of the Assessor/Trainer?
- Does the Expert Witness understand that it is the Assessor/Trainer who has the overall responsibility for managing the learner's qualification assessment progress, for assessing related competence and for making the assessment decisions?

- What feedback is the Assessor/Trainer providing to the Expert Witness in respect of the quality of the expert witness testimonies provided and will the learner have access to this feedback?
- Can technology be used to generate an expert witness testimony, or do they always have to be handwritten?
- Are electronic signatures acceptable if expert witness testimonies are digitally submitted?
- Have you produced a centre 'Guide to being an Expert Witness' that can be given to an employer/manager/supervisor who is considering this role?

7. Remote technology

Audio and video technology should not be used under any circumstances in the event it compromises the privacy, dignity, or confidentiality of any individual. However if effective safeguards are in place, audio and video technology can simplify the process of gathering and supplying this type of evidence, particularly in instances where the Assessor/Trainer is seeking further clarification on key aspects of the testimony provided, to confirm an assessment decision. Technology also offers a unique kind of proximity and accessibility which can help to establish and maintain closer collaboration between the learner, the Assessor/Trainer and the Expert Witness. This can also help to identify opportunities for further testimonies.

Alternatively, the Expert Witness may provide testimony on a learner's performance via a professional discussion/interview with the Assessor/Trainer acting as scribe and recording the information provided. If this method were being considered it would need to be well planned at the start as part of the assessment strategy for the learner's qualification and everyone would need to be kept informed.

In some cases, the use of technology may mean that the testimony is easier to organise, depending on the local circumstances and demands that are already on the Expert Witness.

Should any direct or follow up discussions with the Expert Witness and/or the learner take place and be recorded, then as mentioned previously, this must comply with all current data protection legislation.

8. Assessing evidence provided by an Expert Witness

When assessing the evidence provided through the use of an expert witness testimony, an Assessor/Trainer must ensure that the information provided meets the 'rules of evidence' or VARCS. This means that the testimony is;

- **Valid** – is the evidence directly relevant to the qualification/unit assessment criteria against which the learner is being assessed?
- **Authentic** – that it is written/completed by the Expert Witness who meets the 'requirements to be an Expert Witness' or if the learner has written the testimony it has to be countersigned by an Expert Witness, the Expert Witness has confirmed with their own commentary they have witnessed the practice evidence provided by that learner.
- **Reliable** – is the evidence demonstrating consistency in the learner's practice?

- **Current** – does the evidence provided show that the learner is able to meet the qualification/unit learning outcome/assessment criteria requirements at the time of the assessment?
- **Sufficient** - is there enough evidence of competence in the learner's practice to allow the Assessor/Trainer to make an informed judgment?

9. Quality Assurance

In line with all qualification requirements, expert witness testimonies will be internally quality assured with an emphasis on ensuring that they meet the **VARCS** requirements listed above. Applying standardisation activities, the IQA will use a range of sampling techniques to ensure that the process and use of Expert Witness testimony has been consistently followed, and the requirements of the Awarding Organisation and qualification assessment strategy have been met. As part of their sampling, IQAs will plan to hold discussions with some Expert Witnesses to ensure and confirm the authenticity, validity and reliability of their testimonies.

Where the use of Expert Witnesses is new or where the number of expert witness testimonies used is increased, then the IQA sampling activities should be adjusted accordingly to mitigate any possible risk. This may mean that the IQA **will conduct an early sample of the Expert Witness testimonies and provide Assessor/Trainer feedback,** hold a discussion with the Expert Witness or increase the amount of sampling they undertake. If the quality of expert witness testimonies does not meet the expected standard, then the IQA would organise for remedial action to take place to improve the practice.

10. Summary

Recruiting and using an Expert Witness needs to be carefully planned to ensure everyone is clear as to the purpose, what detail/evidence needs to be provided in an expert witness testimony, and how this will contribute to the overall assessment process within a learner's qualification.

It is recommended the centres produce support materials, including a detailed guide of the Expert Witness role and forms which will help the Expert Witness know exactly what written information and evidence they are required to provide. Without this support, the quality and content of the expert witness testimony might not meet the requirements and although the information provided might be helpful, it may bear little or no relevance to what is needed for assessment purposes.

To conclude, the success in the production of high-quality expert witness testimonies rests on a close working partnership between the Assessor/Trainer, the learner, and the Expert Witness with clear parameters and requirements specified for the role. Communication is the key to success throughout the learner's qualification to ensure that the quality of evidence provided by an Expert Witness, truly and consistently showcases the learner's abilities and capabilities in their practice. This will enable the Assessor/Trainer to triangulate this evidence alongside their own and other sources to confirm the learner's competency.

Appendix 1 – Exemplar Expert Witness (EW) Requirements

Name of Expert Witness	
Job role	
Name of Work setting/establishment:	

Qualification(s) where Expert Witness Testimony is required:
Please continue on a separate sheet if required

As an Expert Witness I can confirm the following:	**Tick (as appropriate)**
I have a working knowledge of the qualification units on which my expertise is based	
I am occupationally competent in my area of expertise for which I am providing an expert witness testimony	
I EITHER hold a qualification in assessment of workplace performance OR have a professional work role which involves evaluating the everyday practice of staff within their area of expertise.	

Expert Witness Declaration:

I can confirm as an Expert Witness that I meet all of the criteria above.

Expert Witness signature		**Date**	DD/MM/YY

Assessor/Trainer Declaration:

The Assessor/Trainer has verified the above requirements though a discussion with the Expert Witness and has seen their CV/CPD records, which confirms their occupational competence/expertise.

Assessor / Trainer signature		**Date**	DD/MM/YY
Assessor / Trainer Name			

A City & Guilds Group Collaboration

Appendix 2 – Exemplar Expert Witness Testimony (EWT) Form

Name of Expert Witness			
Job role/Title			
Relationship to learner			
Name of learner		**City & Guilds number**	
Testimony completed by			

At the discretion of the Assessor/Trainer:

- The number of practice examples could be specified and over a specific period of time if/where required
- A minimum and maximum word count could be included for the testimony to ensure focus and clarity when completed

Qualification title		**Qualification number**	
Unit title		**Unit number**	
Unit criteria	**Testimony:** to include examples of learner practice to demonstrate consistency		
	Please continue on a separate sheet if required		
Expert Witness signature		**Date**	DD/MM/YY
Learner signature		**Date**	DD/MM/YY

I agree as the Expert Witness that the above statement, written by the named learner, is a true reflection of the events in respect of their practice. **Further comments by the EW**			
Please continue on a separate sheet if required			
Expert Witness signature		**Date**	DD/MM/YY

A City & Guilds Group Collaboration

Every effort has been made to ensure that the information contained in this publication is true and correct at time of going to press. However, ILM products and services are subject to continuous development and improvement, and the right is reserved to change products and services from time to time.

City & Guilds cannot accept responsibility for any loss or damage arising from the use of information in this publication.

© City & Guilds Limited. All rights reserved. City & Guilds is a trademark of City & Guilds Limited, a company registered in England and Wales (company number 16513878).

Giltspur House 5-6 Giltspur Street London EC1A 9DE
T +44 (0)20 7294 2468
F +44 (0)20 7294 2400

cityandguilds.com