

HOW TO INSTRUCT THE EXPERT

The Ministry of Justice Civil Procedure Rules for the Instruction of Experts (Part 35) sets out information that should be included in the Instructions. However, a few additional points will help me to ensure that I can accept your instructions promptly and proceed to carry out the examinations required.

Set out who is instructing me

I need to know the details of everyone who is instructing me. Set out:

- The name of the firm.
- The name of the person there dealing with the matter.
- Their reference number.
- Their postal &/or DX address.
- Their phone number.
- Their e-mail address.

Briefly describe the background of the case

A brief statement of the issues in the case is all I require. Do not copy all of the details of the Claim and Defence to me, or indeed all the Witness Statements – this might be seen as biasing my view of the evidence and therefore prejudicing my independence. Just focus on the background information which will assist me in understanding the particular circumstances regarding the production or history of the document in question.

List the documents you send me for examination

Since I may receive documents from multiple sources it is most important you list all of the documents you are sending to me so that they can be easily identified. I can then check that I have received everything safely and it facilitates the safe return of the documents to you.

- Prepare a schedule of documents (description of each document, copy or original, date).
- List separately the questioned documents and those which are undisputed.
- List the documents in chronological order if practicable.
- If you have created a computer listing of the documents (for example a table in a word-processed document, or a spreadsheet) e-mail this to me so I can ensure that my list of documents is consistent with that being used elsewhere in the proceedings.

Continued overleaf.....

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Pose your questions to me

Set out simply the questions you wish me to answer (for example “Did Mr Smith sign the Will?”, “Have these expenses forms been altered? – if so how?”, “Is this a genuine letter from the company?” Please avoid the following when posing your questions:

Do not just refer me to the Pleadings. I am not involved with every aspect of the case and it is difficult for me to ensure that I have interpreted everything correctly. If you have a particular point to make, please set this out in full in the instructions. Avoid terms such as First Defendant and Second Claimant, rather say Mr Smith and Mrs Jones.

Do not refer me to Court Orders. These are often imprecise and raise general questions.

Do not tell me how to go about my examinations. A question asking me to determine the authenticity of Signature A is very helpful. Telling me to compare Signature A with Signatures C and D is not, since I may need to take other aspects of the documents into account in order to reach my conclusion regarding Signature A.

Do not send me a copy of Part 35

I am very experienced in preparing Reports which are Part 35 Compliant. I know you must refer me to the relevant sections of the Civil Procedure Rules as part of your instructions, but this can best be done by referring me to the relevant Web site or inviting me to contact you if I have any questions. Please do not send copies of Part 35 or Practice Directions, or rehearse Part 35 in your letter – it is not necessary. Our Quality System is linked to the relevant web sites. Sending hard copy merely wastes resources for me, you and your client.

Set realistic timescales

The Courts are, understandably, often keen to apply tight timescales to the Expert’s Report. Courts frequently set a date for service of the Expert’s report two weeks from the date of an Order. Unfortunately, by the time the Order is communicated to me some time has elapsed. Further, I am often informed of the timescale before I have had a chance to assess the documentation, to advise as to what else is needed, and to estimate fees. Except in agreed circumstances, reports are made ready about fifteen working days from receipt of *all* the necessary documents required for the examination and completion of administrative arrangements regarding my instruction. In this way I can allow sufficient time for examinations to be carried out with opportunity for proper review of the material and, consequently, the preparation of a report to the highest professional standards.

Agree fees and Terms of Business

Before accepting your instructions I shall provide you with an estimate of fees and send you my Terms of Business. These must be accepted in writing before any examinations commence. Where the instructions are given jointly by two or more solicitor firms I must have the undertaking in writing from each and every instructing solicitor before I proceed. We do not accept instructions in cases where any of the parties is legally aided, or is a Litigant in Person, or is an individual using the Bar Standards Board’s Public Access Scheme Please note that my contract to provide Forensic Document Examination services is with you, my instructing solicitor, and not with your client. Accordingly, informing me that your client agrees to the fees is not acceptable. Instructions are only accepted by this Laboratory on the basis that the instructing solicitor accepts direct responsibility to pay my invoice on presentation. Forgive me for setting this out in detail but more time is wasted on this point than any other when trying to progress matters. I shall not be able to commence any work until the appropriate undertakings have been received.

Dr Audrey Giles
Forensic Document Examiner

9th March 2016