

'Clear Instructions – 15 top tips for solicitors when instructing an expert'

[NB: All solicitors should also be aware of their obligations under the Civil & Criminal Procedure Rules & the relevant Practice Directions]

- 1: Choice – Availability & Flexibility. Establish early on that your expert is not going to be so busy that he/she cannot devote time to your case.
- 2: Choice – Credibility. Probably the most important criteria relating to choice of expert. Sub-headings here include:

Credentials: Links to professional bodies, experience, articles.

Trustworthiness: Honesty and objectivity.

Presence & Personality: Confidence, poise, delivery.

- 3: Choice – Referrals. If possible, try to speak to professionals that have used the expert in the past.

[Note: The X-Pro Register provides the Expert with an ability to include lawyer referee contact details. Sound & video options are also included to allow you to better assess the above criteria]

- 4: Written instructions are essential – many experts will not carry out any work unless this is done, although initial contact is almost always other than in writing. Solicitors should be careful in their use of language. Avoid ambiguity – BE CLEAR in your instructions. Carefully analyse the wording before sending out written instructions. If a word or phrase could be misconstrued, then change it.
- 5: Agree a timetable for the report and inform the expert of any court orders in this regard.
- 6: Inform the expert whether or not prior authority is being sought in relation to his/ her anticipated fees.
- 7: Is the expert instructed in an advisory capacity or is the report for court use? It is also important that the expert is informed as to the stage of the proceedings.
- 8: Describe the incident/ event history that gave rise to the case. Include dates, names, and places. BE CLEAR.
- 9: Explain why you are seeking a report from an expert, and, in particular, why you have chosen an expert with his / her expertise.
- 10: Crucially, what are the matters that need to be resolved in the expert's report. What matters are in dispute?
- 11: Is it likely that other parties will be instructing an expert? Is a SJE contemplated?

- 12: Don't forget to annex any relevant documents you may wish the expert to see/ examine.
 - 13: Are any documents not to hand likely to be the subject of privilege? Will subpoenas be applied for?
 - 14: Medical reports require further consideration. Consent of the patient is essential if records are to be examined. Who holds the records and who is to obtain them? Inform the expert of the position.
 - 15: If the expert requires further information solicitors should not be dilatory in responding.
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