

TERMS AND CONDITIONS RELATING TO THE PROVISION OF EXPERT SERVICES

An edition of the Model Terms and Conditions of Engagement of an Expert as published from time to time by the Expert Witness Institute (the Model Terms)—a copy of which is attached—shall apply except to the extent to which they are varied or excluded by agreement in writing or are inconsistent with the below-noted terms.

For the avoidance of doubt, I will be instructed as principal and not as agent for your client. In the absence of any response subsequent to instruction I shall assume that these terms have been accepted by you. No subsequent Terms and Conditions proposed or assumed by any other party shall be accepted as in force in the absence of my specific written agreement to such.

Reference in Model Terms:

1. re: §3.1: The Appointor's/Appointors' obligations include providing to the Expert, at the same time as providing the complete instructions and prior to any appointments to be made with the Appointor's/s' client:
  - 1.1. the Court's case-number
  - 1.2. contact details for the Court
  - 1.3. the names and contact-details of the parties involved and their representatives (both solicitors and barristers)
  - 1.4. the name of the senior presider/judge
  - 1.5. the full contact-information for the Appointor's client
  - 1.6. in cases of LAA-instructions, the Client-Matter ID.
2. re: §3.1: All documentation is to be provided electronically.
  - 2.1. In the instance that mail and/or documentation is sent to the clinical/consulting address, this will incur a charge of £40 per letter or folder of documentation.
3. re: §3.1: No appointment with the Appointor's/s' client will be made prior to the receipt of the latter's medical records.
4. re: §3.2: In the instance of appointing the Expert as a Single Joint Expert, the Expert reserves the right to require both parties to submit instructions via a jointly signed letter of instruction.
5. re: §5.1: Deferred terms may be agreed in writing subsequent to instruction at the Expert's discretion only.
6. re: §5.2: Unless otherwise specified, estimates are based upon:
  - 6.1. 1 hour's reading medical and other records, estimated at 50 pages per hour
  - 6.2. 2 hours' clinical assessment, as appropriate
  - 6.3. 3 hours' report-writing and -delivery

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- 6.4. Further use of professional time in relation to the instructed work is billed at the hourly rate, including but not limited to responding to clarificatory and further questions.
7. re: §5.2: The hourly rate for services is as follows:
  - 7.1. For privately funded cases, the Expert's hourly rate is **£120**.
  - 7.2. For publicly funded (LAA) cases, the relevant rates are per The Civil Legal Aid (Remuneration) (Amendment) Regulations 2015 and/or the The Criminal Legal Aid (Remuneration) (Amendment) Regulations 2018, as appropriate.
8. re: §5.2: Personnel working under the Expert's direction will be charged at an hourly rate appropriate to their skills and experience but not greater than the Expert's hourly rate.
9. re: §5.2: Subject to the timely provision of information to the Expert, the advice or report prepared in response to instructions will be delivered to the appointor within 20 working days from assessment of the client, not including notified absence-periods.
10. re: §5.3: The fee (excluding disbursements) for the advice or report prepared in response to the instructions is agreed at the above-stated hourly rate. No fixed-fee quotations are given or such conditions accepted.
11. re: §5.4: The Expert's rate for attending a hearing is **£1,000** for a full day or **£600** for part of a day, determination of which includes time spent travelling and waiting.
12. re: §5.5: Value Added Tax will not be added to the charges.
13. re: §5.6: Invoices may be delivered monthly or otherwise at longer intervals at the Expert's discretion, which time may be before an initial advice or report is delivered.
14. re: §5.6: Invoices are payable on demand. The Expert reserves the right to charge interest on overdue debts.
15. re: §5.10: Travel and waiting time is charged at £40 per hour, unless it is to attend Court.
16. re: §5.11:
  - 16.1. Where an appointment for an assessment has been made and agreed to by the appointor's client, a charge of £200 is incurred if there is less than 48 hours' notice given of cancellation or postponement of the assessment.
  - 16.2. Where the Expert is instructed to prepare for and attend Court, and for whatever reason those instructions are revoked, the Expert reserves the right to make a cancellation charge of **£300** if less than 48 hours' notice is given. Cancellation on the day of the hearing itself incurs the full fee for that day or half-day, whichever was booked.
17. re: §5.14: the Expert reserves the right to require payments on account as a condition for continuing work, including prior to initiation of work as a condition of accepting appointment/instruction.

**Model Terms and Conditions of Engagement**

1. Introduction:

- 1.1. The Appointor(s) has/have engaged the Expert to advise or report in accordance with these Terms and Conditions of Engagement
- 1.2. The Civil Procedure Rules 1998 (the CPR) including any protocol approved thereunder, shall prevail over any part of this document which is inconsistent with the CPR.

2. Definitions:

- 2.1. Appointor(s) - means the party or parties instructing the expert, which may be a solicitor, an insurance company, a Government department, a local authority, a corporate body, partnership or other firm or organisation and any individual who seeks advice or the provision of an expert report from the expert.
- 2.2. Instructions - means the written statement of services required by the appointor of the expert including sufficient details of the relevant issue to enable the expert to comply with the Civil Procedure Rules 1998 and any order of the Court.
- 2.3. Court - means any Court of Law, Tribunal or body concerned with the process of arbitration or dispute resolution.
- 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).
- 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, person(s), Government department, local authority, firm, or company on whose behalf the appointor(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, e.g. (but not limited to), 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 the CPR Part 35.10.

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- 2.10. Fees & Disbursements - means the expert's professional charges for carrying out the appointor'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 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 Aid Agency or such other governmental authority as may be involved is funding a party in legal proceedings.
3. The Appointor's/Appointors' obligations:
  - 3.1. To provide clear written instructions and copies of all relevant documents.
  - 3.2. Where an SJE is appointed, all appointors 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 appointor may issue separate additional instructions to the SJE, in which instance he must send a copy to every other appointor.
  - 3.3. To keep the expert informed of and ascertain his availability for all relevant court dates. Where there is more than one appointor, the appointors 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 Aid Agency has granted prior authority, or the appointor 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.
  - 3.7. Unless otherwise agreed, to ensure that the estimated fee for an advice and/or report is at a cost proportionate to the sums in issue prior to the estimate's acceptance.
4. The Expert's obligations:
  - 4.1. The expert's over-riding duty is to the Court and he must 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 appointor(s) of any conflict of interest (actual or perceived).

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- 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 appointor or set by the court.
  - 4.9. 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 appointor(s) immediately.
  - 4.10. To make himself available for court-hearings, conferences and other meetings.
  - 4.11. To preserve confidentiality.
  - 4.12. To remain objective and impartial.
  - 4.13. When acting as an SJE, to conduct himself in a manner consistent with the principles of fairness and transparency.
5. Fees and Disbursements:
- 5.1. For the avoidance of doubt, no instructions can be accepted where payment is contingent on the outcome of the case. Where deferred terms have been agreed, that fact, together with a statement of interest or enhanced rates applicable to the appointment will be specified in Section 1.
  - 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 fee shall be agreed in advance, or an estimate provided to the appointor(s).
  - 5.4. The charging basis for attendance at a hearing (e.g. fixed fee or hourly/daily (and half daily) rate) is specified in Section 1.
  - 5.5. If value added tax (VAT) is to be added that fact and the applicable rate will be specified in section 1.

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- 5.6. The point(s) at which invoices will be presented, and any period of credit granted are specified in Section 1.
  - 5.7. Where the expert is appointed as an SJE unless otherwise provided for the appointors will be jointly and severally liable for the expert's fees.
  - 5.8. The expert's fees shall be paid in full regardless of the outcome of any assessment by the court.
  - 5.9. Disbursements 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.
  - 5.10. Where travel-time is chargeable, that fact and the hourly rate is specified in Section 1.
  - 5.11. Where a cancellation-fee may be charged, that fact and the basis of charge are specified in Section 1.
  - 5.12. Where questions are posed to an expert under CPR Part 35.6(1)(a) by a party other than his appointor, the party posing the questions will bear the cost of the time and any disbursements incurred in replying.
  - 5.13. Where an invoice has been submitted, payment must be received in full before any additional instructions will be accepted.
  - 5.14. Interim fees may be charged at any reasonable point, e.g., (but not limited to) on production of a draft-advice or report. Where the expert reserves the right to seek payments on account, that fact is specified in Section 1.
6. Disputes:
- 6.1. In the event of a dispute over fees, such part as is not disputed shall be paid within the agreed payment-period.
7. Miscellaneous:
- 7.1. The expert shall retain all intellectual property rights over his advice and/or report.
  - 7.2. The expert should be identified by name.
  - 7.3. These terms are not intended to cover the appointment of the expert as assessor to the court under CPR Part 35.15.