

EXPERT WITNESS PRACTICE TERMS AND CONDITIONS OF ENGAGEMENT

INTRODUCTION

1.1 The Appointer(s) has/have engaged the Expert to advise or report in accordance with these Terms and Conditions of Engagement.

1. The Civil Procedures Rules (the CPR) including any protocol approved there under shall prevail over any part of this document, which is inconsistent with the CPR.

DEFINITIONS:

2.1. Appointer(s) – means the party or parties instructing the expert.

2.2. Instructions – means the written statement of services required by the appointer of the expert including sufficient details of the relevant issue to enable the expert to comply with the Civil Procedure Rules and any order of the Court.

2.3. Court – means any Court of law.

2.4. Advisor – means any expert who is retained to give advice on an issue before it becomes a matter for litigation under the CPR.

2.5. Party's Expert – means an expert who is instructed to provide advice or a report by one or other of the parties to a dispute (claimant or defendant or joint).

2.6. Single Joint Expert (SJE) – means an expert who is appointed under the CPR Part 35.7 to submit expert evidence on a particular issue on behalf of all litigating parties.

2.7. The client (s) – means the parties, on whose behalf the appointer(s) has instructed the expert to advise or prepare a report for the Court.

2.8. Advice – means the expert's opinion on an issue, which lies within his field of competence or expertise to assist the instructing solicitor in deciding whether or not to initiate Court proceedings on behalf of the client.

2.9. Report – means the written report prepared by the expert for the assistance of the Court in accordance with CPR Part 35.10.

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- 2.10. Fees & Disbursements – means the expert’s professional charge for carrying out the appointer’s instructions together with all reasonable expenses incurred in discharging these obligations such as relevant out of pocket expenses including car mileage, first class rail travel, business class air fares, reasonable refreshments and hotel accommodation where an overnight stay is necessary, together with the cost of photocopying, reproduction of diagrams and drawings and other such similar expenses incurred in the production of the report, as set out in more detail in Clause 5.
- 2.11. Legal Aid – means cases where the Legal Services Commission or such other government authority as may be involved is funding a party in legal proceedings.

THE APPOINTER’S/APPOINTERS’ OBLIGATIONS:

- 3.1. To provide clear written instructions and copies of all relevant documents.
- 3.2. Where a SJE is appointed, all appointers shall either issue joint instructions or agree to a single set of instructions. The SJE shall not start work until such instructions have been received. Any appointer may issue separate additional instructions to the SJE, in which instance he must send a copy to every other appointer.
- 3.3. to keep the expert informed of and ascertain his availability for all relevant Court dates. Where there is more than one appointer, the appointers should agree as to who is to accept that obligation.
- 3.4. In Legal Aid cases not to instruct the expert to start work until the Legal Services Commission has granted prior authority, or the appointer is a contracted supplier with devolved powers in the relevant category of work.
- 3.5. To deal promptly with the Expert’s requests for information and/or further instructions.
- 3.6. To promptly inform the Expert of the making of any Court Order affecting the Expert and supply the Expert with a copy thereof.

THE EXPERT’S OBLIGATION:

- 4.1. The expert’s overriding duty is to the Court and shall act with objectivity and independence in carrying out his instructions.
- 4.2. Only to accept appointments where he has relevant qualifications and experience.
- 4.3. To advise the appointer(s) of any conflict of interest (actual or perceived).
- 4.4. To use skill and care when carrying out his instructions.
- 4.5. When instructed to report to the Court, to do so in compliance with the relevant requirements of the CPR (including Practice Directions and any approved protocols) and within any agreed time limit.
- 4.6. When ordered to meet with an expert for an opposing party, to conduct such meeting in accordance with the CPR as defined immediately above.
- 4.7. To deal with written questions from an opposing party on his report within any time limit set by the Court, such replies to form part of the expert’s report.

- 4.8. To deal with all other matters promptly and where appropriate, within any time limits agreed by the appointer or set by the Court.
- 4.9. Unless otherwise agreed, to prepare an advice and/or report at a cost proportionate to the sums in issue. If in doubt, the expert should seek advice from his appointer(s) as to what is proportionate. Where the expert becomes aware that his costs are likely to exceed any estimate or quotation given at an earlier date, he must inform the appointer(s) immediately.
- 4.10. To preserve confidentiality and to be registered with the ICO.

FEES AND DISBURSEMENTS

- 5.1. For the avoidance of doubt, no instructions will be accepted where payment is contingent on the outcome of the case.
- 5.2. The basis of fees and estimated date for delivery of advice/report are specified in the expert's terms.
- 5.3. Wherever possible, the fees shall be agreed in advance, or an estimate provided to the appointer(s) in which case details will appear in the expert terms.
- 5.4. The charging basis for attendance at a hearing e.g. fixed fee or hourly/daily and half daily rate is applicable.
- 5.5. The point(s) at which invoices will be presented, and any period of credit granted are by prior agreement only and at the discretion of Dr Paul Rogers Limited.
- 5.6. Where the expert is appointed as an SJE unless otherwise provided for the appointers will be jointly and severally liability for the expert's fees.
- 5.7. The Expert's fees shall be paid in full, regardless of the outcome of any assessment by the Court.
- 5.8. Disbursement including travel and accommodation costs shall be charged at the cost incurred. They shall include, but not be limited to those listed at clause 2.10.
- 5.9. Travel time is chargeable, that fact and the hourly rate are specified in the cost proposal provided.
- 5.10. Where a cancellation fee may be charged, that fact and the basis of charge are specified by agreement and the amount of work conducted prior to cancellation.
- 5.11. Where questions are posed to an expert under CPR Part 35.6(a) by a party other than his appointer the party posing the questions will bear the cost of the time and any disbursements incurred in replying.
- 5.12. Where a fee note has been rendered, payment must be received in full before any additional instructions will be accepted.

DISPUTES

- 6.1. Any dispute arising between the expert and appointer shall, if not resolved, be dealt with by mediation, failing which all proceedings before the Cardiff County Court.