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| --- | --- |
| Professor Expert  *Address* |  |
| Date: | |
| Our ref: | |
|  | |
|  | |
| Dear Professor Expert, | |
| **Investigation and Inquest into the death of ……………..***Name* | |

Thank you for indicating that you are willing to accept instructions in this matter. Please find herein my formal instructions to you to act as an expert witness and prepare an expert report to assist my investigation into the death of *Name*

**Brief History**

*Provide a brief background and history here – avoid expressing any view on relevant facts that are in dispute or point out both sets of facts where there is a relevant divergence.*

**Instructions**

I would be grateful if you would undertake the following tasks: -

(*The following are just some examples – case specific questions are likely to be required)*

1. Consider the cause of death as given at the Post-Mortem Examination and state if you agree with it

2. Provide a critical analysis of the care given to the deceased *during his / her final hospital admission.*

3. Provide your opinion as to whether there were any shortcomings in care that probably contributed to the death.

4. Provide your opinion as to whether there were any shortcomings in care that possibly contributed to the death, but where you cannot say they probably did so.

**Enclosures**

To assist you in undertaking your task I enclose a bundle of the documents which includes the following (*or please see the attached bundle, the index to which has been shared with all interested persons in the inquest):* -

1. Post-Mortem Examination report.
2. Post-Mortem toxicology report.
3. Medical records.
4. Statements of various witnesses. (*list them*)
5. *X* organisation’s policies (*list them if relevant*)
6. Serious Incident Report (*or any other relevant review*).
7. *Other relevant documentation*

Please let me know if you require any further information, or if documents that you would expect to see are not included in the bundle.

**Nature of an Inquest**

Inquests are neutral fact-finding inquiries. Inquests are by their very nature investigations. They are not trials, and the coroner is not permitted to appear to determine matters of criminal liability on behalf of a named person and is not permitted to appear to determine matters of civil liability. Although I require you to provide a critical analysis of the care provided to the deceased (*if this be the case)* you should not approach the task as if you were providing a report for the purposes of civil litigation.

**Addressing Factual Disputes**

Your report should clearly state the relevant facts that are the basis for your opinion. You should not seek to resolve disputed factual evidence, as this is the role of the coroner/jury at the inquest hearing.

Where there is a factual dispute within the available evidence that is relevant to your expert opinion, please provide your opinion on the basis of the alternative factual scenarios that arise from the evidence (e.g. ‘If *A* is the case my opinion is *X*, but if *B* is the case my opinion is *Y’*).

There may be occasions where you can indicate which of disputed facts is more likely to be the case by applying your professional knowledge and expertise to all the available factual evidence. If it is within your expertise to state that a particular factual account is improbable given the other available evidence you should explain this, setting out why you hold that view (e.g. a pathologist might be able to say, because of their professional knowledge, ‘The deceased is unlikely to have been in rigor mortis when found if, as is claimed by *X*, they had been observed alive 15 minutes earlier, as rigor mortis does not commence in so short a time.’)

**Application of Hindsight**

An inquest enquires into the cause of a death after the event, and therefore when addressing a question of causation, you should do this with the benefit of hindsight.

However, when you are assessing any evidence relevant to actions of a person at the material time and considering whether there were any shortcomings on anyone’s part, please do not apply hindsight to that question. Rather you should give your opinion based upon what the situation looked like, or should have looked like, to the person who was present at the material time. Consider what information was available to them, in what circumstances and with what constraints the person was operating, what they considered, and why they appear to have made the decisions they did as the situation unfolded in front of them. You should consider what each person knew or ought to have known at the relevant time. But please do not apply hindsight in respect of matters they could not have been expected to know.

**Timing of your Report**

*A Pre-Inquest Review hearing/the Inquest* will be held on *xxxxx 2025*. All interested persons will need to consider your opinion well in advance of that hearing and therefore, to ensure this court hearing is effective, your report must be received *at least one month* before that date, that is by *xxxxx 2025*. If you envisage any difficulty meeting that deadline you should let me know as soon as practicable.

The inquest hearing is *currently scheduled for xxxxx 2025 or is to be listed between xxx-xxx 2025.* I would be grateful I you would let me know now your dates of availability in that hearing window should you be required to give oral evidence.

**Fees**

The work of experts in coroners courts is publicly funded and so you are asked to undertake this work at the rates set by Parliament for the renumeration for experts in civil court cases which are set out in [Schedule 5 of the Civil Legal Aid (Remuneration) Regulations 2013](https://www.legislation.gov.uk/uksi/2013/422/schedule/5).

Higher rates may be paid where the exceptionality test in paragraph 2 of Schedule 5 to the 2013 Regulations is met in the particular circumstances of the case. If you suggest a higher rate should be offered please contact me to discuss it.

*OR*

I confirm that I have agreed with you a maximum fee of £x (plus VAT) for the provision of your report. This fee has been agreed on the basis of an hourly rate of xxx. It is important that you inform me immediately if having received these instructions you wish to revise your costs estimate.

If you are required to attend the inquest to give oral evidence, I agree to pay your fee at the rate of £x per hour for preparation and time at Court. Travel time to and from Court will be paid at £z per hour with mileage at £0.45 per mile. Your reasonable accommodation charges must be agreed in advance of your attending Court. Subject to these conditions, I confirm that my funding Local Authority will be responsible for your fees and disbursements.

*OR*

You have agreed with me an hourly rate of £x for preparing a report. I believe that the exercise should not take longer than 6 hours and accordingly I am willing to pay a fee of up to £y. Should you find that it is impossible to complete the task within the allotted time you may come back to me so that I can review the situation, but you must not incur further fees without my authorisation.

(*note, sometimes an expert is unwilling to commit to a fee at the outset without knowing exactly what is involved. This difficulty can be overcome by the above approach in setting a limit – experts in practice rarely ask for an increase – alternatively you can negotiate the fee after the expert has received and appraised the paperwork)*

**Expert Declaration**

As you will be aware, an expert has an overriding duty to the court in producing a report. The following guidance drawn from the Civil Procedure Rules should be noted:

Experts should:

1. assist the court by providing objective, unbiased opinions on matters within their expertise, and should not assume the role of an advocate;
2. consider all material facts, including those which might detract from their opinions;
3. make it clear when a question or issue falls outside their expertise; and when they are not able to reach a definite opinion, for example because they have insufficient information.

Expert’s reports should:

1. list the expert’s relevant qualifications;
2. set out the substance of the instructions;
3. Set out the documents the expert has considered *(although all interested persons have been provided with the index to the bundle of documents you have been given so you need not list every document)*
4. at the end, include a statement of truth, and confirmation that the expert understands and has complied with their duty to the Court. Might I suggest that you adopt the following format:

The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true.

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Finally, if after producing a report your view changes on any material matter, such change of view should be communicated to me without delay.

Please contact me should you require any further information or direction.

Yours sincerely,

Senior /Area /Assistant Coroner for ….