

# Clinical Records v Oral Evidence – Which is more reliable?

## Medical Records and Oral Evidence

Doctors  
Defence  
Service

In CXB v North West Anglia NHS Foundation Trust [2019] EWHC 2053 (QB) (August 2019) it was held that clinical records do not automatically carry more weight than oral evidence. The absence of an entry in the medical notes does not mean that the court cannot prefer the oral or other evidence in the case. It is the totality of the evidence that must be evaluated, taking into account the unreliability of memory over time, and any contemporaneous and other documents or evidence that may have been generated over time.

Doctors will often recall events that do not necessarily accord with the **clinical records** or where the records are quiet on the subject matter. This does not mean that the doctor's evidence will not be preferred. There are a number of cases where the **oral evidence** have been preferred over that of available documentary evidence and the above case affirms that the approach is correct. Each case turns on its own facts and therefore a full analysis should be taken of all of the available documentary and other evidence in a case. Oral testimony will be assessed along with other evidence and be given the weight that the court considers appropriate. This case law is relevant to both GMC cases and medical law cases more generally.

**Doctors Defence Service** represents doctors in UK medico-legal proceedings. To discuss matters concerning **oral and documentary evidence** in a GMC or other medical law case, contact Doctors Defence Service on: **0800 10 88 739**